

APPENDIX I

The TEACH Act New Role, Rules and Responsibilities For Academic Institutions

Signed by President Bush on November 2, 2002, the **Technology, Education, and Copyright Harmonization (TEACH) Act** is the product of discussion and negotiation among academic institutions, publishers, library organizations and Congress. It offers many improvements over previous regulations, specifically sections 110(2) and 112(f) of the U.S. Copyright Act. The following overview of the TEACH Act seeks to balance the perspectives of both copyright owners and content users, and provide guidance for today's academic institutions.

A Brief Guide to the TEACH Act

Although copyright law generally treats digital and non-digital copyright-protected works in a similar manner, special digital uses, such as online distance learning and course management systems, require special attention. Some of the special copyright requirements of online distance learning are specifically addressed by the TEACH Act.

The TEACH Act facilitates and enables the performance and display of copyrighted materials for distance education by accredited, non-profit educational institutions (and some government entities) that meet the TEACH Act's qualifying requirements. Its primary purpose is to balance the needs of distance learners and educators with the rights of copyright holders. The TEACH Act applies to distance education that includes the participation of any enrolled student, on or off campus.

Under the TEACH Act:

- Instructors may use a wider range of works in distance learning environments.
- Students may participate in distance learning sessions from virtually any location.
- Participants enjoy greater latitude when it comes to storing, copying and digitizing materials.

TEACH Act Requirements

In exchange for unprecedented access to copyright-protected material for distance education, the TEACH Act requires that the academic institution meet specific requirements for copyright compliance and education. For the full list of requirements, refer to the TEACH Act at www.copyright.gov/legislation/archive/.

In order for the use of copyrighted materials in distance education to qualify for the TEACH Act exemptions, the following criteria must be met:

- 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.
- The use must not include the transmission of textbook materials, materials "typically purchased or acquired by students," or works developed specifically for online uses.
- Only "reasonable and limited portions," such as might be performed or displayed during a typical live classroom session, may be used.
- 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.
- 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.

What the TEACH Act Does Not Allow

The new exemptions under the TEACH Act specifically *do not* extend to:

- Electronic reserves, coursepacks (electronic or paper) or interlibrary loan (ILL).
- Commercial document delivery.
- Textbooks or other digital content provided under license from the author, publisher, aggregator or other entity.
- Conversion of materials from analog to digital formats, except when the converted material is used solely for authorized transmissions and when a digital version of a work is unavailable or protected by technological measures.

It is also important to note that the TEACH Act does not supersede fair use or existing digital license agreements.

Ultimately, it is up to each academic institution to decide whether to take advantage of the new copyright exemptions under the TEACH Act. This decision should consider both the extent of the institution's distance education programs and its ability to meet the education, compliance and technological requirements of the TEACH Act.

APPENDIX II

COPYRIGHT GUIDELINES FOR BLACKBOARD USE

BLACKBOARD	WHAT YOU CAN DO	WHAT YOU CANNOT DO
	You may provide a link to a Web site in Blackboard which contains copyrighted material	May not copy & paste the content of the Web site onto Blackboard which contains copyrighted material.
	May upload one (1) copyrighted image from a Web site onto Blackboard for one (1) semester	May not use copyrighted image from semester to semester without getting permission.
	May link to an article from a library database.	May not download the article to your hard drive and then post it on Blackboard.
	May not post a scanned personal picture anywhere in Blackboard	xxx
	May post a scanned copyrighted image in Blackboard for one (1) semester.	May not use from semester to semester without getting permission.
	May post a scanned chapter from a book for one (1) semester	May not use from semester to semester without getting permission.
	May post audio files as long as it meets other fair use and TEACH guidelines for a limited time, such as ten (10) days	May not use from semester to semester without getting permission or keep up longer than ten (10) days.
	May post video files for a limited time, such as ten (10) days, as long as it meets other fair use and TEACH guidelines	May not use from semester to semester without getting permission or keep up for longer than ten (10) days.

APPENDIX III

General Permission Letter - Model

The following letter is a model, not a form letter. You must carefully examine your specific needs and modify the letter accordingly. It is also important to document your steps in the permission process. Keep good files!

[Date]

[Letterhead or Return address]

[Rights holder name and address]

Dear [Sir or Madam] [Permissions Editor] [Personal name, if known]:

I am in the process of creating [Describe project]. I would like your permission to include the following material with this [Project]:

[Citation with source information]

The [Project] will be used [Describe how the project and material will be used]. It will be accessible by [Describe users].

If you do not control the copyright on all of the above mentioned material, I would appreciate any contact information you can give me regarding the proper rights holder(s), including current address(es). Otherwise, your permission confirms that you hold the right to grant the permission requested here.

Permission includes non-exclusive world rights in all languages to use the material and will not limit any future publications-including future editions and revisions-by you or others authorized by you.

I would greatly appreciate your consent to my request. If you require any additional information, please do not hesitate to contact me. I can be reached at:

Your contact information]

A duplicate copy of this request has been provided for your records. If you agree with the terms as described above, please sign the release form below and send one copy with the self-addressed return envelope I have provided.

Sincerely,

[Signature]

[Typed name]

Permission granted for the use of the material as described above:

Agreed to: _____ Name & Title: _____

Company/Affiliation: _____ Date: _____