

The Teach Act: Fair Use and Copyright Protection for Digital Media

Stony Brook faculty need to be aware of copyright law and fair use doctrine when utilizing the work of others in electronic teaching formats. This document provides a synopsis of your rights and responsibilities as established by the Teach Act of 2002.

The TEACH Act, 17 USC § 110(2), sets forth the conditions under which educational institutions may use copyright protected materials in distance learning, on websites and by other digital means, without permission from the copyright owner and without paying royalties. *The Act applies to electronic supplements to traditional face to face learning, web tutorials and courses taught wholly online.* To enjoy this safe harbor, instructors who use copyrighted materials on Blackboard™ or by linking to other web sites, must reasonably:

- limit access to copyrighted works to students currently enrolled in the class;
- limit access to the time needed to complete the class session or course unit;
- prevent further copying or redistribution of copyrighted works;
- not interfere with copy protection mechanisms;
- use only “reasonable and limited portions” of the copyrighted work, and
- limit use of the copyrighted work to “an amount comparable to that which is typically displayed in the course of a live classroom session”.

In other words, the TEACH Act does not permit instructors to scan, store or upload complete works or significant portions of any type of work on a website for students to access throughout the semester, even if such access is associated with assigned coursework. Third party material made available online is to be treated as the functional equivalent of material ephemerally heard, used or displayed in a live classroom. Distance learning archives are not the functional equivalent of placing materials on reserve (or electronic reserve) in the library.

Every faculty member that uses Blackboard™, an alternate website, blog, or other electronic system to provide distance education to the academic community must take steps to protect the integrity of copyright interests in material distributed for educational purposes. At a minimum, you should use Blackboard's™ program of built-in parameters to limit the scope and duration of student access to the on-line work, or manually remove the copyrighted materials from the website after a limited period of time.

If, as an instructor, you question your ability to comply with the TEACH Act requirements set forth above, you must obtain permission to use the work by contacting the copyright owner. Simply associating the author's name and affiliation with the work in issue may not be enough. The Copyright Clearance Center, at <http://www.copyright.com>, should be your point of origin when seeking permission to

use a text-based work. Information about music and image permissions may be obtained from <http://www.mpa.org> and <http://www.mplc.com/index.php> respectively.

You may explicitly indicate your intention to protect your own work by posting the following language on your blackboard site:

“All federal and state copyright interests are reserved for all original material presented in this course through any medium, including lecture, electronic transmission or print. Individuals may not sell, be paid or receive anything of value for class notes made during this course from any person or entity without the express written permission of (author). In addition to legal sanctions, violation of these copyright prohibitions may result in University disciplinary action.”