

<b>Policies of the University of North Texas</b>	Chapter 8
<b>08.001 Copyright Compliance</b>	<b>Intellectual Property</b>

**Policy Statement.** It is the policy of the University of North Texas that all faculty, staff, and students respect the rights of ownership of intellectual property by adhering to United States copyright laws. The purpose of this policy is to: (1) provide a general outline of U.S. copyright law as codified in [Title 17, U.S. Code](#); (2) encourage the lawful use of copyright-protected materials; (3) protect the University of North Texas against risk of copyright infringement; and (4) comply with federal legislation such as the TEACH Act and the Digital Millennium Copyright Act.

**Application of Policy.** All Faculty, Staff, and Students

The policy applies to faculty, staff, and students at the University of North Texas. This policy does not address ownership of works created by employees or students of the university, or the ownership of and royalties for works created for distributed learning courses. These issues are addressed by UNT Policy No. 16.13.1: Intellectual Property Policy and UNT Policy No. 15.2.17: Distributed Learning - Creation, Use, Ownership, Royalties, Revision and Distribution of Electronically Developed Course Materials.

**Definitions.**

1. **Academic Period.** “Academic period” means one academic term, which can mean a semester or a shorter unit of time during which a complete course is offered.
2. **Copyright.** “Copyright” is a form of protection provided by the laws of the United States ([17 U.S.C.](#)) to the authors of “original works of authorship,” including literary, dramatic, musical, artistic, and certain other intellectual works.
3. **Copyright Infringement.** “Copyright infringement” means unauthorized use of copyrighted material in a manner that violates the copyright owner’s exclusive rights, as provided by law.
4. **Coursepack or Course Packet.** “Coursepack or course packet” means a compilation of any photocopied extracts from one or more sources (typically book chapters, journal articles or law reports) designed to support the teaching of a course.
5. **DMCA.** “DMCA” means the Digital Millennium Copyright Act, which is discussed further in Section 7: Compliance with the DMCA.
6. **Distance Education.** “Distance Education” means any course offered by UNT that falls within the parameters of the TEACH Act; this may include Distributed Learning and/or online courses.

7. Distributed Learning. “Distributed Learning” means any course at UNT for which at least 50 percent of the course is conducted through digital transmission, such as the Web, Internet, Videoconferencing, or CD-ROM.
8. Fair Use. “Fair Use” is a limited exception to copyright protection that states that reproduction of a portion of a copyrighted work without the copyright owner’s permission may be allowed under certain circumstances. Fair use is covered in section 107 of copyright law ([17 U.S.C. 107](#)):  
17 U.S.C. sec. 107. Limitations on exclusive rights: Fair use.  
Notwithstanding the provisions of section 106, 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, 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:
  - a. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
  - b. The nature of the copyrighted work;
  - c. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
  - d. The effect of the use upon the potential market for or value of the copyrighted work
9. Online Course. “Online course” means any course that is conducted at least 50 percent through digital transmission via the Web or Internet.
10. Public Domain. “Public domain” describes the body of creative work that is not protected by copyright, and which may be freely used by everyone. The reasons that the work is not protected may include: (1) the term of copyright for the work has expired; (2) the author failed to satisfy statutory formalities to perfect the copyright; or (3) the work is a work of the U.S. Government.
11. TEACH Act. “TEACH Act” means [Technology, Education, and Copyright Harmonization Act of 2002, Pub. L. No. 107-273, §13301 \(2002\)](#). TEACH is an update to the copyright law and expands upon the ways copyrighted materials can be used without obtaining permission from the copyright holder in certain circumstances for distance education purposes.
12. UNT. “UNT” means University of North Texas.

## **Procedures and Responsibilities.**

### **1. U.S. Copyright Law**

This section provides an overview of the basic principles of U.S. Copyright Law ([17 U.S.C.](#)). The U.S. Copyright Office, Library of Congress, provides informational brochures on United States copyright law and how it applies to various formats at <http://www.loc.gov/copyright/>. UNT Libraries: Government Information Connection also provides comprehensive information on U.S. Copyright Law and Legislation (<http://www.library.unt.edu/govinfo>).

