

Copyright Compliance Made Simple

Six Rules for Course Design

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The day has passed when the most pressing legal issue confronting educators and their use of technology involves the departmental copy machine. Learning management systems, course web sites, and educational software are routine to many faculty members and their use expected by many students. However, the widespread use of information and computer technologies significantly increases the opportunities for copyright infringement. The perceived epidemic of illegal peer-to-peer file sharing doesn't help. It increases the scrutiny given campus systems, policies and practices. Legal literacy in the information age is quickly becoming a professional necessity.

At the same time, the law became more complex. Many educators never fully understood the old law. For example, *fair use* never afforded the degree of protection many educators assumed (just because a *use* is educational doesn't mean its *fair*). Then, in an attempt to bring the law up to speed with new and emerging technologies, Congress added new laws. Enter the Digital Millennium Copyright and TEACH Acts.

Nevertheless, unraveling the web of regulation doesn't have to be that difficult to understand. Toward that end, a bit of history might help. Though it's not necessarily self-evident, a look at the history of copyright law shows it has something in common with education. Both appreciate the value and power of ideas. Education does so in its objective of creating and disseminating knowledge. Copyright law does so by establishing a system that, albeit imperfectly, protects creations of the mind. The need to protect creations was recognized by no less august a group than this nation's Founding Fathers who memorialized it in the U.S. Constitution which declares in Article I, Section 8, Clause 8:

Congress shall have [the] power...To promote the progress of science and the useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries...

The Founding Fathers issued a mandate to Congress. The mandate was to balance the competing interests of authors and inventors against society's interest in

progress through the creation of a system of limited monopolies. Copyright law seeks to do that. As explained by the U.S. Supreme Court in *Sony Corp. v. Universal City Studios* (1984), intellectual property law (which includes copyright law)

“makes reward to the owner a secondary consideration... The sole interest of the United States and the primary object in conferring the monopoly lie in the general benefits derived by the public from the labors of authors. It is said that reward to the author or artist serves to induce release to the public of the products of his creative genius.”

Putting it more pragmatically, the Founding Fathers recognized the problem of the day job. That is, society will realize more progress at a faster pace if more people spend more time creating. One way to get more people to do that is to enable them to make a living at it. So, Congress created a system of limited monopolies that preserves certain rights to owners while granting certain rights to users. This is true for all of intellectual property law: copyrights, patents and trademarks.

Copyright law is the facet of intellectual property law most germane to educators involved in course design and delivery whether in traditional face-to-face classrooms or online environments. The following distills the rules of copyright law for course design and delivery. It is meant to assist educators in understanding the framework and application of the law in this area. It is not a substitute for formal legal advice.

With that by way of introduction, there's one more question worth answering before looking at the rules. Why bother? After all, while lawyers may enjoy the mental gymnastics associated with deciphering legal nuance, few others appreciate the sport in it.

Nevertheless, there are many answers to that question. First, everyone has an obligation to act lawfully. Second, copyright infringement can lead to both institutional *and* personal liability. Third, for those who are aware that the 11th Amendment to the U.S. Constitution *might* immunize state institutions from liability for copyright infringement, it *clearly doesn't* immunize employees of state institutions from personal liability. Fourth, under existing law, Congress gave

educators a break. After finding copyright infringement, a judge can remit damages (reduce to as low as zero) if the infringement was based on the *honest belief* that the use qualifies as a *fair use*. If no effort is made to determine whether a use is fair, it is going to be difficult to persuade a judge that someone with a Ph.D. honestly believed it permissible. Fifth, the use of information technologies often creates a record of activity beyond the control of the individual creating it. Deleting electronic files does not necessarily render them unrecoverable. Further, when loaded into something like a learning management system or web site, the files are no longer within the sole control of the creator. In an electronic environment, the possibility exists for multiple records if an infringement occurs. As a result, it is simultaneously easier to detect and more difficult to correct.

While some may not believe it, none of this is meant to scare anyone. Most faculty members will retire without incident, never knowing anyone sued for copyright infringement. Nevertheless, the stakes are getting higher because the advent of information technologies increases the opportunities for infringements to occur. Like every other field, educators share the responsibility to maintain high professional standards. Legal compliance is a necessary part of that effort.

Finally, let's not forget the students. Modeling professionalism is another dimension of an educator's role. Preparing students for life in an economy increasingly dominated by technology, information and services increasingly requires them to acquire a new literacy—the legal literacy of the information age.

Before moving to the rules for course design, it's worth saying a few words about correcting existing infringements. In most cases, it's not against the law to correct an existing infringement. Simply stop the infringing activity by deleting the files etc. However, it is against the law to destroy evidence. The distinction comes down to timing. It's illegal to destroy evidence once a lawsuit is filed or if you have reason to expect one to be filed. If there is no lawsuit on the horizon, however, simply correct the mistake. Like anything else with the law, if in doubt, consult an attorney.

SIX RULES FOR COURSE DESIGN

The Six Rules for Course Design distill the complexities of the extensive body of copyright law into its basics. The rules are organized around the central issues of copyright law as they arise in designing and delivering academic courses. Who owns the copyright? Who owns the copy of the copyrighted work? How was it acquired or accessed? What is a user allowed to do? Under what circumstances does a user need permission?

Copyright Basics

Copyright owners possess five exclusive (not absolute) rights. These include the right to distribute and reproduce the work, the right to publicly display or perform the work, and the right to create derivative works (e.g. translations, new editions). Despite these rights, users have rights too. The extent and nature of users' rights vary with the circumstances. Sometimes users need to get permission and pay required royalties, sometimes they don't.

