

The TEACH Act

Description of the TEACH Act

The “Technology, Education and Copyright Harmonization Act,” referred to as the TEACH Act, is a complete revision of Section 110(2) of the United States Copyright Act. The purpose behind the Act is to protect copyrighted works while allowing colleges and universities to use these materials in distance education courses.

The Act states that it is lawful for faculty and students in accredited, nonprofit educational institutions to provide access to performances and displays of copyrighted works as part of an electronic mediated course if certain conditions are met. If these conditions are not or cannot be met, use of the material must qualify as a “Fair Use” or permission must be granted from the copyright holder(s).

Instructors considering adding copyrighted works to their class should consider the following. Any materials that would remain restricted by copyright laws may still be evaluated for Fair Use.

Works Permitted by the TEACH Act

- A performance of a non-dramatic literary work
- A performance of a non-dramatic musical work
- A performance of any other work, including dramatic works and audiovisual works, but only in “reasonable and limited portions”
- A display of any work in an amount comparable to that which is typically displayed in the course of a live classroom session

Works Excluded by the TEACH Act

- Work produced or marketed “primarily for performance or display as part of mediated instructional activities transmitted via digital networks.” e.g. Do not continue to use videos by publishers if we no longer have a license to do so.
- Work produced “not lawfully made and acquired” under the U.S. Copyright Act if the instructor or the institution know or reasonably should know they were not lawfully made or acquired.
- Work originally produced in analog format cannot be digitized except under the following circumstances:
 - o The amount converted is limited to the amount appropriate for the instructional activities [consistent with Section 111(2)]; and
 - o A digital version of the work is not “available to the institution,” or is secured behind technological protection preventing accessibility in the distance-education program [consistent with Section 111(2)]

Instructor Oversight

- The work or performance used is “at the direction of, or under the actual supervision of an instructor”
- The work or performance used is “an integral part of a class session offered as a regular part of the systematic, mediated instructional activities” of the college.

Mediated instructional activities do not include textbooks, software, or other materials typically purchased by students. Material transmitted must be part of a class session, offered as a regular part of the instructional activities. An instructor cannot send a copy of an article as additional reading because a student may find it interesting. The faculty must interactively use the materials as part of a class assignment in the course. Works cannot be used for entertainment, stress relief, or as optional reading purposes.

Requirements of the TEACH Act

- 1) **Accredited Non-Profit Institutions.** The TEACH Act applies only to government bodies and non-profit colleges and universities which are accredited. Baker College is a non-profit educational institution regionally accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools.
- 2) **Copyright Policy.** The institution must promulgate policies regarding copyright. Baker College Copyright policy is available for faculty, students, and staff on the Copyright Policy Website (<http://www.baker.edu/policies/copyright-policies/>).
- 3) **Copyright Information.** The institution must provide informational materials to faculty, students, and relevant staff, and this material must “accurately describe, and promote compliance with, the laws of the United States relating to copyright.” Baker College Copyright policy is available for faculty, students, and staff on the Copyright Policy Website (<http://www.baker.edu/policies/copyright-policies/>).
- 4) **Student Information.** The institution must provide notice to students that “materials used in connection with the course may be subject to copyright protection.” Baker College posts the following in all online courses under the “Baker Policies” navigational button: “The materials found in this course are only for the use of students enrolled in this course for purposes associated with this course and may not be retained or further disseminated. More information is located at <http://www.baker.edu/policies/copyright-policies/>.”

- 5) Limited Access to Material. The institution and technology officers must limit access to materials to those currently enrolled in the course where the material is to be used, and only during the time frame when the material is used. The material may not be stored and accessed at various points in time as desired. Blackboard is the course and content management system used in delivering electronic mediated courses (online, web-enhanced, or hybrid). Blackboard limits access to course materials to those enrolled in or teaching the course through individual student and faculty accounts and passwords. Instructors must use the “date availability” option within Blackboard to limit student access to individual content items. Information will only be available for the period of time necessary to complete the seminar topic. Further access will be provided to students which experience difficulty accessing the material or need additional assistance with the seminar topic.
- 6) Unauthorized Further Dissemination of Content. Technology Officers are instructed to use technological means to limit access, to prevent storage, copying and dissemination of copyright material by students. Blackboard limits access to course materials to those enrolled in or teaching the course through individual student and faculty accounts and passwords.
- 7) Interference with technological measures. Technology Officers may not interfere with any digital rights management code or other embedded codes used by authors to manage their copyright. Technology Officers are instructed to make sure that existing technological systems do not inadvertently interrupt these codes through the process of delivery. Blackboard does not provide any technological functions that would interfere with other copyright protection measures. In addition, Baker College faculty and staff will not interfere with any technological measure designed to protect copyright.
- 8) Limited long-term retention of materials. The institution and Technology Officers may not maintain materials on the network longer than necessary to facilitate the transmission of the material, and material may not be maintained where it may be accessed by other parties. The institution may archive material for future use- but such archives must be out of reach of everyone, so that additional dissemination of material does not occur, until such time as the class is reconstituted and the material can be disseminated legally pursuant to the TEACH act. Courses are archived and stored on the Blackboard servers for 90 days. The information is password protected and not publicly available. Archived courses may be used in future offerings of the course.

References

American Library Association. TEACH Act Best Practices using Blackboard.
<http://www.ala.org/advocacy/copyright/teachact/teachactbest>. Accessed February 17, 2014.