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# Copyright Considerations for Institutional Repositories

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# **Copyright Considerations for Institutional Repositories**

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Disclaimer: The information in this presentation is not legal advice, nor is The Copyright Resources Center legal counsel to the university or any members of the university community.



## Basic workflow (copyright-wise) & key questions:

### Author **creates** work

- Who owns the copyright?

### Author **publishes** work(?)

- Who owns the copyright now?
- Author's rights

### Author or agent **submits** work to IR

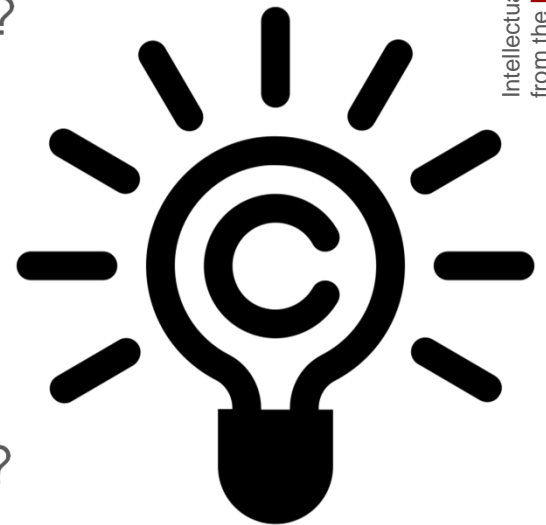
- Does this person have the legal right to deposit?
- Who will seek permission if needed?

### IR requires **license/permissions** for work

- What rights will IR have?
- What rights will author have?
- How to handle third party materials?

### Patrons **access** work through the IR

- How may patrons use materials found in the IR?





## What materials are we talking about?

IRs may contain a wide variety of copyrighted materials depending on scope and mission:

- Works by students, staff, and faculty
- Scholarly works
- Non-scholarly works
- Conference proceedings
- Text, images, video, audio, etc.
- And more!





## Who owns the copyright?

Under current U.S. law, a creator owns copyright **instantly** and **automatically** in his/her **original** works of authorship that are **fixed** in a tangible medium of expression. Exception: Works made for hire.

Rights may be **transferred** or **licensed** in whole or in part.

Does the author possess the necessary legal rights to deposit to the IR?

If not, who will seek permission to deposit in IR: Author? IR on author's behalf?



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## Author's Rights

Does the author have the **legal right** to deposit?

- Check publishing agreement
- Check publisher's policy on their website
- Institutional policy on works made for hire

If author does not possess the right to deposit:

- Seek permission from rights holder

Discuss how authors can **retain** and **manage** their rights:

- Negotiate using an author's addendum
- Manage rights using Creative Commons, other license, or "all rights reserved" copyright notice as desired



## License Agreement for Deposit



What rights does the author **retain** upon depositing to the IR?

- Non-exclusive vs. exclusive license
- Can they withdraw their work later?

What rights does the author **grant** to the IR?

- Reproduction (preservation and access)
- Distribution (access)
- Format (print and electronic)
- Perpetual
- World-wide

What about third party material?



## What if deposited work includes 3<sup>rd</sup> party material?

Have a contact and a policy to handle takedown requests.

Is fair use an option? Who decides?

Consider addressing this issue in the license agreement for depositing a work in the IR. Sample language from OSU's Knowledge Bank:

*If the submission contains material for which you do not hold copyright, you represent that **you have obtained the unrestricted permission** of the copyright owner to grant the Knowledge Bank the rights in this agreement, and that such third party owned material is clearly identified and acknowledged within the text or content of the submission. Alternatively, you represent that your use of third party material is allowed because the material is **in the public domain** or you have performed **a fair use analysis** and believe your use is permitted.*



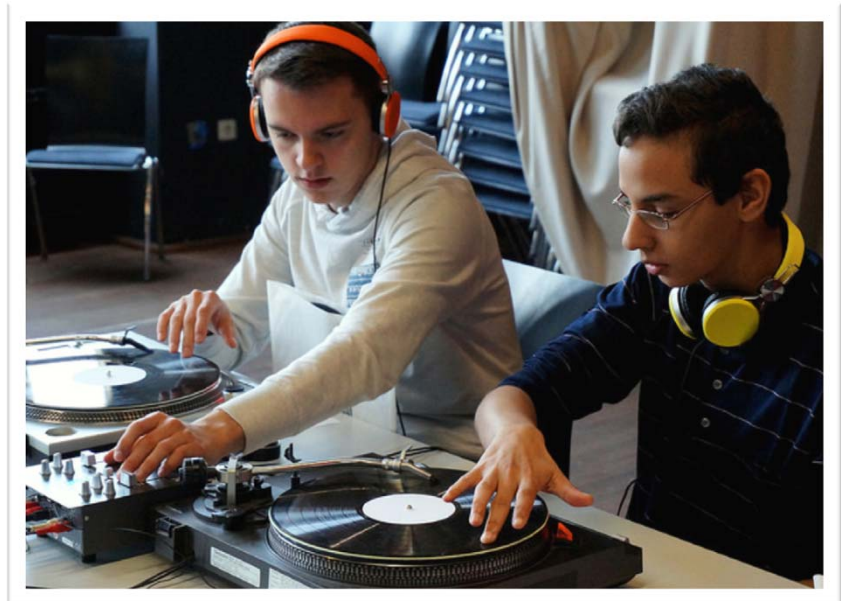


## Reuse Rights

How may patrons use materials found in the institutional repository?

Include copyright and reuse information on materials in the IR

- All rights reserved
- Creative Commons
- Other terms of use



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## Contact

### Jessica Meindertsma

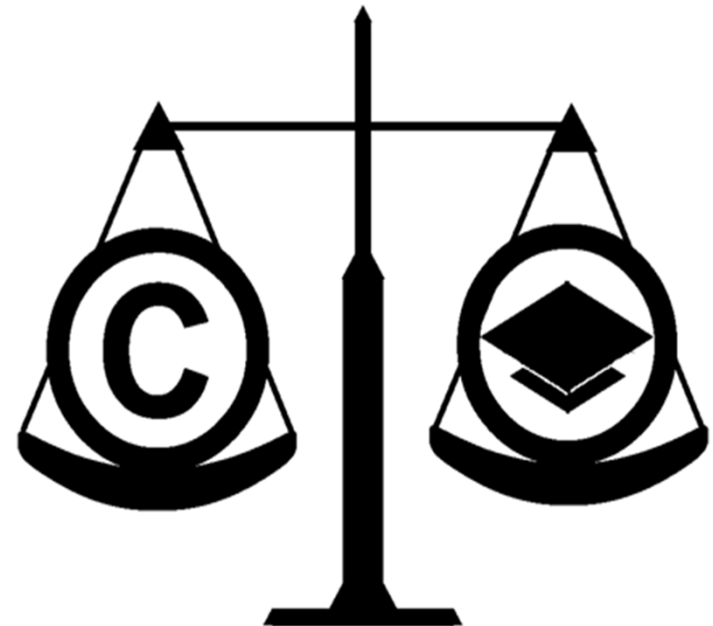
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