

# “UL Copyright Service Model: Assessment Plan and Outcomes”

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## Scope of Service:

1. Any suggestions made by librarian(s) regarding copyright is provided with the best of intentions and *within the limits of the information provided by patrons*. Using our best judgement as well as the information gathered, the copyright services goal is to increase scholarly engagement and to extend in a more tangible way the research support arm of the University Library. Suggestions made/received during consultations should not be considered legally binding. Ultimately, it is up to the patron to use their best judgement with regards to utilizing any information provided.

### **The copyright service is not a replacement for legal counsel.**

2. This service primarily focuses on issues related to the creation, access, and dissemination of educational and research materials. Any questions around trademarks, patents, or potential conflicts of interests should be immediately redirected to the University’s Office of General Counsel, if not a private attorney.
3. Because of the potential complexity of any surrounding context for resource use, potential service users should be aware that there exists a lot of grey areas and ambiguity around digital media and its potential uses that can result in the librarian advising you to consult with general counsel.

## Service Objectives:

1. To promote and share information and best practices related to projected core areas around copyright, such that librarians or non-librarian users develop a general understanding of what copyright is, and when it applies to accessing and reproducing resources in new scholarship.
2. To enable librarians and non-librarian users to be self-sufficient and confident in evaluating the information gained during a consultation and deducing from that if general counsel would be a more appropriate avenue.



3. To create a consistent level of response and engagement around copyright so that each librarian and non-librarian approaches any copyright inquiry with a similar understanding of what can reasonably be suggested to patrons.
4. To provide support for the creation and dissemination of new creative, research, or educational products be they in traditional or nontraditional formats.

**Service Core Areas:**

1. Fair Use-“legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances.” [U.S. Copyright Office](#)
2. Public Domain-“refers to creative materials that are not protected by intellectual property laws such as copyright, trademark, or patent laws. The public owns these works, not an individual author or artist.” [Stanford.Edu](#)
3. Creative Commons-allows individuals to “...retain copyright while allowing others to copy, distribute, and make some uses of their work — at least non-commercially.” [Creativecommons.org](#)
4. Intellectual Property Rights- “Ethereal property; of the mind, intangible, with no corporeal existence, though capable of being expressed in a tangible medium.” [Duhaime’s Law Dictionary](#)

National Policies	Limitations	Usage Translation
<p><b>Digital Millennium Copyright Act:</b></p> <p><b>Section 1201(d) (Library)</b></p> <p><b>(Technology, DRM, and Content Creation)</b></p> <p><b>Section 110(2) (Classroom)</b></p>	<p>When a public or other nonprofit institution of higher education is a <a href="#">service provider</a>, and when a faculty member or graduate student who is an employee of such institution is performing a teaching or research function, for the purposes of subsections (a) and (b) such faculty member or graduate student shall be considered to be a person other than the institution, and for the purposes of subsections (c) and (d) such faculty member’s or graduate student’s knowledge or awareness of his or her infringing activities shall not be attributed to the institution, if—</p> <ol style="list-style-type: none"> <li>1. such faculty member’s or graduate student’s infringing activities do not involve the provision of online access to instructional materials that are or were required or recommended, within the preceding 3-year period, for a</li> </ol>	<p>“Nonprofit library, archive and educational institution exception. The prohibition on the act of circumvention of access control measures is subject to an exception that permits nonprofit libraries, archives and educational institutions to circumvent solely for the purpose of making a good faith determination as to whether they wish to obtain authorized access to the work.” <a href="https://www.copyright.gov/legislation/dmca.pdf">https://www.copyright.gov/legislation/dmca.pdf</a></p> <p>See: <a href="https://copyrightalliance.org/education/copyright-law-explained/the-digital-millennium-copyright-act-dmca/">https://copyrightalliance.org/education/copyright-law-explained/the-digital-millennium-copyright-act-dmca/</a></p> <p>See: <a href="https://www.eff.org/issues/dmca">https://www.eff.org/issues/dmca</a></p> <p>See: <a href="http://www.dmlp.org/legal-guide/protecting-yourself-against-copyright-claims-based-user-content">http://www.dmlp.org/legal-guide/protecting-yourself-against-copyright-claims-based-user-content</a></p>