## **1.1 Copyright Ownership**

A copyright belongs to the author of a work unless the author grants the ownership in writing to someone else, such as the author's publisher or record company. A work created for an employer as part of one's job, known as a work for hire, is considered to be authored by the employer in most cases. The law regarding copyright ownership and transfer can be found in Title 17, Chapter 2 of the U.S. Code ([17 U.S.C. ch. 2](#)). Details regarding copyright ownership of original works created by authors employed by UNT can be found in [UNT Policy No. 16.13.1: Intellectual Property Policy](#).

## **1.2 Types of Works Eligible for Copyright Protection**

The types of works that can be copyrighted include literary, musical, dramatic, choreographic, pictorial, graphic, sculptural, and architectural works; motion pictures and other audiovisual works; sound recordings; and electronic works, including computer chips, software, and some databases.

Lack of a copyright notice on a work does not mean the work is not protected by copyright. A copyright notice is not required under U.S. law. The use of the copyright notice is the responsibility of the copyright owner and does not require advance permission from, or registration with, the Copyright Office.

## **1.3 Rights of a Copyright Owner**

The owner of a copyright has the exclusive right to reproduce, distribute, perform, display, or derive other works from the copyrighted work, and to authorize others to do so. This right arises the moment a copyrightable work is created and put into tangible form. The rights of the copyright owner exist for a finite period of time, and are subject to certain limitations and exemptions. The exclusive rights of the copyright owner are described in Title 17, Chapter 1 of the U.S. Code ([17 U.S.C. ch. 1](#)).

## **1.4 Copyright Exclusions and Limitations**

During the term of copyright, federal law allows for a number of exceptions to the copyright owner's "exclusive" rights by specifying that certain uses of copyrighted works, under conditions that are not likely to undermine the copyright holder's economic incentives to create and disseminate such works, are outside the control of the copyright owner.

Limitations and exemptions that pertain to academia include, but are not limited to the following:

[Section 107](#): **Fair Use**, which applies to activities such as quoting a small portion of a book for the purposes of criticism, comment, teaching, or scholarship, or creating a parody of an artwork;

[Section 108](#): **Reproduction by Libraries and Archives**, which applies to such activities as making archival copies, replacing lost or damaged copies, filling patron requests for photocopies, and filling interlibrary loan requests

[Section 109](#): **First Sale Doctrine**, which permits the lending, giving away, or resale of a physical copy of a work (such as a book or CD), providing the legal justification for lending libraries and used book stores; and

[Section 110](#): **Noncommercial Performances and Displays**, which permits certain performances and displays of copyrighted material in a face-to-face classroom, in distance education courses, in churches, restaurants, fairs, and other venues, at charitable functions held by fraternal organizations, and for the benefit of disabled persons. The TEACH Act updated Section 110 in 2002 and provides an exemption for distance learning courses under specific circumstances.

Copyrightable works may be licensed under a **Creative Commons License**, which allows copyright holders to grant some or all of their rights in their work to the public, while still retaining other rights. If you would like to use work that is licensed under a Creative Commons License, you must check which rights have been granted to the public and ensure that your use stays within the limits of the license.

## 2. **Compliance with U.S. Copyright Laws\***

UNT faculty, staff, and students are responsible for determining whether the materials they use are copyright protected. If they are not protected, they may use the materials without obtaining permission. If the materials are protected, they must then determine whether there are any applicable exceptions to copyright protection, and if so, to what extent they may use the materials. If no exception applies, permission must be obtained to use the materials, and the way in which the materials can be used may be limited.

Educational materials designed to help clarify copyright exceptions, including fair use, are provided on UNT's Web site. Specific guidelines for certain types of materials and uses are provided below.

\*Please note that the majority of Section 5 does not apply to the use of copyrighted materials in Distance Learning classes that are offered in an online, rather than a classroom, environment. For information regarding how to comply with copyright laws while using materials in an online environment, please see Section 6: Compliance with the TEACH Act.

