

APPENDIX A

Copyright and Fair Use Guidelines for Educators

at non-profit educational institutions

Medium	What you can do	Rationale/Defense	What you can use	How much you can use	Restrictions & Conditions
Print	Show (<i>display</i>) during face-to-face teaching	Copyright Act	No restrictions	No restrictions	Copies of materials used must be legally made or acquired.
	Transmit over the Internet or TV (<i>display</i>) as part of a class session in a distance learning course.	TEACH Act	Anything except materials produced or marketed for mediated instructional activities over digital networks	An amount comparable to what is typically displayed in the course of a live classroom setting	Transmissions are subject to TEACH Act restrictions and conditions (<i>see "TEACH Act Restrictions and Conditions" on the back of this page</i>) Copies of materials used must be legally made or acquired.
Music	Make multiple copies (<i>reproduce</i>) for classroom use during face-to-face teaching	Fair Use Doctrine and Guidelines	<ul style="list-style-type: none"> - Poetry - Prose - Illustrations - Photographs - Printed material and images from the Internet (legally acquired) 	<p>Poetry: a complete poem of < 250 words, or an excerpt of 250 words from a longer poem, up to two pages.</p> <p>Prose: a complete article, story, or essay of < 2500 words; an excerpt of 10%, or not more than 1000 words from a longer work</p> <p>Illustrations and Photographs:</p> <ul style="list-style-type: none"> - one chart, graph, diagram, drawing, cartoon, or picture per book or periodical. - single works may be used in their entirety, but no more than five images by a single artist or photographer. - from collections : up to 15 images or 10 percent, whichever is less 	<p>Use of copyrighted materials is subject to the Fair Use test. (<i>see "Fair Use Test" on the back of this page</i>)</p> <p>Copies of materials used must be legally made or acquired.</p> <p>For classroom copying:</p> <ul style="list-style-type: none"> - only one copy per student - copies must be made at the "instance and inspiration" of the instructor – no time to seek permission - multiple copying is limited to nine instances per class per term - don't create anthologies - don't copy "consumables", like workbooks or exams <p>For distance learning: technological measures must be in place to prevent unauthorized access or copying.</p>
	Transmit over the Internet or TV (<i>display</i>) as part of a class session.				
Music	Play (<i>perform</i>) in a face-to-face classroom	Copyright Act	<p>The TEACH Act excludes materials produced or marketed for mediated instructional activities over digital networks.</p>	<p>No restrictions</p>	<p>Copies of materials used must be legally made or acquired.</p>
	Transmit over the Internet or TV (<i>perform</i>) as part of a class session.	TEACH Act			

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Medium	What you can do	Rationale/ Defense	What you can use	How much you can use	Restrictions & Conditions
Video	Show and play (<i>perform</i>) in a face-to-face classroom	Copyright Act	- Videotapes - DVDs - Laserdiscs - Multimedia encyclopedias	No restrictions	Copies of materials used must be legally made or acquired Archival copying OK provided a suitable replacement is unavailable at a fair price or in a viable format.
	Transmit over the Internet or TV (<i>perform</i>) as part of a class session	TEACH Act	- QuickTime movies - Video clips from the Internet (legally acquired)	Reasonable and limited portions of dramatic works, such as movies, TV programs, plays, etc. Entire non-dramatic works.	Transmissions are subject to TEACH Act restrictions and conditions. (<i>see "TEACH Act Restrictions and Conditions" below</i>) The TEACH Act excludes materials produced or marketed for mediated instructional activities. Copies of materials used must be legally made or acquired
	Transmit over the Internet or TV (<i>perform</i>) as part of a class session or class enhancement. Incorporate into a multimedia or video project to be used as part of a course	Fair Use Doctrine and Guidelines		Up to 10 percent or 3 minutes, whichever is less, of a copyrighted motion media work. Entire works may be transmitted only once without permission.	Use of copyrighted materials is subject to the Fair Use test. (<i>see "Fair Use Test" below</i>) For distance learning: Technological measures must be in place to prevent unauthorized access or copying, as with TEACH Act. Copies of materials used must be legally made or acquired

TEACH Act Restrictions and Conditions

The TEACH Act – the Technology, Education, and Copyright Harmonization Act – amended Section 110(2) and 112 of the Copyright Act to facilitate the growth of distance learning.

