

## WHAT YOU NEED TO KNOW

# Copyright and eLearning

Prepared by the Office of Distance Education and eLearning and University Libraries' Copyright Services. The information in this document is not legal advice and is provided for educational purposes only.

## Copyright Principles that Apply in All Contexts

ALL ORIGINAL WORKS OF AUTHORSHIP IN A FIXED, TANGIBLE FORM IS COPYRIGHTED UNLESS PROTECTION HAS BEEN REMOVED

- **All Material:** including, but not limited to: literary, musical, and dramatic works; pantomimes and choreographic works; pictorial, graphic, or sculptural works; sound recordings; motion pictures and other AV works; and architectural works. Ideas and facts are not subject to copyright. Brand names are trademarked. Inventions and methods are patented.
- **Fixed Tangible Form:** includes works in physical or digital form, such as ebooks, streaming video and email.
- **Copyrighted:** includes the right to control reproduction, distribution, creation of derivative works, and public performance or display of a work.
- **Unless Protection has been Removed:** Copyright is automatic and valid until the copyright holder releases their rights or copyright expires. Copyright currently lasts for the life of the author +70 years; or 95 years from publication/120 years from creation, whichever is shorter, for corporate authorship.

### Except...

STATUTORY PROVISIONS	LICENSED	OPEN	PUBLIC DOMAIN
<p>U.S. Copyright Law allows some educational uses of copyrighted material:</p> <ul style="list-style-type: none"> <li>• Sec. 107: Fair Use (See below)</li> <li>• Sec. 108: Library copies</li> <li>• Sec. 110: Classroom display or performance</li> <li>• TEACH Act: Extends Sec. 110 to eLearning under very specific conditions</li> </ul>	<p>Copyrighted work may be used with permission of the copyright holder:</p> <ul style="list-style-type: none"> <li>• Written permission required for exclusive license or other transfer of copyright ownership</li> <li>• Payment negotiated</li> <li>• Allowed use negotiated</li> </ul>	<p>Many people make their work available for use, with conditions. Typical conditions include:</p> <ul style="list-style-type: none"> <li>• (Non-)commercial</li> <li>• Attribution</li> <li>• Further re-use</li> </ul>	<p>The public domain consists of works never or no longer protected by copyright (note: publicly available does not mean public domain):</p> <ul style="list-style-type: none"> <li>• Pre-1925 texts</li> <li>• Some later works depending on compliance with required formalities</li> <li>• Most federal government documents</li> </ul>

## Basic Method of Conducting a Fair Use Analysis

OVERVIEW	ONLINE RESOURCES
<ul style="list-style-type: none"> <li>• Four factors determine Fair Use: purpose of the use, nature of the material, amount used, and effect on the market.</li> <li>• Analyze the degree to which each of the four factors favors or does not favor Fair Use.</li> <li>• Look at the factors as a whole. Educational use is not automatically Fair Use. The weight of each factor will depend on the individual facts of each analysis.</li> </ul>	<ul style="list-style-type: none"> <li>• Ohio State Health Sciences Library Fair Use Checklist <a href="https://hsl.osu.edu/copyright/fair-use-checklist">hsl.osu.edu/copyright/fair-use-checklist</a></li> <li>• Follow the Four Factors of Fair Use <a href="https://go.osu.edu/fourfactors">go.osu.edu/fourfactors</a></li> <li>• Thinking Through Fair Use <a href="https://lib.umn.edu/copyright/fairthoughts">lib.umn.edu/copyright/fairthoughts</a></li> </ul>

## Common Aspects of eLearning Tools That Favor Fair Use for Each Factor

PURPOSE	NATURE OF USE	AMOUNT OF MATERIAL USED	MARKET IMPACT
<ul style="list-style-type: none"> <li>• Criticism, comment, and/or teaching</li> <li>• Transformative or productive use</li> <li>• Access restricted to class or other group (enrolled/for credit)</li> </ul>	<ul style="list-style-type: none"> <li>• Factual/non-fiction</li> <li>• Important to favored educational objectives</li> <li>• Published work</li> </ul>	<ul style="list-style-type: none"> <li>• Appropriate for a favored purpose</li> <li>• Not central or significant to the entire work</li> <li>• Small percentage</li> </ul>	<ul style="list-style-type: none"> <li>• Copyright holder does not market similar work</li> <li>• Lack of licensing mechanism</li> <li>• No significant impact on market</li> <li>• Copy made from lawfully owned work</li> </ul>