## **2.1 Use of Written Copyrighted Materials**

Articles, excerpts, chapters, and other creative works used as part of classroom teaching, course materials, scholarly research, or teaching preparation require copyright permission, unless there is an exception to copyright protection, or the work is in the public domain.

The fair use exception may apply to the following uses of copyrighted materials:

### **2.1.1 Photocopying Print Materials for Research or Teaching Preparation**

Generally, instructors may make a single copy of any of the following for scholarly research or use in teaching or preparing to teach a class:

1. A chapter from a book;
2. An article from a periodical or newspaper;
3. A short story, short essay or short poem, whether or not from a collective work;
4. A chart, diagram, graph, drawing, cartoon or picture from a book, periodical, or newspaper.

Most single-copy photocopying for personal use in research, even when it involves a substantial portion of a work, may constitute fair use.

### **2.1.2 Photocopying Print Materials to Distribute in Class**

Primary and secondary school educators, along with publishers, have developed the following guidelines, which allow a teacher to distribute photocopied material to students in a class without the publisher's prior permission, under the following conditions:

1. The distribution of the same photocopied material does not occur every semester;
2. Only one copy is distributed for each student, which must become the student's property;
3. The material includes a copyright notice on the first page of the portion of material photocopied;

4. The students are not assessed any fee beyond the actual cost of the photocopying.

In addition, the educators agreed that the amount of material distributed should not exceed certain brevity standards, and the photocopying practices of an instructor should not have a significant detrimental impact on the market for the copyrighted work.

### **2.1.3 Electronic and Print Course Packets**

Copyright permission for use in course packets is usually granted for one academic period.

## **2.2 Use of Video, Film, and Sound Recordings at Public Events or in the Classroom**

### **2.2.1 Copying**

It is illegal to copy a film, video, or sound recording without the copyright owner's permission.

### **2.2.2 Use of Video, Film, and Sound Recordings at Public Events**

Films, videos, and sound recordings may not be shown or played at public events unless licensed for public performance, or in compliance with an exception or limitation on copyright protection.

### **2.2.3 Use of Video, Film, and Sound Recordings in the Classroom: Face-to-Face Classroom Teaching Exemption**

Most classroom uses of films, videotapes, and sound recordings are permissible, provided that the showing is by instructors, guest lecturers, or students and is done in connection with face-to-face teaching activities. Use of media is permitted in an educational institution without a public performance license as long as criteria outlined in U.S.C. Title 17, Chapter 1, Section 110 are met:

- It must be shown in a non-profit educational institution
- It must be shown in a classroom or similar place devoted to instruction
- It must be shown as part of a regularly scheduled course
- It must be shown as part of the face-to-face classroom teaching activities
- It must be lawfully made

- It must be directly related to the course content
- It must be shown only to students enrolled in the course

### **2.3 Use of Electronic Databases and Periodicals**

Most of the electronic databases and periodicals in digital format that are made available to the UNT community through the University Libraries are subject to license agreements with outside vendors, which impose legal restrictions on the use of these resources. Students, faculty, and staff who use these resources must comply with the restrictions applicable to each resource.

### **2.4 Use of Government Publications**

Works of the U.S. government are generally not protected by copyright in the United States and are automatically in the public domain ([17 USC § 105](#)); however, there are numerous exceptions and refinements to this rule. For a detailed explanation of how copyright law is applied to government publications, see Frequently Asked Questions About Copyright: [3.0 U.S. Government Works](#) and [4.0 Works Created Under a Federal Contract or Grant](#) on the CENDI Web site.

### **2.5 Use of Photographs and other Visual Materials**

Photographs and other visual materials are generally protected by copyright; however, the fair use exception may apply. Under fair use guidelines no more than 5 images by an artist or photographer may be reproduced or incorporated as part of an educational multimedia project. When using photographs and illustrations from a published collective work, not more than 10% or 15 images, whichever is less, may be reproduced or incorporated as part of an educational multimedia project.

### **2.6 Use of Musical Scores**

#### **2.6.1 Multiple Copies of Excerpts**

For academic purposes other than performance, multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole that would constitute a performable unit such as a section, movement, or aria. In no case may more than 10% of the whole work be copied. The number of copies may not exceed one copy per student.

