Copyright Policy and Guidelines for
MATC Faculty/Staff
Online Learning

The purpose of copyright law is to "promote the public welfare through the advancement of knowledge." The law also is intended to balance the rights of the author or copyright owner. While much of the law is definitive, some sections are left open to various interpretations.

Educators are bound by copyright laws and guidelines when using copyrighted materials in their teaching. Anything that is not in the public domain is protected by copyright law. Materials created by the U.S. Government are in the public domain as well as any materials whose copyrights have expired.

When using copyrighted materials without the permission of the copyright owner, educators must consider whether their use of those materials could put them at risk for a copyright violation. Online instructors may consider applying an educational use copyright exemption (TEACH) or applying fair use principles to their use of the material.

What is TEACH?
On November 2nd, 2002, the "Technology, Education and Copyright Harmonization Act of 2002" (the TEACH Act), (H.R. 2215), was signed into law by President Bush. TEACH redefines the terms and conditions on which accredited, nonprofit educational institutions throughout the U.S. may use copyright protected materials in distance education-including on websites and by other digital means without permission from the copyright owner and without payment of royalties. The entire text of the TEACH Act is available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ273.107.pdf

The following guidelines summarize some of the legislation of the TEACH Act with regard to using copyrighted materials in distance education without permission:

1. Performances and displays must be "made by, at the direction of, or under the actual supervision of an instructor."

2. The materials must be transmitted "as an integral part of a class session offered as a regular part of the systematic, mediated instructional activities" of the educational institution.

3. The materials used must be "directly related and of material assistance to the teaching content of the transmission."

4. Works that are not permitted to be transmitted include materials that were produced primarily for instruction via digital networks. Course packs, textbooks, and other works that are typically purchased by students for use in one or more class sessions are also prohibited from being transmitted.

5. Conversion of print or analog versions of works are only permitted if no digital version of the work is available or the digital version that is available is subject to technological protection measures that prevent its use for section 110(2) (of title 17, United States Code).
The TEACH Act is quite complex and there are many requirements that must be met by both institution and the faculty member before faculty can use the exemptions allowed by TEACH. *It may be more feasible for instructors to use traditional fair use principles in their distance education programs.*

**What is “Fair Use”?**
The purpose of “fair use” is to allow the use of limited portions of copyrighted material without having to obtain permission from the copyright holder.

There are four fair use factors that one must consider when using any materials that are not in the public domain:

1. The purpose and character of the use (Ex: Is the use non-profit educational use or commercial use?)
2. The nature of the copyrighted work (Ex: Is the used work a factual work or highly creative fiction?)
3. The amount of the work used (Ex: Are you using a small part of the work or the whole work?)
4. The effect of the use on the value of the work (Ex: Could your use of this work replace the sale of the copyrighted work?)

**What guidelines apply to using materials in distance education?**
There are no hard and fast rules about what is and isn’t fair use. Only the courts can decide if something is truly fair use. The following guidelines will help you to minimize the possibility that your use of copyrighted materials without permission would violate the fair use guidelines.

The course site must be accessible only to the students enrolled in the course. This is accomplished by site authentication (username and password) to provide authorized access which the course materials reside. The items used must also be removed from the site as soon as it is no longer needed for the lesson for which it was used.

1. There must be insufficient time to request permission prior to using materials in the course. For subsequent uses there should be sufficient time to request permission, so that should be done.

2. No more than nine (9) articles or 1/3 of the total works required (if they exceed 9) should be uploaded to Blackboard for use in each course.

   In addition:
   a. No more than one (1) of these articles should be taken from a single author.
   b. Not more than three (3) articles can be from a single journal volume or any other work. If more is needed, permission should be obtained.

3. Copyrighted items used for teaching must be from a source owned by the instructor, department, or library of Milwaukee Area Technical College. For items that are not owned by these entities, permission must be obtained for their use.

   Examples of non-MATC owned items include (but not limited to):
   - Images from a web search (i.e. Google Images search)
   - Videos from the web (i.e. YouTube)
   - Publisher’s materials
   - Textbooks

4. There will be no fees charged to the students for use of the material.

5. The material used should be directly related to the course content and inclusion of the material shall not be directed by anyone other than the course instructor.
6. All materials used should include copyright notices.

**What other tips do I need?**

The following tips relate to common misconceptions that people have related to copyrighted materials:

- Providing password authentication on the site on which the materials are posted does not free the user from abiding by copyright law. These materials are still subject to all copyright laws.

- All materials may be copyrighted, whether they include a copyright notice or not. Items that are in the public domain ARE NOT protected by copyright law, but these are usually items that are old or were produced by the U.S. Government.

- No one has to register their work in order to be protected by copyright law. As soon as a work is in a fixed medium (i.e. written or recorded), it is protected by copyright law.

- Everything on the Internet is not necessarily free for educational use without proper permission approval.

- Preventing students from printing a document does not necessarily free you from the fair use guidelines related to copyright.

- Consider using coursepacks if permission to post materials electronically is denied by the copyright owner but permission is available for creating hardcopies of the same materials.

- Permissions can be obtained from the publisher or from various agencies including the Copyright Clearance Center [http://www.copyright.com/](http://www.copyright.com/). Fees may apply.

