
APPENDIX Q
THE UNIVERSITY CENTRAL
OKLAHOMA POLICY FOR USE OF
COPYRIGHTED MATERIALS

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STATEMENT OF COMPLIANCE

The University of Central Oklahoma operates in compliance with the 1976 [Copyright Act](#) (title 17 of the United States Code) which grants copyright holders some exclusive rights to uses of their works. Section 106, as amended in 1995 and 2002, states:

§ 106 • Exclusive rights in copyrighted works

Subject to sections 107 through 122, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

- (1) to reproduce the copyrighted work in copies or phonorecords;
- (2) to prepare derivative works based upon the copyrighted work;
- (3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- (4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
- (5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
- (6) in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission

The University directs faculty, staff and students to comply with the Copyright Act and provides, through this policy, information and clarification on the restrictions imposed by copyright law on the use of creative works, as well as the exceptions for uses permitted under the [Fair Use Clause](#).

COPYRIGHT OVERVIEW

Any original creative work that is fixed in a tangible form is protected by copyright. These include:

- Literary works
- Musical works
- Dramatic works
- Pantomimes and choreographic works
- Pictorial, graphic, and sculptural works
- Motion pictures and other audiovisual works
- Sound recordings
- Architectural works

Immediate Protection

Though it was once required for works published in the United States to include a notice of copyright, protection is now automatic. Copyright is in effect the moment a work is fixed in any tangible form, including print, audio/visual/digital recordings, and pages on the open Web. No copyright symbol is required for a work to be protected by copyright.

The copyright holder is usually the author(s) of the work, but copyright can be transferred to an employer or any other individual(s) or institution(s), which is usually the case in a “work for hire” business arrangement.

Copyright is in effect for a limited term which varies according to the date of creation or publication. This reference table, *When U.S. Works Pass into the Public Domain*, was prepared by Dr. Laura Gasaway at the University of North Carolina and is also [available and updated online](#).

DATE OF WORK	PROTECTED FROM	TERM
Created 1-1-78 or after	When work is fixed in tangible medium of expression	Life + 70 years ¹ (or if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation ²)
Published before 1923	In public domain	None
Published from 1923-63	When published with notice ³	28 years + could be renewed for 47 years, now extended by 20 years for a total renewal of 67 years. If not so renewed, now in public domain
Published from 1964-77	When published with notice	28 years for first term; now automatic extension of 67 years for second term
Created before 1-1-78 but not published	1-1-78, the effective date of the 1976 Act which eliminated common law copyright	Life + 70 years or 12-31-2002, whichever is greater
Created before 1-1-78 but published between then and 12-31-2002	1-1-78, the effective date of the 1976 Act which eliminated common law copyright	Life + 70 years or 12-31-2047 whichever is greater

Materials for which the copyright has expired are in the public domain. Materials produced by the U.S. federal government are also in the public domain, although copyright restrictions may apply to government materials published by independent vendors. Materials in the public domain are free of copyright restrictions. See the Stanford University Libraries page on [The Public Domain](#) for more information. For information on music in the public domain, visit www.pdinfo.com.

FAIR USE

Section 107 of the U.S. Copyright Law imposes certain limitations on the exclusive rights of the copyright holder. The following text is from a section which known as the *Fair Use Clause*:

Notwithstanding the provisions of sections 106 and 106a, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment,

news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include —

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

Interpretation and Guidelines for Fair Use

If the use of copyrighted material without permission is challenged, the four factors of the Fair Use Clause are considered together to assess whether the use of the material qualifies as a “fair use.” In general:

1. Use of a work for educational purposes by non-profit, accredited educational institutions weighs toward fair use, whereas use for commercial purposes weighs against. But not all educational uses qualify as fair use (the other three factors of the clause must also be considered), and some commercial uses have been judged to be fair use. The type of use is significant. Commentary, criticism, and “transformative” uses (incorporating parts of a work into a new, original presentation) weigh for fair use, whereas reproduction of a work as it was originally created weighs against. Coursepacks are not allowed, but an instructor could distribute copies of his or her own commentary on or criticism of a copyrighted work, including portions of that work for reference, provided the restrictions on amount, substantiality, and impact on marketability are honored.