- Copyrighted materials used under the TEACH Act are subject to the following restrictions and conditions.
- Transmissions must be made as part of “mediated instructional activities” at an accredited non-profit institution
 - Material must be directly related and of material assistance to the teaching content of the transmission
 - Technological measures must be in place to limit access to enrolled students and reasonably prevent download and further distribution of materials.
 - Copies of the works cannot be made available to students for longer than the class session.
 - Institutions must establish copyright policies and provide informational materials regarding copyright to faculty, students, and relevant staff.
 - Students must be given notice that material may be subject to copyright protection.

What are “Mediated Instructional Activities”?

The term “mediated instructional activities” refers to activities that mirror conduct in a traditional classroom, such as the following:

- Materials used should be of the same type used in a face-to-face classroom.
- Materials transmitted must not be textbooks or other materials that are typically purchased or acquired by the students
- Transmission should be a regular part of systematic instructional activities.
- Transmission must be made by, at the direction of, or under the actual supervision of the instructor

Digitizing Copyrighted Works

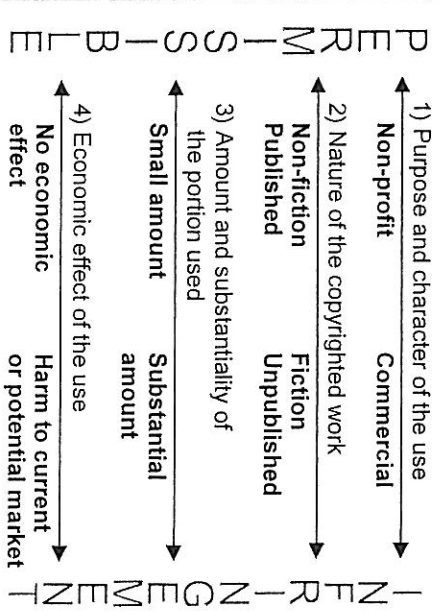
The TEACH Act allows the conversion of print or analog material into digital formats if:

- 1) no digital version is available, or
- 2) an available digital version is protected by technological measures.

Fair Use Test

The Fair Use doctrine specifies four factors that must be considered when using copyrighted material for educational purposes. Items under each factor are considered on a continuum ranging from permissible on one side, to infringement of copyright on the other.

The four factors of the Fair Use test are:





TECHNOLOGY & LEARNING

Copyright and Fair Use Guidelines for Teachers

This chart was designed to inform teachers of what they may do under the law. Feel free to make copies for teachers in your school or district, or download a PDF version at

www.techlearning.com. More detailed information about fair use guidelines and copyright resources is available at www.halldavidsen.net.

Medium	Specifics	What you can do	The Fine Print
<p>Printed Material (short)</p>	<ul style="list-style-type: none"> * Poem less than 250 words; 250-word excerpt of poem greater than 250 words * Articles, stories, or essays less than 2,500 words * Excerpt from a longer work (10 percent of work or 1,000 words, whichever is less) * One chart, picture, diagram, or cartoon per book or per periodical issue * Two pages (maximum) from an illustrated work less than 2,500 words, e.g., a children's book 	<ul style="list-style-type: none"> * Teachers may make multiple copies for classroom use, and incorporate into multimedia for teaching classes. * Students may incorporate text into multimedia projects. 	<ul style="list-style-type: none"> * Copies may be made only from legally acquired originals. * Only one copy allowed per student. * Teachers may make copies in nine instances per class per term. * Usage must be "at the instance and inspiration of a single teacher," i.e., not a directive from the district. * Don't create anthologies. * "Consumables," such as workbooks, may not be copied.
<p>Printed Material (archives)</p>	<ul style="list-style-type: none"> * An entire work * Portions of a work * A work in which the existing format has become obsolete, e.g., a document stored on a Wang computer 	<ul style="list-style-type: none"> * A librarian may make up to three copies "solely for the purpose of replacement of a copy that is damaged, deteriorating, lost, or stolen." 	<ul style="list-style-type: none"> * Copies must contain copyright information. * Archiving rights are designed to allow libraries to share with other libraries one-of-a-kind and out-of-print books.
<p>Illustrations and Photographs</p>	<ul style="list-style-type: none"> * Photograph * Illustration * Collections of photographs * Collections of illustrations 	<ul style="list-style-type: none"> * Single works may be used in their entirety, but no more than five images by a single artist or photographer may be used. * From a collection, not more than 15 images or 10 percent (whichever is less) may be used. 	<ul style="list-style-type: none"> * Although older illustrations may be in the public domain and don't need permission to be used, sometimes they're part of a copyright collection. Copyright ownership information is available at www.loc.gov or www.mpa.org.
<p>Video (for viewing)</p>	<ul style="list-style-type: none"> * Videotapes (purchased) * Videotapes (rented) * DVDs * Laserdiscs 	<ul style="list-style-type: none"> * Teachers may use these materials in the classroom. * Copies may be made for archival purposes or to replace lost, damaged, or stolen copies. 	<ul style="list-style-type: none"> * The material must be legitimately acquired. * Material must be used in a classroom or nonprofit environment "dedicated to face-to-face instruction." * Use should be instructional, not for entertainment or reward. * Copying OK only if replacements are