# Copyright and eLearning: It's Complex

WHAT STAYS THE SAME	WHAT MAY CHANGE/IMPORTANT FACTORS
<ul style="list-style-type: none"> <li>All material is copyrighted, unless that copyright has expired or been removed.</li> <li>Fair Use exception applies.</li> </ul>	<ul style="list-style-type: none"> <li>Limited/enrolled audience versus open</li> <li>Commercial versus non-profit</li> <li>Instructor/student as producer</li> <li>License must specify appropriate medium</li> </ul>

## Your copyright

## Use of student work

RESEARCH YOUR RIGHTS	GENERAL PRINCIPLES
<ul style="list-style-type: none"> <li>Who owns your teaching materials? You? Ohio State? Joint copyright? Contact University Libraries' Copyright Services to learn more.</li> <li>Using another platform? What rights do they claim? Copyright? License? Read the terms.</li> <li>Consider a Creative Commons license <a href="https://creativecommons.org/licenses">creativecommons.org/licenses</a></li> </ul>	<ul style="list-style-type: none"> <li>All material is copyrighted automatically, unless that copyright has been waived.</li> <li>Students own copyright in their work.</li> <li>Fair Use and other copyright exceptions may apply, but it may be necessary to ask permission.</li> <li>Privacy/FERPA restrictions still apply—and HIPAA for medical data.</li> </ul>

# Ohio State-Provided eLearning Resources and Services

CARMEN	ODEE RESOURCE CENTER	CARMENZOOM
<a href="https://go.osu.edu/carmen">go.osu.edu/carmen</a> <ul style="list-style-type: none"> <li>Auto-synced to roster</li> <li>Password-restricted</li> <li>Stricter copyright standards than face-to-face class</li> <li>Requires compliance with licenses, TEACH Act, and/or Fair Use</li> </ul>	<a href="https://resourcecenter.odee.osu.edu">resourcecenter.odee.osu.edu</a> <ul style="list-style-type: none"> <li>Use of material requires license or Fair Use, strict standards</li> <li>Mediasite, streaming through Carmen, allows password-protected access</li> </ul>	<a href="https://osu.zoom.us">osu.zoom.us</a> <ul style="list-style-type: none"> <li>Stricter copyright standards than face-to-face class</li> <li>Requires compliance with licenses, TEACH Act, and/or Fair Use</li> <li>Student contributions may be subject to copyright and FERPA restrictions</li> </ul>
LINKING TO LIBRARY CONTENT	LIBRARY DATABASES	AFFORDABLE COURSE MATERIALS
<a href="https://guides.osu.edu/librarylinks">guides.osu.edu/librarylinks</a> <ul style="list-style-type: none"> <li>Helps find stable URLs for library licensed electronic resources</li> <li>Includes resources for e-books, articles, streaming media, and images</li> </ul>	<a href="https://go.osu.edu/lib-dbs">go.osu.edu/lib-dbs</a> <ul style="list-style-type: none"> <li>Best practice to assign students to read articles in the database</li> <li>Re-use of material outside of database, including Carmen, requires license or Fair Use</li> </ul>	<a href="https://guides.osu.edu/affordability">guides.osu.edu/affordability</a> <ul style="list-style-type: none"> <li>Strategies for finding affordable content</li> <li>Most library resources are licensed for university access</li> </ul>

GET HELP	
Media storage and dissemination - <a href="mailto:mediaservices@osu.edu">mediaservices@osu.edu</a> Online learning spaces - <a href="mailto:carmen@osu.edu">carmen@osu.edu</a> Affordable Learning - <a href="mailto:affordablelearning@osu.edu">affordablelearning@osu.edu</a> Course Design - <a href="mailto:odee@osu.edu">odee@osu.edu</a>	Copyright Services - <a href="https://go.osu.edu/copyright">go.osu.edu/copyright</a> Health Sciences Library - <a href="https://go.osu.edu/hslcopyright">go.osu.edu/hslcopyright</a> Teaching and Learning - <a href="https://library.osu.edu/teaching">library.osu.edu/teaching</a> Subject Area Librarians - <a href="https://library.osu.edu/subject-librarians">library.osu.edu/subject-librarians</a>



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