**Can my course include a link to copyrighted materials on another site?**

Linking to resources such as MATC Libraries’ licensed electronic journal articles rather than copying them into Blackboard is a good method for avoiding the concerns about the use of copyrighted materials without permission. You must consider what you are linking to. If an instructor has reason to believe that he/she is linking to a site which has illegally obtained the materials it makes available or has other concerns about the legitimacy of the web site to which the link is going, the link should not be made.

**What items can be used within the fair-use guidelines?**

See the Technology & Learning Copyright and Fair Use Guidelines for Teachers chart below for more information.
# 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](http://www.techlearning.com). More detailed information about fair use guidelines and copyright resources is available at [www.halldavidson.net](http://www.halldavidson.net).

## Medium Specifics

<table>
<thead>
<tr>
<th>Medium</th>
<th>Specifics</th>
<th>What you can do</th>
<th>The Fine Print</th>
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</thead>
<tbody>
<tr>
<td><strong>Printed Material</strong></td>
<td>• Poem less than 250 words; 250-word excerpt of poem greater than 250 words</td>
<td>• Teachers may make multiple copies for classroom use, and incorporate into multimedia for teaching classes.</td>
<td>• Copies may be made only from legally acquired originals.</td>
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<tr>
<td>(short)</td>
<td>• Articles, stories, or essays less than 2,500 words</td>
<td>• Students may incorporate text into multimedia projects.</td>
<td>• Only one copy allowed per student.</td>
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<td></td>
<td>• Excerpt from a longer work (10 percent of work or 1,000 words, whichever is less)</td>
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<td>• Teachers may make copies in nine instances per class per term.</td>
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<td></td>
<td>• One chart, picture, diagram, or cartoon per book or per periodical issue</td>
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<td>• Usage must be “at the instance and inspiration of a single teacher,” i.e., not a directive from the district.</td>
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<td></td>
<td>• Two pages (maximum) from an illustrated work less than 2,500 words, e.g., a children’s book</td>
<td></td>
<td>• Don’t create anthologies.</td>
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<td>• Teachers may make multiple copies for classroom use, and incorporate into multimedia for teaching classes.</td>
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<td>• “Consumables,” such as workbooks, may not be copied.</td>
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<td><strong>Printed Material</strong></td>
<td>• An entire work</td>
<td>• A librarian may make up to three copies “solely for the purpose of replacement of a copy that is damaged, deteriorating, lost, or stolen.”</td>
<td>• Copies must contain copyright information.</td>
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<td>(archives)</td>
<td>• Portions of a work</td>
<td></td>
<td>• Archiving rights are designed to allow libraries to share with other libraries one-of-a-kind and out-of-print books.</td>
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<td></td>
<td>• A work in which the existing format has become obsolete, e.g., a document stored on a Wang computer</td>
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<td><strong>Illustrations and Photographs</strong></td>
<td>• Photograph</td>
<td>• Single works may be used in their entirety, but no more than five images by a single artist or photographer may be used.</td>
<td>• 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 <a href="http://www.loc.gov">www.loc.gov</a> or <a href="http://www.mpa.org">www.mpa.org</a>.</td>
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<td></td>
<td>• Illustration</td>
<td>• From a collection, not more than 15 images or 10 percent (whichever is less) may be used.</td>
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<td></td>
<td>• Collections of photographs</td>
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<td><strong>Video</strong></td>
<td>• Videotapes (purchased)</td>
<td>• Teachers may use these materials in the classroom.</td>
<td>• The material must be legitimately acquired.</td>
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<tr>
<td>(for viewing)</td>
<td>• Videotapes (rented)</td>
<td>• Copies may be made for archival purposes or to replace lost, damaged, or stolen copies.</td>
<td>• Material must be used in a classroom or nonprofit environment “dedicated to face-to-face instruction.”</td>
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<td></td>
<td>• DVDs</td>
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<td>• Use should be instructional, not for entertainment or reward.</td>
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<td>• Laserdiscs</td>
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<td>• Copying OK only if replacements are created by the teacher for classroom use.</td>
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</table>

*This chart is based on the U.S. Copyright Office guidelines for fair use.*
| Video (for integration into multimedia or video projects) | • Videotapes  
• DVDs  
• Laserdiscs  
• Multimedia encyclopedias  
• QuickTime Movies  
• Video clips from the Internet | • 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.”  
• 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. |
|---|---|---|
| Music (for integration into multimedia or video projects) | • Records  
• Cassette tapes  
• CDs  
• Audio clips on the Web | • 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.  
• A maximum of 30 seconds per musical composition may be used.  
• Multimedia program must have an educational purpose. |
| Computer Software | • Software (purchased)  
• Software (licensed) | • 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.  
• 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). |
| Internet | • Internet connections  
• World Wide Web | • 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).  
• Resources from the Web may not be reposted onto the Internet without permission. However, links to legitimate resources can be posted.  
• Any resources you download must have been legitimately acquired by the Web site. |
| Television | • 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 | • 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 Cable in the Classroom (www.ciconline.org) for details.  
• Schools are allowed to retain broadcast tapes for a minimum of 10 school days. (Enlightened rights holders, such as PBS’s Reading Rainbow, 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.”