<p>Video (for integration into multimedia or video projects)</p>	<ul style="list-style-type: none"> * Videotapes * DVDs * Laserdiscs * Multimedia encyclopedias * QuickTime Movies * Video clips from the Internet 	<ul style="list-style-type: none"> * Students "may use portions of lawfully acquired copyright works in their academic multimedia," defined as 10 percent or three minutes (whichever is less) of "motion media." 	<p>unavailable at a fair price or in a viable format.</p> <ul style="list-style-type: none"> * The material must be legitimately acquired: a legal copy (not bootleg) or home recording. * Copyright works included in multimedia projects must give proper attribution to copyright holder.
<p>Music (for integration into multimedia or video projects)</p>	<ul style="list-style-type: none"> * Records * Cassette tapes * CDs * Audio clips on the Web 	<ul style="list-style-type: none"> * Up to 10 percent of a copyright musical composition may be reproduced, performed, and displayed as part of a multimedia program produced by an educator or students. 	<ul style="list-style-type: none"> * A maximum of 30 seconds per musical composition may be used. * Multimedia program must have an educational purpose.
<p>Computer Software</p>	<ul style="list-style-type: none"> * Software (purchased) * Software (licensed) 	<ul style="list-style-type: none"> * Library may lend software to patrons. * Software may be installed on multiple machines, and distributed to users via a network. * Software may be installed at home and at school. * Libraries may make copies for archival use or to replace lost, damaged, or stolen copies if software is unavailable at a fair price or in a viable format. 	<ul style="list-style-type: none"> * Only one machine at a time may use the program. * The number of simultaneous users must not exceed the number of licenses; and the number of machines being used must never exceed the number licensed. A network license may be required for multiple users. * Take aggressive action to monitor that copying is not taking place (unless for archival purposes).
<p>Internet</p>	<ul style="list-style-type: none"> * Internet connections * World Wide Web 	<ul style="list-style-type: none"> * Images may be downloaded for student projects and teacher lessons. * Sound files and video may be downloaded for use in multimedia projects (see portion restrictions above). 	<ul style="list-style-type: none"> * Classroom resources may be posted only on a password-protected mediated site. They may not be archived. Think of it as a dynamic bulletin board for enrolled students. * Any resources downloaded or uploaded must have been legitimately acquired.
<p>Television</p>	<ul style="list-style-type: none"> * Broadcast (e.g., ABC, NBC, CBS, UPN, PBS, and local stations) * Cable (e.g., CNN, MTV, HBO) * Videotapes made of broadcast and cable TV programs 	<ul style="list-style-type: none"> * Broadcasts or tapes made from broadcast may be used for instruction. * Cable channel programs may be used with permission. Many programs may be retained by teachers for years—see <i>Cable in the Classroom</i> (www.ciconline.org) for details. 	<ul style="list-style-type: none"> * Schools are allowed to retain broadcast tapes for a minimum of 10 school days. (Enlightened rights holders, such as PBS's <i>Reading Rainbow</i>, allow for much more.) * Cable programs are technically not covered by the same guidelines as broadcast television.

Sources: United States Copyright Office *Circular 21*; Sections 107, 108, and 110 of the Copyright Act (1976) and subsequent amendments, including the Digital Millennium Copyright Act; *Fair Use Guidelines for Educational*

Multimedia; cable systems (and their associations); and *Copyright Policy and Guidelines for California's School Districts*, California Department of Education. Note: Representatives of the institutions and associations who helped to draw up

many of the above guidelines wrote a letter to Congress dated March 19, 1976, stating "There may be instances in which copying that does not fall within the guidelines stated [above] may nonetheless be permitted under the criterion of fair use."