2. The use of creative works such as fiction novels, paintings, plays, music, movies and other forms of artistic expression, including materials that are as of yet unpublished, weighs against fair use. Use of factual information from nonfiction articles or books weighs for fair use.
3. In general, using less of a work weighs more favorably toward fair use. However, in some cases, the entire work may be necessary to the use. A court has ruled, for instance, that the use of an entire image, in a small thumbnail, was acceptable. The law does not state exact amounts or percentages, but some guidelines are available below. (Note that even the use of a small portion of a work may be disallowed under the Fair Use Clause if that portion constitutes the “heart” of the material.)
4. Market effect includes the impact of the loss of sales and/or licensed usage. Uses that prevent sales weigh heavily against fair use. Copying and distributing portions of a book, for instance, that students would otherwise be expected to buy is not allowable under the Fair Use Clause. Uses that are allowed for classroom instruction under the Fair Use Clause might require permissions and licensing if used for other purposes, such as a book published for the commercial market.

UCO students, faculty and staff are directed to the guidelines listed below for help in utilizing the provisions of the Fair Use Clause. These have been developed to help users determine how much and for what purpose another’s work may be used under the provisions of the Fair Use Clause without seeking permissions and paying royalties:

- The Agreement on Guidelines for Classroom Copying in Not-for-profit Educational Institutions with respect to books and periodicals* developed by an Ad Hoc Committee to establish specific minimum quantities for copies (visual and sound) allowed by Fair Use and submitted to the House Judiciary Subcommittee on March 19, 1976
- Guidelines for Educational Uses of Music *
- Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes*

- [ALA Model Policy Concerning College and University Photocopying for Classroom, Research and Library Reserve Use](#) posted on the website of The Coalition for Networked Information
- [Using Software: A Guide to the Ethical and Legal Use of Software for Members of the Academic Community](#) posted on the website of The Coalition for Networked Information
- [Library and Classroom Use of Copyrighted Videotapes and Computer Software](#) by Mary Hutchings Reed and Debra Stanek, American Library Association, 1986, archived on the website of The International Federation of Library Associations (IFLA)
- [Fair Use Guidelines for Educational Multimedia](#), produced by the Educational Multimedia Fair Use Guidelines Development Committee, 1996, and included in the University of Texas Copyright Crash Course

*These guidelines are included in [Circular 21 – Reproduction of Copyrighted Works by Educators and Librarians](#) issued by the United States Copyright Office and are provided here in full-text:

Agreement on Guidelines for Classroom Copying in Not-for-profit Educational Institutions with Respect to Books and Periodicals

I. Single Copying for Teachers

A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her scholarly research or use in teaching or preparation to teach a class:

- a. A chapter from a book
- b. An article from a periodical or newspaper
- c. A short story, short essay or short poem, whether or not from a collective work
- d. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper

II. Multiple Copies for Classroom Use

Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion; provided that:

- a. The copying meets the tests of brevity and spontaneity as defined below and,
- b. Meets the cumulative effect test as defined below, and
- c. Each copy includes a notice of copyright

Definitions

Brevity

- i. Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages or, (b) from a longer poem, an excerpt of not more than 250 words.
- ii. Prose: (a) Either a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

[Each of the numerical limits stated in “i” and “ii” above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.]

- iii. Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.
- iv. “Special” works: Certain works in poetry, prose or in “poetic prose” which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Paragraph “ii” above notwithstanding such “special works” may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and containing not more than ten percent of the words found in the text thereof, may be reproduced.

Spontaneity

- i. The copying is at the instance and inspiration of the individual teacher, and
- ii. The inspiration and decision to use the work and the moment of its use for

maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

Cumulative Effect

- i. The copying of the material is for only one course in the school in which the copies are made.
- ii. Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.
- iii. There shall not be more than nine instances of such multiple copying for one course during one class term.

[The limitations stated in “ii” and “iii” above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.]

III. Prohibitions as to I and II Above

Notwithstanding any of the above, the following shall be prohibited:

- a. Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works. Such replacement or substitution may occur whether copies of various works or excerpts there from are accumulated or reproduced and used separately.
- b. There shall be no copying of or from works intended to be “consumable” in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.
- c. Copying shall not:
 - a. substitute for the purchase of books, publishers’ reprints or periodicals;
 - b. be directed by higher authority;
 - c. be repeated with respect to the same item by the same teacher from term to term.
 - d. No charge shall be made to the student beyond the actual cost of the photocopying.

Guidelines for Educational Uses of Music**A) Permissible Uses**

- 1) Emergency copying to replace purchased copies which for any reason are not available for an imminent performance provided purchased replacement copies shall be substituted in due course.
- 2) For academic purposes other than performance, single or multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole which would constitute a performable unit such as a section, movement or aria, but in no case more than 10 percent of the whole work. The number of copies shall not exceed one copy per pupil.
- 3) Printed copies which have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted or the lyrics, if any, altered or lyrics added if none exist.
- 4) A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual teacher.
- 5) A single copy of a sound recording (such as a tape, disc, or cassette) of copyrighted music may be made from sound recordings owned by an educational institution or an individual teacher for the purpose of constructing aural exercises or examinations and may be retained by the educational institution or individual teacher. (This pertains only to the copyright of the music itself and not to any copyright which may exist in the sound recording.)

