

Copyright and Fair Use: Guidelines for Digital Course Materials

As part of UConn's continuing effort to ensure ongoing compliance with copyright law, this document is intended to aid faculty in making decisions on how to appropriately provide electronic access to academic resources that is respectful of the University's licensing arrangements and copyright principles.

HuskyCT is the preferred platform at the University for faculty to use when providing electronic access to academic resources and instructional material in their courses. It is the preferred platform because access to these materials is generally restricted to course participants.

When developing and/or updating a course, keep in mind that there are generally two ways to provide access to electronic material:

1. You can link to the resources
2. You can upload the resources

Linking to resources is often the easiest and safest way for faculty to make materials available. In other cases, uploading materials into a HuskyCT site may be preferred due to the format of the materials and/or copyright status.

LINKING TO FILES

- **Linking to Licensed Content**

UConn Library maintains a vast database of materials that are licensed from publishers and other third parties. Many academic resources and instructional materials are available through these licenses and do not require any additional permission from the content owner.

These materials can be made accessible by providing a link from the UConn Library webpage. Instructions are available through the Library's [Stable Linking to Electronic Resources](#) page.

- **Linking to External Content**

Faculty may also link to content that is made publicly available on legitimate platforms. Linking to the original source of the materials does not constitute a copy or reproduction of the materials. Therefore, as long as the original source of the materials is legally authorized to publish the materials, providing a link to the materials generally will not present copyright issues. If you have questions see the flowchart/checklist in Appendix 1 or contact the Scholarly Communications Coordinating Group e-mail at scholcomm@uconn.edu.

UPLOADING FILES

- **Uploading Materials from the Public Domain**

Faculty may provide direct access to content that is in the [public domain](#). Content that is in the public domain is no longer subject to copyright protection, so there are generally no restrictions on how that content may be used in instructional settings.

- **Uploading Materials with Permission from Content Owners**

Any materials with [Creative Commons](#) licenses may be freely linked-to or uploaded but other electronic resources may require permission. This permission may be obtained by contacting the content owner or a licensing agent for the content owner. See the flowchart/checklist in Appendix 1 [under construction] for help in determining if permissions are required.

- **Uploading Materials under Fair Use or Other Copyright Exemptions**

Faculty may also rely on the copyright principle of [fair use](#) when using materials in HuskyCT. Fair use is a well-known method of using copyrighted material that is generally most appropriate in circumstances where the material is not easily accessible through one of the methods described above.

Faculty must consider the following four factors before relying on fair use principles to make copyrighted materials available in instructional settings:

1. The purpose and character of the use;
2. The nature of the copyrighted material;
3. The amount and substantiality of the portion of the copyrighted material being used in relation to the entire work;
4. The effect of the use on the potential market for, or value of, the copyrighted materials.

Additional guidance on the criteria for assessing fair use is available on the [UConn Library webpage](#).

ADDITIONAL RESOURCES

Questions about providing additional access to licensed materials, such as embedding portions of licensed content on HuskyCT, should be directed to UConn Library to see if such access is permitted by the University's licensing arrangements. Additional resources on how to provide electronic access to academic resources and instructional materials on HuskyCT or on how to use HuskyCT generally are available at:

- [UConn Library Copyright Page](#)
Further information on copyright issues around electronic access to academic resources
- [UConn Library Use of Licensed Electronic Resources Policy Page](#)
Information on policies and requirements related to licensed resources
- [UConn Educational Technologies](#)
Training and Support for placing materials in HuskyCT
- [Subject Specialist Librarians](#)
Further support for library related questions and issues
- [Center for Excellence in Teaching and Learning](#)
Further support for questions related to teaching and learning and the use of educational technology to deliver academic materials

APPENDIX 1

Copyright and Fair Use: Worksheet for Digital Course Materials

This worksheet is intended to assist you with adding electronic content to HuskyCT while complying with copyright law.

How to use this worksheet:

- *Work through the questions in the order presented.*
- *If you answer yes to a question, you do not need to move on to any later questions.*
- *If you are not sure whether the answer is yes or no, proceed as if the answer is no and move onto the next section.*

1. Is the material available freely online or in an electronic resource licensed by UConn?

Guidance:

- Linking to material that is available on the web or to electronic content licensed by UConn does not infringe the copyright of that material.