	<p>course taught at the institution by such faculty member or graduate student;</p> <ol style="list-style-type: none"> <li>2. the institution has not, within the preceding 3-year period, received more than two notifications described in subsection (c)(3) of claimed infringement by such faculty member or graduate student, and such notifications of claimed infringement were not actionable under subsection (f); and</li> <li>3. the institution provides to all users of its system or network informational materials that accurately describe, and promote compliance with, the laws of the United <a href="#">States</a> relating to copyright.</li> </ol> <p>Ref: <a href="https://www.law.cornell.edu/uscode/text/17/512">https://www.law.cornell.edu/uscode/text/17/512</a></p>	<p>2018 DMCA Expansion  <a href="https://library.osu.edu/document-registry/docs/1027/stream">https://library.osu.edu/document-registry/docs/1027/stream</a>  <a href="https://www.copyright.gov/title37/201/37cfr201-40.html">https://www.copyright.gov/title37/201/37cfr201-40.html</a></p>
<p><b>Technology Education Copyright Harmonization Act</b>   <b>(Distance Education and e-Resource Sharing)</b></p>	<ol style="list-style-type: none"> <li>1. The institution must be an accredited, non-profit educational institution. The use must be part of mediated instructional activities. The use must be limited to a specific number of students enrolled in a specific class. The use must either be for 'live' or asynchronous class sessions.</li> <li>2. The use must not include the transmission of textbook materials, materials "typically purchased or acquired by students," or works developed specifically for online uses.</li> <li>3. The institution must have developed and publicized its copyright policies, specifically informing students that course content may be covered by copyright, and include a notice of copyright on the online materials.</li> <li>4. The institution must implement some technological measures to ensure compliance with these policies, beyond merely assigning a password. Ensuring compliance through technological means may include user and location authentication through Internet Protocol (IP) checking, content timeouts, print-disabling, cut and paste disabling, etc.</li> </ol> <p>Ref: <a href="https://copyright.cornell.edu/teach-act">https://copyright.cornell.edu/teach-act</a></p>	<p>" The TEACH Act updates the copyright law to remove impediments to the use of new technologies in teaching. Until the recent statutory changes, electronic transmissions of copyright protected material fell outside the education exemptions found in the copyright law because those exemptions were explicitly limited to face-to-face classroom settings. Under the TEACH Act, certain copyrighted materials may be used in electronic formats without having to obtain permission from the copyright holder. "</p> <p>See:  <a href="https://library.osu.edu/documents/copyright/distance-learning.pdf">https://library.osu.edu/documents/copyright/distance-learning.pdf</a></p>

<p><b>Title 17 Copyright Act: Section 108 (Reproduction by Libraries and Archives for the purposes of research, scholarship, or preservation)</b></p>	<ol style="list-style-type: none"> <li>1. the reproduction or distribution is made without any purpose of direct or indirect commercial advantage;</li> <li>2. the collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field; and</li> <li>3. the reproduction or distribution of the work includes a notice of copyright that appears on the copy or phonorecord that is reproduced under the provisions of this section, or includes a legend stating that the work may be protected by copyright if no such notice can be found on the copy or phonorecord that is reproduced under the provisions of this section."</li> </ol> <p>Ref: <a href="https://www.law.cornell.edu/uscode/text/17/108">https://www.law.cornell.edu/uscode/text/17/108</a></p>	<p>For purposes of this section, <u>during the last 20 years of any term of copyright of a published work</u>, a library or archives, including a nonprofit educational institution that functions as such, may reproduce, distribute, <u>display</u>, or <u>perform</u> in facsimile or digital form a copy or phonorecord of such work, or portions thereof, for purposes of preservation, scholarship, or research, if such library or archives has first determined, on the basis of a reasonable investigation, that none of the conditions set forth in subparagraphs (A), (B), and (C) of paragraph (2) apply.</p>
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**Assessing Service Objectives:**