### **2.6.2 Single Copy of Entire Unit**

For academic purposes other than performance, a single copy may be made of an entire performable unit such as a section, movement, or aria solely for the purpose of scholarly research, or in preparation to teach a class, if the work is:

- (1) confirmed by the copyright proprietor to be out of print, or
- (2) unavailable except in a larger work.

### **2.6.3 Editing Musical Scores**

Printed copies that have been purchased may be edited or simplified, provided that the fundamental character of the work is not distorted, that the lyrics (if any) are not altered, and that no lyrics are added, if none exist.

## **2.7 Use of Software**

UNT has several policies regarding compliance with software licensing agreements and the protection of copyrighted software. Please see UNT Policy 3.10: University of North Texas Computer Use Policy and the Guidelines for Software Licensing Compliance ([http://www.unt.edu/policy/UNT\\_Policy/volume2/3\\_10.html](http://www.unt.edu/policy/UNT_Policy/volume2/3_10.html)).

## **3. Compliance with the TEACH Act: The Use of Copyrighted Materials in the Online Environment**

- 3.1** Under the TEACH Act, the materials that may be used in the online environment are substantially similar to the type of materials, as well as the quantity or duration of the materials, that may be used in the classroom environment. Essentially, the TEACH Act allows an instructor to distribute materials online in the quantity and of the character that he or she would otherwise have used during a face to face class. The TEACH Act does not allow instructors to post materials with the intention of supplementing classroom materials with further examples that were not part of the classroom lesson, or for students' individual study outside of class time.
- 3.2** To be in compliance with the TEACH Act, and to lawfully distribute copyrighted materials in the online environment, UNT must:



- Provide notice to students when materials may be subject to copyright protection
- Limit the transmission of copyrighted materials to enrolled students
- Prevent stored materials from being accessible to anyone other than enrolled students
- Prevent the retention of materials by students for periods longer than the “class session”
- Supervise the display or performance of copyrighted materials
- Ensure that materials used are an integral part of “mediated instructional activities”
- Ensure that materials used are not “typically purchased or acquired by the students” (e.g. textbooks)

#### 4. Compliance with the DMCA

The [Digital Millennium Copyright Act \(DMCA\)](#), effected in 1998, implements two 1996 World Intellectual Property Organization (WIPO) treaties. It criminalizes production and dissemination of technology, devices, or services that are used to circumvent measures that control access to copyrighted works and criminalizes the act of circumventing an access control, even when there is no infringement of copyright itself. It also heightens the penalties for copyright infringement on the Internet. The most common violation of the DMCA that occurs in the university setting is illegal file sharing, especially of music files. Students and employees of UNT should be aware that if they violate the DMCA either by illegally sharing copyrighted files, or in any other way, they could face severe penalties.

#### 5. Copyright Infringement

Anyone who makes unauthorized use of copyrighted material in a manner that violates the copyright owner’s exclusive rights (except for the limitations and exemptions described above) is committing *copyright infringement* and may be subject to civil and criminal penalties as well as disciplinary action by UNT.

**Responsible Party:** Office of the President

#### **References and Cross-references.**

UNT Policy 08.003, Research Intellectual Property

UNT Policy 06.032, Online Courseware Intellectual Property

UNT Policy 14.003, Computer Use  
Guidelines for Software Licensing Compliance

([http://www.unt.edu/policy/UNT\\_Policy/volume2/3\\_10.html](http://www.unt.edu/policy/UNT_Policy/volume2/3_10.html)).

“TEACH Act” - [Technology, Education, and Copyright Harmonization Act of 2002, Pub. L. No. 107-273, §13301 \(2002\)](#)

The 1998 [Digital Millennium Copyright Act \(DMCA\)](#)

[Title 17, U.S. Code](#)

<http://www.loc.gov/copyright/>

<http://www.library.unt.edu/govinfo>

Approved: 6/1/2008

Effective: 6/1/2008

Revised: 5/2011\*

*\*format only*