

# The Technology, Education and Copyright Harmonization (TEACH) Act *Handout*

The TEACH Act was passed in November 2002 as an amendment to the face-to-face performance and display exemption of the Copyright Act of 1976. It covers distance education as well as face to face teaching which has an online component. It allows instruction via digital networks so that instructors may have greater freedom to use copyrighted works in teaching without having to obtain permission from copyright owners. The exemption is somewhat complex, includes numerous requirements, and is only one of several options available to instructors who use copyrighted works in their courses.

## **Benefits to educational institutions under the TEACH Act:**

The TEACH Act primarily facilitates distance learning by expanding the copyright exemption for instruction. It permits the *performance or display of complete non-dramatic literary or musical works*, such as the reading of a poem or short story, or listening to music other than opera or musicals. Showing films or videos is restricted to reasonable and limited portions. The TEACH Act also expands the permissible receiving locations for distance education students beyond the classrooms and computer labs to any location.

## **Duties and requirements for instructors:**

Use of digital materials must be part of "mediated instructional activities," must be the same type of materials that an instructor would use as a part of a classroom session, and must be directly related to the content of the course. Ancillary works that might be viewed or listened to outside of class are NOT included under the exemption. Commercial works marketed for the educational market, such as electronic texts or workbooks, CANNOT be used under the TEACH Act exemption, and paper versions of these works cannot be digitized. In order to retain the protection offered by the TEACH Act, all materials used in the course must be legally obtained with a copyright acknowledgment.

## **General institutional requirements established under the TEACH Act:**

The benefits of the TEACH Act apply only to accredited non-profit educational institutions or government bodies. Institutions must have policies regarding copyright, and must disseminate copyright information and promote copyright compliance. Institutions must also provide notice to students that course materials may be copyright protected.

## **Information technology requirements established under the TEACH Act:**

Institutions should limit the transmissions to students enrolled in the particular course to the extent technologically feasible. The TEACH Act allows temporary storage of copyrighted material on a server to facilitate asynchronous teaching situations. The institution must apply technological measures that reasonably prevent recipients from retaining works beyond the class session and further distributing them, and may not interfere with technological protections taken by copyright owners.

## **Materials allowed under the TEACH Act:**

- Display (showing a copy) of any work in an amount analogous to a physical classroom setting.
- Performance of nondramatic literary works.
- Performance of nondramatic musical works.
- Performance of "reasonable and limited" portions of other types of work (other than nondramatic literary or musical work) EXCEPT digital educational works.
- Digitization of portions of analog works if no digital version is available or if digital version is not in an accessible form.

## **Materials NOT allowed under the TEACH Act:**

- Works that are marketed "primarily for performance or display as part of mediated instructional activities transmitted via digital networks" (digital educational materials purchased by students).
- *Textual materials* usually made available to students in the classroom.
- Unlawful copies of copyrighted works under the U.S. Copyright Law, if the institution "knew or had reason to believe" that they were not lawfully made and acquired.
- Entire videos, movies and films

The TEACH Act **DOES NOT** modify the previous standards for the fair use of copyrighted materials at non-profit educational institutions.