Year of Assessment	Outcome to Access	Metric	Evidence
1	Sharing of General Knowledge /Creation of Tool Kit materials with librarians, faculty, community members, and students.	Expect to see at least a 20% increase in overall research consultations where copyright issues arise. -Copyright Liaisons will receive consultations, number of interactions will be tallied and then followed up.	Statistical information gathered via the annual data reported in LibInsight. Substantiated by satisfaction survey follow ups sent out to faculty following consultations explicitly requested. <sup>3</sup>
2	Empower Librarians and user confidence in dealing with copyright issues.	Indicators of increased confidence levels would include having less consultations dedicated to basic or common copyright issues, and instead seeing more complex and novel questions being referred to copyright liaisons.	Content Analysis can be performed on the surveys such that data can then be aggregated out and comparisons in # of librarian referrals vs. issue can be mapped.

Depending on the feedback and trends, I would highly encourage that Copyright liaisons spend the 4<sup>th</sup> year of the service program using the data collected to do a strengths and weakness analysis of the training model, to be followed up by a gap analysis to identify key areas to be expanded and added. This would necessitate the creation of new resources, and thus need to include a review of the outcomes and performance indicators. The aims of initial metrics of the first two year is to judge increases in user confidence around issues surrounding copyright. This is uniquely different from the proposed third objective, which is when we get into quality of service experience. Assuming that the proposed data metrics have been positive then the next copyright liaison will need to be responsible for ensuring the quality and consistency of the information conveyed

Year of Assessment	Outcome to Access	Metric	Evidence
3	Creating consistent levels of response and engagement	Identify negative trends-this can be done at the collective level	Content Analysis of satisfaction surveys can be performed by specifically mining surveys marked as unsatisfactory.
4	Additional resources responsive to changing law/ needs of users.	Response to recognized needs-this is why we would want to look at and possible alter the model we have established so far.	Strengths and Weakness Assessment of the program overall, followed by a gap analysis.

<b>Core Area:</b>	<b>Performance Indicators:</b>	<b>Librarian/Staff Training Outcomes:</b>
<b>Fair Use</b>	<ul style="list-style-type: none"> <li>• Have faculty Use Fair Use Checklist before or during consultation.</li> <li>• Read over the flowchart of e-resource and print material sharing limitations with them.</li> <li>• Direct Patron to our Library policy on copyright after explaining why or why not the intended use meets the criteria of fair use.</li> </ul>	<p>Librarians and staff will be able to explain to patrons in clear language the limits of the educational fair use exemption.</p>
<b>Public Domain</b>	<ul style="list-style-type: none"> <li>• Intentionally, guide patrons on where to access open resources and materials</li> <li>• Use discipline specific knowledge to identify and then recommend resources that meet the needs of the patron.</li> <li>• Assist patrons with navigating public domain materials and their application in research.</li> </ul>	<p>Librarians and staff will be able to identify both commercial resources and open materials available under public domain.</p>
<b>Creative Commons</b>	<ul style="list-style-type: none"> <li>• Discuss with patrons what is considered an appropriate attribution under Creative Commons.</li> <li>• Direct patrons on how they can utilize CC to disseminate their own scholarship.</li> </ul>	<p>Librarians and staff will assist patrons with interpreting Creative Commons licenses.</p>
<b>Intellectual Property Rights</b>	<ul style="list-style-type: none"> <li>• Deploy questioning techniques when needed for further clarification.</li> <li>• Direct patron to the proper individual or unit depending upon the question.</li> <li>• Assist patron with framing their question so that they may best find an answer if you must redirect them to someone else.</li> </ul>	<p>Librarians and staff will first clarify any copyright concerns that they encounter from patrons in order to assist them more fully.</p>

