



COPYRIGHT USE AND OWNERSHIP POLICY

Copyright is designed to promote science and the arts by protecting the rights of the creators of new works to reproduce, adapt, publish, perform, and display these works. These exclusive rights are limited by the concept of “fair use” which allows the use of copyrighted works “for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research.” (U.S. Code Title 7 Section 107). Oklahoma City University strongly supports the rights of creators of copyrighted works and the fair use of such works in the educational setting. Oklahoma City University faculty, staff, and students are expected to comply with copyright law.

I. Copyright Ownership

§ 1. Application. This policy applies to all individuals employed by Oklahoma City University or attending the University as students. Compliance with the policy is a mandatory condition of employment or enrollment.

§ 2. Goals. The goals of this policy are to preserve traditional University practices regarding copyright ownership of scholarly, pedagogical, and creative works by faculty and students, to foster creativity and the free exchange of ideas and opinions, and to protect the University’s interest in works produced at its direction or supported by the use of substantial University resources.

§ 3. Rights of faculty, administrators, staff, and students generally.

a. Faculty: In accordance with established academic custom and subject to the exceptions set forth elsewhere in this policy, faculty members shall own the copyrights in their individual scholarly, pedagogical, and creative works in any medium. Such works include, but are not limited to, books, articles, poems, short stories, musical compositions, sound recordings, choreography, works of visual art, films, blog postings, and individual podcasts (excluding podcasts of University classes or events), lecture notes, presentation slides, and the like.

b. Administrators and Staff: In accordance with the work-for-hire doctrine, the University owns the copyright in any works created by University administrators and staff within the ordinary scope of their employment in the absence of an express agreement to the contrary. Administrators who are also faculty members retain the

copyrights in their scholarly, pedagogical, and creative works; the University owns the copyright in works created in the ordinary course of their administrative duties.

c. Students: Students shall own the copyrights in any works created in the course of their education, subject to the exceptions set forth elsewhere in this policy. Such works may include, but are not limited to, dissertations, papers, articles, poems, short stories, musical compositions, sound recordings, choreography, works of visual art, and other creative or scholarly works.

d. University Noncommercial Use Rights: Notwithstanding the preceding subsections, the University shall have a right to make photographic or other reproductions of faculty or student works created or located at the University. It may distribute, display, perform, adapt, or otherwise use those reproductions for noncommercial purposes including, but not limited to education, scholarship, accreditation, promotion of the University, and the like, as examples of faculty and student work, and inclusion in its archives or collections.

§ 4. Rights of the University in Institutional Works. As a general rule, the University shall own the copyright in works created by faculty, administrators, or staff that are:

a. Created at the direction of the University for University purposes. Such works include, for example, university reports, studies, memoranda, marketing and promotional materials, and the like.

b. Supported by a specific substantial allocation of University funds or technical or staff support. The phrase “substantial allocation” shall not include the use of library resources, campus facilities, technology, routine research grants, or support staff normally made available to faculty and students. It might include, for example, special funding or support for the making of a film, the production of a play, the writing of a musical composition, or the like.

c. University publications such as journals, periodicals, law reviews, compendiums, anthologies, promotional publications, or films. Contributors to publications such as journals, law reviews, or anthologies, which compile individually copyrightable works, own the copyrights in their individual contributions, subject to the terms of their contracts with those publications. The University owns the copyright in the compilation as a whole, including its selection and arrangement.

d. Collaborative works created under the guidance of a University department.

e. The University may agree to alter the preceding allocation of copyright ownership by express written agreement. Creators who receive university support for projects should contact the university counsel for clarification of copyright ownership.

§ 5. Rights in course content, recordings of classes, and the like.

a. As noted in § 3(a), faculty generally own the copyrights in their own lecture notes, presentation slides, videos and other course materials that they create. Where faculty members create courses, such as online courses, at the specific direction of the University

or a University department, the Office of General Counsel will negotiate an express written agreement concerning copyright ownership of the resulting course content. Such agreement will be structured to permit use of the content by both the University and the faculty member. At a minimum, the University will have a nonexclusive, nontransferable, royalty-free license to exercise all of the rights of the copyright holder.

