

The University of Oklahoma is committed to promoting an atmosphere conducive to education, research, creativity, and the free exchange of ideas, while fully complying with all applicable state and federal laws. Unauthorized reproduction or dissemination of copyrighted materials is a serious violation of both University [Copyright Policy](#) and [federal law](#). This webpage provides a straightforward overview of copyright law to assist the OU community in understanding its rights and obligations in relation to copyright matters.

## **What is a Copyright?**

Whenever an original work of authorship – a song, a book, a speech, an essay, etc. – is “fixed in any tangible medium of expression” (e.g., recorded or written down), a copyright results that protects the copyright holder from unauthorized use of the work by third parties. The work need not be published in order to be protected, nor does it need to be officially registered with the [Copyright Office](#) (although registration has certain advantages in the event of litigation).

## **Is Everything Copyrightable?**

Copyrights protect only the *expressions* of ideas or concepts, **not** the ideas or concepts themselves. In addition, facts, words and short phrases are not copyrightable. For instance, a paper outlining a legal principle is copyrightable, but the legal principle itself is not. Another party would need permission to reprint the paper, but not to write a separate paper outlining the principle in his or her own words (with appropriate attribution to the original author, of course).

## **When Must I Obtain Permission to Use Copyrighted Work?**

Generally speaking, third parties must obtain permission from the copyright holder prior to (1) using or reproducing the protected work, (2) distributing copies of the work, (3) publicly performing or displaying the work, or (4) preparing derivative works based upon the work. Federal law, however, provides a number of exceptions related to the academic environment (discussed below).

Copyright protection does not last indefinitely but depends on the date of the work’s creation. The general rule is that, for works created after 1977, the copyright term is for the author’s life plus 70 years. To determine the copyright term of a particular work, consult [this chart](#). For guidance related to obtaining permission from a copyright owner, visit [this page](#).

## **The Fair Use Doctrine: No Permission Needed**

The doctrine of Fair Use, codified at [17 U.S.C. §107](#), is the most common exception to the requirement that users obtain permission from the copyright holder prior to use of a protected work. The Fair Use Doctrine holds that it is **not** infringement to use a copyrighted work “for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research...”

The four key factors used to determine whether use of a work qualifies as “fair use” are:

- (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.

A word of caution: The Fair Use Doctrine is by no means an unmitigated permit to make unauthorized use of copyrighted materials simply because such use is for “nonprofit educational purposes.” The line between Fair Use and copyright infringement is thin, circumstance-specific, and not often an easy call to make. For a more thorough analysis of Fair Use, please see [this website](#). For a Fair Use Checklist, visit [here](#).

### **The TEACH Act, Digital Materials and Distance Learning**

In 2002, Congress passed the [Technology, Education and Copyright Harmonization \(TEACH\) Act](#) to update the law (particularly sections 110(2) and 112(f) of the Copyright Act) regarding digital uses of copyrighted materials. TEACH essentially allows for digital transmission of copyrighted works for educational purposes, without the copyright holder’s permission, provided that the University and the individual faculty members meet certain guidelines. TEACH is especially relevant with respect to online distance learning and course management systems.

TEACH only applies to government bodies and accredited nonprofit educational institutions. It enhances the distance learning experience by affording instructors and students greater latitude in storing, copying, and digitizing materials.

### **How to Take Advantage of TEACH Act Benefits**

In order to take advantage of its benefits, the Act requires, in part, that:

- Qualifying institutions must establish copyright policies and provide informational materials that describe and promote compliance with copyright law;
- The digital transmission of copyrighted material must be limited to students officially enrolled in the course for which the transmissions are made;
- Students must be provided notice that materials used in connection with the course may be subject to copyright protection;
- The use of copyrighted materials must be part of mediated instructional activities, must be for either ‘live’ or asynchronous class sessions, and must not include (1) the transmission of textbook materials, (2) materials typically purchased/acquired by students, or (3) works developed specifically for online uses;
- Only reasonable and limited portions of the copyrighted materials may be used.