B) Prohibitions

- 1) Copying to create or replace or substitute for anthologies, compilations or collective works.
- 2) Copying of or from works intended to be “consumable” in the course of study or of teaching such as workbooks, exercises, standardized tests and

answer sheets and like material.

- 3) Copying for the purpose of performance, except as in A(1) above.
- 4) Copying for the purpose of substituting for the purchase of music, except as in A(1) and A(2) above.
- 5) Copying without inclusion of the copyright notice which appears on the printed copy.

Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes

1. The guidelines were developed to apply only to off-air recording by non-profit educational institutions.
2. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable transmission) and retained by a non-profit educational institution for a period not to exceed the first forty-five (45) consecutive calendar days after date of recording. Upon conclusion of such retention period, all off-air recordings must be erased or destroyed immediately. “Broadcast programs” are television programs transmitted by television stations for reception by the general public without charge.
3. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities, and repeated once only when instructional reinforcement is necessary, in classrooms and similar places devoted to instruction within a single building, cluster, or campus, as well as in the homes of students receiving formalized home instruction, during the first ten (10) consecutive school days in the forty-five (45) day calendar day retention period. “School days” are school session days—not counting weekends, holidays, vacations, examination periods, or other scheduled interruptions—within the forty-five (45) calendar day retention period.
4. Off-air recordings may be made only at the request of, and used by, individual teachers, and may not be regularly recorded in anticipation of requests. No broadcast program may be recorded off-air more than once at the request of the

- same teacher, regardless of the number of times the program may be broadcast.
5. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording.
 6. After the first ten (10) consecutive school days, off-air recording may be used up to the end of the forty-five (45) calendar day retention period only for teacher evaluation purposes, i.e., to determine whether or not to include the broadcast program in the teaching curriculum, and may not be used in the recording institution for student exhibition or any other non-evaluation purpose without authorization.
 7. Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content. Off-air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA)

The [DMCA, Title II, Section 512\(c\)\(3\)](#) was enacted in 1998. In accordance with its provisions to limit the liability of nonprofit institutions of higher education for copyright infringement committed by their faculty or students, allegations of copyright infringement by users of the University of Central Oklahoma network will be investigated. Any users of the UCO network determined to have infringed the copyrights of others may have their access to online services terminated. Copyright holders who believe UCO users are infringing their copyrights should send notification to:

Jennifer Barger Johnson
Copyright Compliance Officer
University of Central Oklahoma, Box 108
100 N. University Drive
Edmond, OK 73034
Phone (405) 974-2444
JBarger4@uco.edu

The DMCA prohibits the circumvention of technological protections of copyrighted materials. However, a [ruling issued on July 26, 2010](#), by the Librarian of Congress exempts university professors and film and media students from that provision if protections are circumvented in order to incorporate short portions of motion pictures into new works for the purpose of criticism or comment for educational purposes, documentary filmmaking and noncommercial videos.

TEACH ACT

The Technology, Education and Copyright Harmonization Act of 2002 is an amendment to Section 110(2) of the Copyright Act. It facilitates distance education by allowing for the display and transmission of copyrighted materials such as movies, music, text, and images via broadcasting, the Internet, or classroom management systems, provided:

- the institution is a non-profit accredited educational institution
- the Online class is actively supervised by a faculty member or instructor
- the material used is relevant to a lesson in the class and comparable to what would be used in the classroom
- the material is obtained legally
- material created and marketed for online instruction is properly purchased or licensed
- analog materials are digitized only if no digital copy free of technical protections is available
- the use is consistent with the provisions of the Fair Use Clause
- access to the material is restricted to students enrolled in the class
- reasonable measures are in place to prevent retention and further dissemination of copyrighted materials
- notice of copyright is provided, e.g., “The materials on this course site may be copyrighted and are for use only by students enrolled in the course for purposes related to the course. They may not be retained or further disseminated.”
- there is no interference with the copyright holder’s technological measures to prevent retention and dissemination
- the institution has a policy of copyright compliance that is disseminated to its faculty,

staff and students ([UCO Policy for Use of Copyrighted Materials](#))

More information on the TEACH Act is available from:

- Columbia University Libraries Copyright Advisory Office - [Posting Course Materials Online](#)
- [How Copyright Controls Content in Online Teaching: What You Can and Can't Use](#) by Peggy Hoon, J.D., North Carolina State University,
- The North Carolina State University [TEACH Act Toolkit](#)
- [Penn State Teach Act Frequently Asked Questions](#)

Uses not permitted by the TEACH Act may still be permitted under the Fair Use Clause of the Copyright Act. Any use of copyrighted materials by members of the UCO community that would exceed the bounds of Fair Use and the TEACH Act will require that the user obtain permission for the use from the copyright holder and pay any required licensing fees.

