

Policies of the University of North Texas at Dallas	Chapter 8
8.001 Copyright Compliance	Intellectual Property

Policy Statement. It is the policy of the University of North Texas at Dallas 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 at Dallas 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 at Dallas. 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.

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” that are fixed in tangible form. Copyright allows the author to control how a copyrighted work is used.
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 materials, distributed either in digital file format or 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 amended several sections of 17 U.S.C.
6. **Distance Education.** “Distance Education” means any course offered by UNTD 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 UNTD 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 [17 U.S.C.](#) Notwithstanding the copyright protection provided in Section 106, the fair use of a copyrighted work for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, and/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 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 the [Technology, Education, and Copyright Harmonization Act of 2002 \(17 U.S.C. §110, §112\)](#). The TEACH Act is an update to copyright law and addresses when educators can perform, display, and make copies of copyrighted materials for distance education purposes, without obtaining permission from the copyright holder.
12. UNTD. “UNTD” means University of North Texas at Dallas.

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 and the Library of Congress provides information on United States copyright law and how copyright applies to various formats at <http://www.loc.gov/copyright/>.

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 UNTD can be found in UNTD Policy 13.015 *Intellectual Property*.

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 some electronic works, including machine-readable 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. However, an author who has registered a work with the U.S. Copyright Office has some additional legal advantages under copyright law.

1.3 Rights of a Copyright Owner

Except as otherwise allowed by law, 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.

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 activities such 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***

UNTD 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.

Specific guidelines for certain types of materials and uses are provided below.

*Please note that the majority of Section 2 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 3, 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

Permission must be obtained for material included in a course packet unless one of the exceptions to copyright applies. A course packet must include notices identifying the copyright owners of included material. 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 UNTD community through the University Library 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 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 (Commerce, Energy, NASA, Defense Information Managers Group Website, <https://www.cendi.gov/index.html>).

2.5 Use of Photographs and other Visual Materials

Photographs and other visual materials are protected by copyright; however, the fair use exception may apply. Under fair use guidelines no more than five 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. However, even when following these guidelines, usage may not be allowed depending on application of the fair use test and the impact on each factor of the test.

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 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

UNTD has policies regarding compliance with software licensing agreements and the protection of copyrighted software. Please see UNTD Policy 14.008, *Acceptable Use*.

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 similar to the type of materials that may be used in the classroom environment. The amount of an audiovisual work and dramatic musical work that can be used is less than in a face-to-face class; a clip can be shown that is a “reasonable and limited portion.” 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, UNTD must:
- Store the materials on a secure server
 - Provide notice to students when materials may be subject to copyright protection
 - Limit the transmission of materials to enrolled students
 - Prevent 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 materials
- Ensure that materials are directly related to and of material assistance to the teaching content of the course
- The amount of the work used is similar to what is used in face-to-face teaching
- Only reasonable and limited parts of a dramatic, literary, musical or audiovisual work are used
- Ensure that materials used are not “typically purchased or acquired by the students” (e.g. textbooks; marketed for use in distance education)
- Ensure analog originals are only used when digital copies aren’t available

4. Compliance with the DMCA

The [Digital Millennium Copyright Act \(DMCA\)](#), is a 1998 U.S. copyright law that implemented two 1996 World Intellectual Property Organization (WIPO) treaties. It criminalizes production and dissemination of technology, devices, or services 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 UNTD 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 as allowed by law) is committing *copyright infringement* and may be subject to civil and criminal penalties as well as disciplinary action by UNTD.

Responsible Party: Office of the President

References and Cross-references.

- UNTD Policy 13.015, Intellectual Property
- UNTD Policy 14.008, Acceptable Use
- “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.UNTD.edu/govinfo>
- CENDI Web site (Commerce, Energy, NASA, Defense Information Managers Group Website, <https://www.cendi.gov/index.html>).
- <http://www.loc.gov/copyright/>

Forms and Tools.

- None.

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