If yes, you can link to the material. If no, then move onto the next question.

2. Is the material in the public domain?

Guidance:

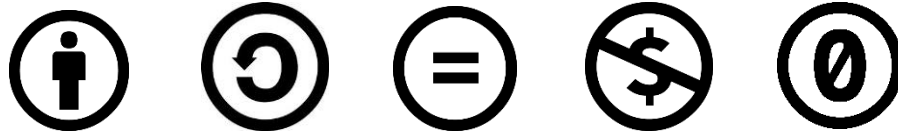
- Works published after 1977 are unlikely to be in the public domain.
- For works published prior to 1977, you can use this [chart](#) to determine whether the work is in the public domain.
- If the fair use chart does not provide a definitive answer, proceed as if the item is still under copyright.

If yes, you may upload the document. If no, then move onto the next question.

3. Is the material open access or under a Creative Commons license?

Guidance:

- Works published under an Open Access or Creative Commons license may be uploaded to HuskyCT without implicating copyright concerns.
- The following symbols indicate that a work is published under a Creative Commons license:



More [information](#) about Creative Commons licenses.

If yes, you may upload the document. The Creative Commons license notice should be posted visibly on the work by either titles, symbol, or both. If no, then move onto the next question.

4. Is use of the material considered to be fair use?

If the material you wish to upload to HuskyCT does not fall within one of the previous three questions, then you must determine whether your use can be considered fair use. There are the four factors to consider when determining whether the use of copyrighted material can be considered fair use. No factor is determinative, and all factors must be considered and weighed when determining fair use.

This checklist will help you decide whether fair use applies. If you would like to use an online tool instead of this checklist, the [Fair Use Evaluator](#) is a good tool.

How to use the checklist: Check off each item that applies to the work you want to upload to Husky CT. There may be more than one characteristic for each of the factors, and the work may have characteristics that weigh both in favor and against fair use. When you are finished, review the entire checklist to determine whether the use weighs toward fair use or not.

Name of the work:

Portion used:

Prepared by:

Date:

Factor 1: The purpose and character of the use

In favor of fair use:

- Teaching
- Scholarship
- Research
- Transformative (uses copyrighted work to produce understanding, usually in the form of a new creative work)
- Restricted access (such as a password protected site like HuskyCT)
- Posted once for a single course
- Nonprofit educational institution

Against fair use:

- Consumptive use (using the work as you would a purchased copy; no transformative use of the work)
- Commercial use (use in a for-profit activity)
- Posted multiple semesters for more than one course

Factor 2: The nature of the copyrighted material

In favor of fair use:

- Factual work
- Published
- Audience is general
- Not easy to obtain commercially

Against fair use:

- Creative work
- Unpublished
- Audience is educational (for example, a textbook)
- Easy to obtain commercially

Factor 3: The amount and substantiality of the portion of the copyrighted material being used in relation to the entire work

In favor of fair use:

- Small quantity (e.g., one article from a journal, one chapter from a book, or one item from collected works consisting of less than 10% of entire work)
- The work is a small portion of the reading required for the class
- Portion used is not central to entire work

Against fair use:

- Large portion
- Portion is the “heart of the work” (portion used is central to the entire work, regardless of the its size in relation to the whole work)

Factor 4: The effect of the use on the potential market for, or value of, the copyrighted materials

In favor of fair use:

- Short excerpt
- User owns lawfully acquired copy
- No similar product offered by copyright holder
- No easy licensing mechanism

Against fair use:

- License easy to obtain
- Affordable permission available
- Repeated or long-term use
- Could replace the sale of the copyrighted work

For more information and additional tools about fair use, see [UConn’s Fair Use page](#).

If you determine that uploading the material to your course management system is fair use, then you may use the material with no further permission. You should retain a copy of the completed checklist for your records.

If you determine that the use of the materials is not fair use, then you may not upload the item to HuskyCT.

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Adapted from Fair Use Checklist, developed by Dr. Kenneth D. Crews, Director of Columbia University Libraries/Information Services Copyright Advisory Office. Available as a PDF from:
<http://copyright.columbia.edu/copyright/fair-use/fair-use-checklist/>

Additional sources:

James S. Heller, et al., *The Librarian's Copyright Companion* (2012).

Steven A. Armatas, *Distance Learning and Copyright* (2008).