

WHAT YOU NEED TO KNOW

Copyright and eLearning

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

Copyright Principles that Apply in All Contexts

ALL MATERIAL 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 trademarks. Inventions and methods are patented.
- **Fixed Tangible Form:** includes works in physical or digital form, e.g., ebooks, streaming video, e-mail.
- **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, 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.

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"> ▪ 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 	<p>Copyrighted work may be used with permission of the copyright holder:</p> <ul style="list-style-type: none"> ▪ Written permission required for exclusive license (or transfer of copyright ownership) ▪ Payment negotiated ▪ Allowed use negotiated 	<p>Many people make their work available for use, with conditions. Typical conditions include:</p> <ul style="list-style-type: none"> ▪ (Non-)commercial ▪ Attribution ▪ Further re-use 	<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"> ▪ 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	ONLINE RESOURCES
<ul style="list-style-type: none"> ▪ 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. 	<ul style="list-style-type: none"> ▪ OSU Health Sciences Library Fair Use Checklist hsl.osu.edu/copyright/fair-use-checklist ▪ ALA OITP Fair Use Evaluator librarycopyright.net/resources/fairuse/ ▪ Thinking Through Fair Use lib.umn.edu/copyright/fairthoughts

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

Copyright and eLearning: It's Complex

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

Your copyright

Use of student work

RESEARCH YOUR RIGHTS	GENERAL PRINCIPLES
<ul style="list-style-type: none"> Who owns your teaching materials? You? OSU? Joint copyright? Contact the University Libraries' Copyright Resources Center to learn more. Using another platform? What rights do they claim? Copyright? License? Read the terms. Consider a Creative Commons license creativecommons.org/licenses/ 	<ul style="list-style-type: none"> 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

CARMEN	MEDIA SERVICES	CARMENCONNECT
<p>go.osu.edu/carmen</p> <ul style="list-style-type: none"> Auto-synced to roster Password-restricted Stricter copyright standards than face-to-face class Requires compliance with licenses, TEACH Act, and/or Fair Use 	<p>go.osu.edu/mediaservices</p> <ul style="list-style-type: none"> Secure media server provides password-restricted access, limited to class roster Best practice is to stream through Carmen 	<p>carmenconnect.osu.edu</p> <ul style="list-style-type: none"> 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
eRESERVES	LIBRARY DATABASES	ITUNES U
<p>go.osu.edu/eReserves</p> <ul style="list-style-type: none"> Processes material into electronic form Performs fair use analysis Posts material to Carmen 	<p>go.osu.edu/lib-dbs</p> <ul style="list-style-type: none"> 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 	<p>itunesu.osu.edu</p> <ul style="list-style-type: none"> 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
 Online learning spaces > carmen@osu.edu
 iTunesU, epublishing > digitalfirst@osu.edu
 Course Design > odee@osu.edu

Copyright Resources Center > go.osu.edu/copyright
 Health Sciences Library > go.osu.edu/hslcopyright
 Teaching and Learning > go.osu.edu/libteaching
 Subject Area Librarians > library.osu.edu/find/librarians