§ 6. Works produced by outside contractors. When the University commissions the production of works by third parties, such as independent contractors, consultants, recipients of grants, etc., the copyright will belong to the creators of the works unless there is a written agreement to the contrary. As a condition of any such commission, employment, or agreement, the creators shall agree to grant the University a nonexclusive, nontransferable, royalty-free license to use the work for the University's educational, operational, or research needs.

§ 7. Administration of this policy. The University Office of General Counsel will administer this policy. All questions regarding copyright ownership should be directed to that office.

II. Copyright Use

Works in the public domain may be used without restriction. All works created before 1923 are in the public domain. Works created between 1923 and 1977 may be copyrighted and all works "fixed in a tangible medium" (for example written or recorded) since January 1, 1978 are currently copyrighted. Copyrighted works may be used based on the Fair Use doctrine. (See Fair Use Guidelines).

§ 1. Fair Use Guidelines for Copyrighted Works. Four factors are used to determine if a specific use of a copyrighted work is fair use. These four factors are applied on a case by case basis by the courts and the outcome is very difficult to predict. They are:

Limitations on exclusive rights: Fair use

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. (17 U.S.C. 107)

§ 2. Safe Harbor Guidelines (Guaranteed Fair Use of Copyrighted Materials). In addition to the fair use guidelines outlined in the copyright law, publishers, librarians, and educators developed descriptions of uses that were definitely fair use. If the use you are contemplating is included in these guidelines, it is fair. If the use you are contemplating is not in these guidelines, it may be fair use or it may be an infringement of copyright. You will need to return to the Fair Use Guidelines to make a determination.

a. Books & Periodicals:

- i. Single Copies for teaching & class preparation
 - A. book
 - B. chapter
 - C. periodical article
 - D. short story
 - E. short essay
 - F. short poem
 - G. illustration
- ii. Multiple Copies for Classroom Use
 - A. Not more than one copy per student and each includes a notice of copyright (copied from the original when possible)
 - B. Short (250 words from a poem, complete article or essay up to 2500 words, 500 to 1000 words from a longer prose work, one illustration, 10% of a short children's book)
 - C. Spontaneous (teacher led, decision and use too close together to obtain permission)
 - D. Cumulative effect (only one course, not more than 2 items from the same author, or 3 items from the same collected work, 9 total uses of multiple copying per course)
- iii. Prohibitions
 - A. Cannot replace anthologies, textbooks, or publishers reprints
 - B. Cannot be directed from above, e.g., a dean or chair cannot tell a faculty member to make copies of the needed chapters from a book rather than having students buy it.
 - C. Cannot be repeated from term to term, e.g., a faculty member cannot distribute or place on reserve the same article each time he or she teaches a class.
 - D. Cannot charge students more than actual cost of photocopying
 - E. No copying of consumable materials, e.g., includes workbooks, exercises, test booklets, etc.

b. Music:

- i. Explicitly allowed:
 - A. Emergency copies that will be replaced by purchased copies as soon as they arrive.
 - B. Copies for academic non-performance uses as long as the entire performable section is not copied.

- C. Edited copies of owned originals as long as lyrics are not changed and music changes do not change the fundamental character of the work.
- D. A single recording of student performances.
- E. A single copy of an owned sound recording used for aural exercises or exams.
- ii. Prohibited:
 - A. Copying to create anthologies, compilations or collective works.
 - B. Copying consumable materials, e.g., workbooks, exercises, test booklets, etc.
 - C. Copying for use in performance
 - D. Copying without the original copyright notice

§ 3. Creative Commons. Many authors are now choosing another option between copyright's "all rights reserved" and the complete freedom of public domain use. This option allows authors and creators to decide which rights they wish to reserve, but is more generous about use than traditional copyright. See <http://creativecommons.org>.

§ 4. Examples of Appropriate Uses of Copyrighted Works.

