



## The TEACH Act of 2002: How the law affects online instruction

The **Technology, Education and Copyright Harmonization (TEACH) Act of 2002** updates **copyright law** to broaden instructors' legal use of copyrighted materials in online instruction at accredited nonprofit educational institutions. Copyrighted materials affected by this law include, but are not limited to, print, still images, audio recordings, video recordings, diagrams, charts, and graphs.

- The law permits instructors to use certain copyrighted materials during online instruction without obtaining permission from or paying royalties to the copyright owners.
- The law requires instructors to comply with specific and rigorous limitations when displaying or performing copyrighted works during online instruction.

*Note:* The law does not equate the use of copyrighted materials in online instruction to the use legally permitted for instruction in a physical classroom; therefore, instructors and institutions should not simply apply copyright law and fair use guidelines prescribed for classroom instruction to online instruction.

### **Summary of the TEACH Act of 2002**

Reprinted below is a summary of the requirements that an instructor and an institution must satisfy when exercising the liberties made available under the TEACH Act of 2002.

### **Senate Passes TEACH Act Defining New Copyright Rules for Distance Education**

The TEACH Act amends Sections 110(2) and 112 of the Copyright Act of 1976 to give instructors at accredited nonprofit educational institutions greater flexibility to use third party copyrighted works in online course delivery. The bill permits the display and performance of virtually all types of works during online instruction without the consent of the copyright owner, provided that:

- the online instruction at an eligible institution is mediated by an instructor;
- the transmission of the material is intended only for receipt by students enrolled in the course, regardless of where the students are physically located;
- the institution must employ measures to prevent "retention of the work in accessible form by recipients of the transmission...for longer than the class session;" and
- the institution employs measures that limit the transmission of the material to students enrolled in the particular course and precludes unauthorized student retention and/or downstream redistribution "to the extent technologically feasible."



These parameters are not broad enough to allow for entire hard copy textbooks to be digitized, nor will the new law apply to materials that are produced by the copyright owner for online instructional sales. But it does give institutions limited rights to retain the information and provide limited student access for review purposes. The TEACH Act also grants a limited right to digitize portions of an analog work for use in an online course if a digital version is not available.

Institutions that want to take advantage of the TEACH Act must have copyright policies in place and must provide faculty, students, and staff members with information that "describes, and promotes compliance with, the laws of United States relating to copyright." The institution also must provide students with a notice that materials may be subject to copyright protection.

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### **The TEACH Act permits an instructor to...**

- Digitize portions of copyrighted materials for use during online instruction. Materials may be digitized provided they are not already in digital format—otherwise the existing digital version must be used.
- Store digitized copyrighted materials on a secure server for the duration of the instructional activity Florida State University's servers and the Blackboard network security system are in compliance with the requirements of the TEACH Act.

*Note:* Digitization is the process of converting information (text, sound, images) into a format that can be stored, retrieved, and manipulated on a computer.

### **The TEACH Act requires an instructor to...**

- Inform students that:
  - the materials are copyrighted
  - they may not save such materials to their computers
  - they may not revise the materials
  - they may not copy or distribute the materials

*Instructors may comply with this requirement by placing a prominent announcement on their course websites:*

Copyright Notice: This course website may contain copyrighted materials that are used in compliance with U.S. Copyright Law. Under that law, materials may not be saved to your computer, revised, copied, or distributed without permission. They are to be used in support of instructional activity as part of this course only and shall be limited to the duration of the course, unless otherwise specified by the instructor or owner of the material. You may only download or print materials at the direction of your instructor, who knows which materials are copyrighted and which are not. For more information, see [FSU Copyright Guidelines](#).

- Take reasonable actions to ensure that copyrighted materials covered by the



TEACH Act are accessed only by enrolled students.

Only the instructor, enrolled students, mentors, TAs, and administrators may be given access to a course website that contains copyrighted materials.

- Insist that students use a login and password to access online instructional materials.

Using Blackboard will ensure that this requirement is met, as students must use their FSU login and password to enter Blackboard course websites.

### The TEACH Act prohibits an instructor from...

- Using copyrighted digitized materials developed and marketed specifically for instructional activities  
Permission, clearance, purchase, or licensing must be obtained prior to the use of such materials.
- Digitizing materials that are already available in digital format  
Guidelines for determining if specific analog materials are obtainable in digital format are being developed.

### FSU's efforts to comply with TEACH technology requirements include...

- Maintaining online courses and course materials on secure servers
- Requiring students to authenticate by using their FSU computer-account usernames and passwords to access their course websites

### Florida State University resources on Copyright, Fair Use, and the TEACH ACT

- The FSU Office of Inspector General Services' [Copyright Compliance Guidelines](#) website contains the university's policy statement on copyright compliance and fair use.
- [The Faculty Handbook](#) contains:
  - The University's policy on copyright ownership of educational materials developed with University facilities and resources
  - An excerpt from The Copyright Revision Act of 1976, that addresses the "fair use" of materials without the permission of the copyright holder

### More readings on the TEACH Act of 2002 and copyright

General resources on copyright and fair use:

- The text of the [TEACH Act of 2002](#) is made available by the U.S. government.
- The U.S. Copyright Office provides a [primer on copyright](#).
- The American Library Association's website on the [Technology, Education and Copyright Harmonization \(TEACH\) Act](#) provides comprehensive coverage of the law, from the "Requirements of the TEACH Act," to "Duties of Institutional Policymakers," to "Role for Librarians."