The TEACH Act does not extend to course packets, commercial document delivery, electronic reserves, textbooks or other digital content provided under license, or conversion of materials from analog to digital formats (except in limited circumstances).

If the conditions of TEACH are not or cannot be met, the use of the material will have to qualify as a fair use. Otherwise, permission from the copyright holder is required. For a more thorough discussion of the TEACH Act, please visit [this website](#). Also helpful is this handy [TEACH Act Compliance Checklist](#).

## **The Digital Millennium Copyright Act**

The Digital Millennium Copyright Act (DMCA) is an amendment to federal copyright law which, among other things, grants online service providers (OSPs) like the University of Oklahoma certain limitations on copyright infringement liability if the OPS meets certain requirements. This section of the OU webpage is intended to satisfy these provisions.

IT IS ILLEGAL TO DOWNLOAD, UPLOAD, REPRODUCE, OR DISTRIBUTE ANY COPYRIGHTED MATERIAL, IN ANY FORM AND IN ANY FASHION, WITHOUT PERMISSION FROM THE COPYRIGHT HOLDER OR HIS/HER AUTHORIZED AGENT. THE UNIVERSITY OF OKLAHOMA EXPECTS ALL MEMBERS OF ITS COMMUNITY TO COMPLY FULLY WITH FEDERAL COPYRIGHT LAWS. IF SUCH LAWS APPEAR TO HAVE BEEN VIOLATED BY ANY USER, THE UNIVERSITY RESERVES THE RIGHT (1) TO TERMINATE THAT USER'S ACCESS TO SOME OR ALL OF THE UNIVERSITY'S COMPUTER SYSTEMS AND INFORMATION RESOURCES AND (2) TO TAKE ADDITIONAL DISCIPLINARY ACTIONS AS DEEMED NECESSARY OR APPROPRIATE. REPEAT OFFENDERS WILL BE SANCTIONED AND THEIR PRIVILEGES TERMINATED.

If you have a concern about the use of copyrighted material on the University's network/domain, or if you believe OU's computer resources are being used in an infringing way, please contact OU's designated agent to receive notification of claimed infringement under Title II of the DMCA (linked below). Additional information is provided [here](#).

### **Additional Information**

[OU's Copyright Policy](#)

[The U.S. Copyright Act](#)

[Copyright Office](#)

[IU's Copyright Resource Guide](#)

[UT's Copyright Crash Course](#)

The content of this page is intended purely to provide general information to assist members of the University community in better understanding basic concepts of Copyright law. It does not constitute legal advice and does not give rise to attorney-client privileges. Visitors should consult independent counsel. OU does not endorse or control the content of any external website herein referenced or any site that references or links to this page.

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## **DMCA: University of Oklahoma's Designated Agent**

Anyone aware of a copyright infringement must send their entire written complaint (email or hard copy) to the designated agent for the University of Oklahoma. The complaint must include:

- (1) a physical/electronic signature of the copyright holder or his/her authorized agent,
- (2) a description of the copyrighted work claimed to have been infringed or, if applicable, a representative list of such works,
- (3) a description of the material that is claimed to be infringing and information sufficient to permit the service provider to locate the material,
- (4) information reasonably sufficient to permit the service provider to contact the complainant, such as an address, phone number, and address,
- (5) a statement that the complainant has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, their agent, or the law, and
- (6) a statement that the information in the notification is accurate, and under penalty of perjury, that the complainant is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

The University may, in its sole discretion, disclose to third parties any or all information about the accused infringer. The designated agent will follow the requirements of federal law concerning notices to the complainant, notices to the accused, and retention of records regarding the complaint and resolution.

The University of Oklahoma's designated agent to receive notification of infringement claims under Title II of the DMCA is:

Loretta Early  
660 Parrington Oval  
Evans Hall, Room 321  
Norman, OK 73019-0390  
(405) 325-9222  
[abuse@ou.edu](mailto:abuse@ou.edu)