- a. Appropriate Classroom Uses of Copyrighted Works
 - i. Distribute multiple copies of excerpts of copyrighted works that meet the fair use standards (include copyright notice).
 - ii. Show Videos or DVDs in class for instructional purposes (if university or professor owns a legal copy)
 - iii. Listen to CDs or records in class for instructional purposes (if university or professor owns a legal copy)
 - iv. Include a small number of images (no more than 5 from one author) in a multimedia presentation
 - v. Live music performances in class
 - vi. Performance of a dramatic work (not to the public and not for profit)
- b. Appropriate Out of Classroom Uses of Copyrighted Works In the Library:
 - i. Make copies of articles, book chapters, essays, short stories, etc. for class preparation or research.
 - ii. Place photocopies of excerpts of copyrighted works that meet the fair use standards on reserve (include copyright notice).
 - iii. Place originals of books, CDs, DVDs, or other materials on reserve.
 - iv. Place electronic copies of articles and electronic books from library databases on reserve.
- c. Online:
 - i. Post instructor authored materials (syllabus, notes, etc.)
 - ii. Post copies of material from the public domain
 - iii. Post or link to materials according to a Creative Commons license.
 - iv. Link to articles from library databases (ask a librarian for help if needed)
 - v. Link to freely available web sites
 - vi. Post material appropriate for classroom use on restricted web site, with these restrictions:

- A. Only available to students in the course and necessary administrators (use passwords)
- B. Posted excerpts of motion pictures or other audiovisual materials are not longer than a traditional class session, are integrated into course content and supervised by the instructor
- C. Efforts must be made to prevent students from downloading, printing, or saving copyrighted materials.
- D. Items designed and licensed for distance education must follow author/publisher licensing guidelines

§ 5. Examples of Inappropriate Uses of Copyrighted Works.

- a. Posting copyrighted materials on the open web without permission.
- b. Copying from consumable materials, e.g., workbooks, test booklets, etc.
- c. Copying and distributing or placing on reserve the same excerpts for more than one semester without copyright permission.
- d. Copying large portions of materials, especially to avoid purchasing a copy.
- e. Copying music for use in performance.

§ 6. A Note about Chapel. Oklahoma City University uses Christian Copyright Licensing International for copyright clearances for music and lyrics copied or projected for chapel or other worship services. Public performances as a part of religious services are explicitly allowed under copyright law.

§ 7. Notes about Public Performances.

- a. Oklahoma City University maintains blanket college and university license agreements with ASCAP, BMI, and SESAC to cover non-dramatic public performance of music on and off campus by university academic units and organizations.
- b. Non-university organizations that are not sponsored by Oklahoma City University are required to obtain appropriate ASCAP, BMI, and SESAC licenses covering use of music for their events on campus. Licenses from all three licensing organizations must be acquired for an event. Proof of being granted licenses for the events must be attached to the signed facility usage agreement before the event occurs.
- c. When an event using music is co-sponsored by Oklahoma City University and professional presenters or promoters, the professional presenter or promoter must obtain the appropriate ASCAP, BMI, and SESAC licenses and present proof of licensing to the designated Oklahoma City University official before the event occurs.
- d. Most dramatic performances (including showing of films) require special fees to the copyright owner.
- e. The Ensemble Librarian for the Wanda L. Bass School of Music handles public performance rights for the school and can provide further information.

§ 8. The Digital Millennium Copyright Act – The Digital Millennium Copyright Act (DMCA) prohibits circumvention of any technological measure that controls access to a work protected by copyright law. Prohibited acts include, for example, defeating the digital rights management limitations on the use of downloaded songs, descrambling the encryption that prevents copying of DVDs, or defeating password protection for any kind of copyrighted material. The DMCA also prohibits trafficking in any circumvention technology. The act establishes substantial civil

and criminal penalties for such acts of circumvention. These penalties supplement the already substantial penalties for copyright infringement. In addition, the DMCA establishes notice-and-takedown procedures through which copyright holders may demand that service providers remove from their servers infringing materials posted by users. These provisions apply, for example, to services like YouTube or Facebook that permit users to share music, video, and other files. Oklahoma City University is a service provider under these provisions and will comply with them. The Office of General Counsel is the designated agent for receipt of notifications. **Digital Millennium Copyright Act Contact Information:**

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Oklahoma City University
2501 N. Blackwelder Avenue
Oklahoma City, OK 73106
Phone: (405) 208-5979

III. Copyright Violations

- a. Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce, distribute, adapt, or publicly perform or display a copyrighted work. In the file-sharing context, downloading or uploading of a copyrighted work without authority constitutes an infringement.
- b. Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or "statutory" damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For "willful" infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys' fees. For details, see Title 17, United States Code, Sections 504, 505.
- c. Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense.
- d. For more information, please see the Web site of the U.S. Copyright Office at www.copyright.gov, especially their FAQ's at www.copyright.gov/help/faq.

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