Copyright Principles that Apply in All Contexts

<table>
<thead>
<tr>
<th>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.</th>
<th>Copyrighted: includes the right to control reproduction, distribution, creation of derivative works, and public performance or display of a work.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fixed Tangible Form: includes works in physical or digital form, e.g., ebooks, streaming video, e-mail.</td>
<td>Unless Protection has been Removed: Copyright is automatic and valid until the copyright holder releases, gives, and/or sells 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.</td>
</tr>
</tbody>
</table>

### STATUTORY PROVISIONS

U.S. Copyright Law allows some educational uses of copyrighted material:

- Sec. 107: Fair Use (See below)
- Sec. 108: Library copies
- Sec. 110: Classroom display or performance
- TEACH Act: Extends Sec. 110 to eLearning under very specific conditions

### LICENSED

Copyrighted work may be used with permission of the copyright holder:

- Written permission required for exclusive license (or transfer of copyright ownership)
- Payment negotiated
- Allowed use negotiated

### OPEN

Many people make their work available for use, with conditions. Typical conditions include:

- (Non-)commercial
- Attribution
- Further re-use

### PUBLIC DOMAIN

The public domain consists of works never or no longer protected by copyright (note: publicly available does not mean public domain):

- Pre-1923 texts
- Some later works depending on compliance with required formalities
- Most federal government documents

### Basic Method of Conducting a Fair Use Analysis

**OVERVIEW**

- Four factors determine Fair Use: purpose of the use, nature of the material, amount used, and effect on the market.
- Analyze the degree to which each of the four factors favors or does not favor Fair Use.
- 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.

**ONLINE RESOURCES**

- OSU Health Sciences Library Fair Use Checklist [hsl.osu.edu/copyright/fair-use-checklist](http://hsl.osu.edu/copyright/fair-use-checklist)
- ALA OITP Fair Use Evaluator [librarycopyright.net/resources/fairuse/](http://librarycopyright.net/resources/fairuse/)
- Thinking Through Fair Use [lib.umn.edu/copyright/fairthoughts](http://lib.umn.edu/copyright/fairthoughts)

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

<table>
<thead>
<tr>
<th>PURPOSE</th>
<th>NATURE OF USE</th>
<th>AMOUNT OF MATERIAL USED</th>
<th>MARKET IMPACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criticism, comment, and/or teaching</td>
<td>Factual/non-fiction</td>
<td>Appropriate for a favored purpose</td>
<td>Copyright holder does not market similar work</td>
</tr>
<tr>
<td>Transformative or productive use</td>
<td>Important to favored educational objectives</td>
<td>Not central or significant to the entire work</td>
<td>Lack of licensing mechanism</td>
</tr>
<tr>
<td>Access restricted to class or other group (enrolled/ for credit)</td>
<td>Published work</td>
<td>Small percentage</td>
<td>No significant impact on market</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Copy made from lawfully owned work</td>
</tr>
</tbody>
</table>
### Copyright and eLearning: It’s Complex

<table>
<thead>
<tr>
<th>WHAT STAYS THE SAME</th>
<th>WHAT MAY CHANGE/IMPORTANT FACTORS</th>
</tr>
</thead>
</table>
| ▪ All material is copyrighted, unless that copyright has expired or been removed.  
▪ Fair Use exceptions apply. | ▪ Limited/enrolled audience versus open  
▪ Commercial versus non-profit  
▪ Instructor/student as producer  
▪ License must specify appropriate medium |

### Your copyright

**RESEARCH YOUR RIGHTS**

- Who owns your teaching materials? You? OSU? Joint copyright? Contact the University Libraries’ Copyright Resources Center to learn more.
- Consider a Creative Commons license [creativecommons.org/licenses/](http://creativecommons.org/licenses/)

**GENERAL PRINCIPLES**

- All material is copyrighted automatically, unless that copyright has been waived.
- Students own copyright in their work.
- Fair Use and other copyright exceptions may apply, but it may be necessary to ask permission.
- Privacy/FERPA restrictions still apply—and HIPAA for medical data.

### OSU-Provided eLearning Resources and Services

<table>
<thead>
<tr>
<th>CARMEN</th>
<th>MEDIA SERVICES</th>
<th>CARMENCONNECT</th>
</tr>
</thead>
<tbody>
<tr>
<td>go.osu.edu/carmen</td>
<td>go.osu.edu/mediaservices</td>
<td>carmenconnect.osu.edu</td>
</tr>
</tbody>
</table>
| ▪ Auto-synced to roster  
▪ Password-restricted  
▪ Stricter copyright standards than face-to-face class  
▪ Requires compliance with licenses, TEACH Act, and/or Fair Use | ▪ Secure media server provides password-restricted access, limited to class roster  
▪ Best practice is to stream through Carmen | ▪ Stricter copyright standards than face-to-face class  
▪ Requires compliance with licenses, TEACH Act, and/or Fair Use  
▪ Student contributions may be subject to copyright and FERPA restrictions |

<table>
<thead>
<tr>
<th>eRESERVES</th>
<th>LIBRARY DATABASES</th>
<th>iTUNES U</th>
</tr>
</thead>
<tbody>
<tr>
<td>go.osu.edu/eReserves</td>
<td>go.osu.edu/lib-dbs</td>
<td>itunesu.osu.edu</td>
</tr>
</tbody>
</table>
| ▪ Processes material into electronic form  
▪ Performs fair use analysis  
▪ Posts material to Carmen | ▪ Best practice to assign students to read articles in the database  
▪ Re-use of material outside of database (including Carmen) requires license or Fair Use | ▪ Use of material requires license or Fair Use, strict standards  
▪ Integration with iTunes Store makes some licensing easier |

### GET HELP

- Media storage and dissemination > [mediaservices@osu.edu](mailto:mediaservices@osu.edu)
- Online learning spaces > [carmen@osu.edu](mailto:carmen@osu.edu)
- iTunesU, epublishing > [digitalfirst@osu.edu](mailto:digitalfirst@osu.edu)
- Course Design > [odee@osu.edu](mailto:odee@osu.edu)
- Copyright Resources Center > [go.osu.edu/copyright](http://go.osu.edu/copyright)
- Health Sciences Library > [go.osu.edu/hslcopyright](http://go.osu.edu/hslcopyright)
- Teaching and Learning > [go.osu.edu/libteaching](http://go.osu.edu/libteaching)
- Subject Area Librarians > [library.osu.edu/find/librarians](http://library.osu.edu/find/librarians)