Core Area:	UL IL Learning Outcomes	Faculty/Graduate Learning Outcomes
<b>Fair Use</b>	<ul style="list-style-type: none"> <li>Acknowledge their own authority in certain contexts.</li> <li>Identify information need and potential sources of information (e.g., scholars, organizations, governments, industries).</li> </ul>	<ul style="list-style-type: none"> <li>Users must first decide if permission beyond proper attribution is needed.</li> <li>Users will be able to articulate the transformative or additional qualities that their particular usage of the idea, resource, model etc. would add to the original.</li> </ul>
<b>Public Domain</b>	<ul style="list-style-type: none"> <li>Articulate the capabilities and constraints of various processes of information creation.</li> <li>Select sources that best meet an information need based on the audience, context, and purpose of various formats.</li> </ul>	<ul style="list-style-type: none"> <li>Users will be able to find and identify a variety of alternative open source media, if available, that can be incorporated into their creative, educational, or research projects.</li> </ul>
<b>Creative Commons</b>	<ul style="list-style-type: none"> <li>Contribute to the ongoing scholarly conversation at an appropriate level.</li> <li>Describe the ways that communication systems privilege some perspectives and present barriers to others.</li> </ul>	<ul style="list-style-type: none"> <li>Users will evaluate Creative Commons Licenses and choose which licenses they would like to apply to their creative, educational, or research project.</li> <li>Users will follow the proper incorporation and attribution of CC-BY license.</li> </ul>
<b>Intellectual Property Rights</b>	<ul style="list-style-type: none"> <li>Recognize that intellectual property is legally and socially constructed and varies by discipline and culture.</li> <li>Manage personal and academic information online with a knowledge of the commodification of that information.</li> </ul>	<ul style="list-style-type: none"> <li>Users will implement the correct procedure for attaining permissions from the original copyright holders or from clearing houses when appropriate."</li> <li>Users will clarify their rights as authors or creators for any work created, published, or produced both inside and outside of the IUPUI institution.</li> </ul>

Core Area:	UL IL Learning Outcomes	Student Learning Outcomes
<b>Fair Use</b>	<ul style="list-style-type: none"> <li>Acknowledge their own authority in certain contexts.</li> <li>Identify information need and potential sources of information (e.g., scholars, organizations, governments, industries).</li> </ul>	<ul style="list-style-type: none"> <li>Students' knowledge of fair use factors will develop and be applied to the selection and use of digital content in various creative or research based projects.</li> </ul>
<b>Public Domain</b>	<ul style="list-style-type: none"> <li>Articulate the capabilities and constraints of various processes of information creation.</li> <li>Select sources that best meet an information need based on the audience, context, and purpose of various formats.</li> </ul>	<ul style="list-style-type: none"> <li>Students will be able to find literary, government, datasets, and nonprofit materials available to them through public domain.</li> <li>Students will demonstrate a grasp of evaluation processes for online materials.</li> </ul>
<b>Creative Commons</b>	<ul style="list-style-type: none"> <li>Contribute to the ongoing scholarly conversation at an appropriate level.</li> <li>Describe the ways that communication systems privilege some perspectives and present barriers to others.</li> </ul>	<ul style="list-style-type: none"> <li>Students will be able to identify materials labeled as creative commons.</li> <li>Students will be able to incorporate these materials into their projects in ways that align with the directed CC-BY license.</li> </ul>
<b>Intellectual Property Rights</b>	<ul style="list-style-type: none"> <li>Recognize that intellectual property is legally and socially constructed and varies by discipline and culture.</li> <li>Manage personal and academic information online with a knowledge of the commodification of that information.</li> </ul>	<ul style="list-style-type: none"> <li>Students will be able to understand more about their rights as creators and researchers on any joint research or publication piece that they have participated in.</li> <li>Students will learn about on campus publication options for research or creative projects.</li> </ul>