LICENSED ACCESS TO MATERIALS AT UCO

ONLINE ACCESS TO ARTICLES

Chambers Library provides online access to article literature through its licensing agreements with various database vendors, primarily EBSCOHost. In most cases, access is available to all students, faculty and staff whether on or off campus. Remote users are authenticated through the library's proxy server.

Article records in the EBSCOHost databases include permanent links that, when coupled with the URL to the library's proxy server, will allow users to be authenticated and then redirected to specific articles. Faculty members may post links to articles in this way within their course syllabi, WebCT pages, or online classes, provided that the publisher's copyright statement does not prohibit such uses (e.g., Harvard Business Review does not allow linking to their articles). Articles in databases from other vendors can be accessed similarly. For help and more information, contact the eLearning Librarian at Chambers Library.

ONLINE ACCESS TO BOOKS

Chambers Library has purchased approximately 30,000 ebooks which can be identified through a search limited to ebooks in the [library's online catalog](#). Off-campus users are authenticated through the library's proxy server.

ONLINE ACCESS TO FILM

In addition to hundreds of VHS tapes and DVDs which can be used individually and in the face-to-face classroom for lesson-related viewing, Chambers Library purchases access to streaming video online which can be used in WebCT or online classes. [Visit the library's databases](#) page for access to these streaming video collections. [Check the library's catalog](#) for DVDs and VHS tapes in the 4th floor media center.

SEEKING PERMISSIONS FOR USE OF MATERIALS

To seek permissions and licensing for use of copyrighted materials, faculty, staff and students are directed to:

- the [Copyright Clearance Center](#) for printed materials
- [Movie Licensing USA](#) or the [Motion Picture Licensing Corporation](#) for movies
- The [American Society of Composers, Authors and Publishers](#) for music

STRATEGIES FOR STUDENT AND FACULTY EDUCATION

In accordance with the TEACH Act, UCO faculty, staff and students will be made aware of copyright law through educational materials provided online on the UCO main website and the Chambers Library web page, including this policy and other audience-specific guides, as well as the UCO Department of Information Technology web page on Copyright, Intellectual Property Rights and Licensing Issues.

Students who receive information literacy instruction through Chambers Library will be advised of copyright law and compliance. In addition, a link to this policy and to a student-oriented guide will be included in the [UCO Student Information Sheet and Syllabus Attachment](#) in accordance with the Higher Education Opportunity Act (HEOA) of 2008. (More information on the HEOA is available from the [American Library Association](#).) UCO directs students, staff and faculty to legal downloading sites.

Introduction to the UCO campus copyright policy shall be included in faculty and staff orientation programs. In addition, faculty, staff and students shall be directed to obtain further information through these recommended websites:

- [United States Copyright Office](#)
- [Copyright Clearance Center](#)
- [Baylor University Copyright Policy](#)
- [University of California Copyright Education Website](#)
- [University of Berkley Course Website Copyright Issues](#)
- [Florida State University Copyright Compliance Guidelines](#)
- [Georgia University System of Georgia Copyright Policy](#)
- [Georgia State University Copyright, Permissions and Policy](#)
- [Massachusetts Institute of Technology Information Policies, Reproduction of Copyrighted Material](#)
- [University of North Carolina Committee on Copyright](#)
- [North Carolina State University Copyright Administration](#)
- University of St. Francis interactive tutorial Copyright Bay
- [University of Texas Copyright Crash Course](#)
- [Yale University's Copyright Resources Online](#)

OPERATIONAL TERMS

- Copyright – the 1976 United States Copyright Act granting exclusive rights to an author, composer, designer, or other creator (or his assignee), to print, publish, and sell copies of his original work for a given period of time.
- Fair Use – conditions under which copyrighted materials may be used by someone other than the copyright holder without seeking permissions and paying royalties
- Guidelines – widely accepted agreements which, though not binding as law, serve to more clearly define the parameters under which one may utilize the fair use provisions of the U.S. copyright law
- Public domain – materials which belong to, or are generally available to, everyone and are not subject to copyright