Copyright Myths and Misconceptions

Contrary to popular opinion:

1. Copyright law does not protect ideas. It protects the expression of ideas. If you want to protect an idea, use a secrecy agreement.
2. Copyright owners don't need to *do* anything to *get* a copyright. Rights begin at the moment of creation because the rules say so.
3. A copyright notice isn't required. Earlier versions of the law required it—not anymore. However, so many people don't know this, using a notice is a good idea. Here's an example.

Copyright © 2005 Terry Smith

4. Registration isn't required. There are advantages to registering a copyright, but it's not required.
5. Owning a copy of a copyright protected work isn't the same thing as owning a copyright. Owning a copy is like renting an apartment. You bought the right to use it.

Rule #1

If you own the copyright to the materials, you can use them in whatever manner you wish.

Faculty members routinely develop course materials as supplements to or in lieu of textbooks. When you own the copyright to course materials, they're yours. You can do whatever you want in either face-to-face or online courses.

Determining Ownership

Copyright law has default rules that determine ownership when there is no agreement to the contrary. So, the first thing to do is determine whether there is an agreement. Institutional policy is a good starting point. The policies of many (not all) colleges and universities give faculty members the copyright to such things as course materials, books, and research articles. So, check the policy first. For unionized faculties, the union contract is another place to look. Sometimes copyright ownership is dealt with at the bargaining table. Finally, if the materials were created under a grant or other contract, look at the terms of that grant or contract to see if it addresses the ownership issue.

If institutional policy gives the copyright to the institution, you can still use the materials for your courses while working at that institution. Similarly, if you don't own the copyright per the terms of a grant or contract, you can use the materials as long as that use is consistent with the terms of the grant or contract.

If there is no institutional policy or other agreement, the default rules determine ownership. Under the default rules of copyright law, the copyright to a work is owned by its creator unless the work was created as a work-for-hire. In most instances, a work-for-hire refers to works created by employees in the course of their employment. Despite these rules, works created by faculty members are not necessarily works-for-hire. Faculty members are not your typical employees. They often work on their own time using resources purchased personally. Furthermore, faculty members do not work under the direct supervision of administrators. Academic freedom allows for wide latitude in the teaching, research and scholarly dimensions of the job. Further still, case law on this

question is limited and inconsistent. So, even without a policy or agreement saying so, in many instances a strong case can be made that faculty members own the copyright to course materials they create.

Practical Suggestions

1. Check policies and agreements to determine ownership.
2. If applicable policies or agreements give you ownership, consider investing the time to create your own materials. It makes things clear and gives you the most flexibility.
3. If you own it, put a copyright notice on it.
4. If you want to let others use your work, go to the Creative Commons web site for ideas on how to let others use your materials while retaining ownership and getting credit as the author.
5. If applicable policies give the copyright to your institution, consider creating it on your own time with personal resources so it is "outside the scope of your employment."
6. When dealing with grants or other contracts, resolve copyright issues before signing.
7. If you don't own it, let it go.
8. If ownership is ambiguous, one strategy is to inquire; another is simply to put a copyright notice on it and see if anyone objects.
9. Creating your own materials can be labor intensive. Don't try to do too much at once.

Rule #2

**Copyright law does not protect some materials.
You may use them in your courses in whatever
manner you wish.**

Copyright law doesn't protect everything. Works not protected under copyright law are in the public domain and may be used in either face-to-face or online courses as you wish.

Public Domain Works

Generally, there are three categories of public domain works: works ineligible for protection, works placed in the public domain, and works for which the copyright has expired.

Copyright law protects the expression of ideas, not the ideas themselves. So things like facts; scientific and mathematical principles, theorems and formulas; research methodologies; statistical techniques; theories; titles; phrases; and slogans are not protected by copyright law. Blank forms that collect, but don't provide information are not protected by copyright law. Further, laws, regulations, judicial opinions and legislative reports are ineligible for copyright protection. Finally, works created by the federal government are in the public domain. However, the federal government sometimes contracts with outside parties and sometimes those outside parties hold the copyright. So, while most federal documents are in the public domain, that's not always the case. All you have to do is look for the copyright notice. If there isn't one, it's pretty safe to assume it's in the public domain.

Sometimes copyright owners are not interested in the rights associated with ownership. Copyright owners can place their works in the public domain. Remember, as pointed out earlier, the copyright comes into existence at the moment of creation and doesn't require the work to have a copyright notice on it or be registered. So, creators can't avoid *getting* the copyright. However, they can *get* it only to turn around and put the work in the public domain. Because the law no longer requires a copyright notice to be used, owners have to explicitly put their works in the public domain. This isn't common, but it is done sometimes. Look for an explicit statement placing the work in the public domain. (Don't confuse this with works distributed at no charge. More will be said about this later.)

The last category of public domain works is works for which the copyright has expired. Remember the balancing act required in the U.S. Constitution. Congress was directed to create a system of limited monopolies. One of the limitations on copyrights is that they don't last forever. However, over the years, the rules governing the duration of copyrights have changed, so there isn't a single rule that works in all cases. The following chart summarizes when a copyright expires.

Works Published in the U.S.

Published prior to 1923	It's in the public domain.
Published between 1923 and 1978 without a copyright notice.	It's in the public domain.
Published between 1978 and March 1, 1989 without a copyright notice and registration.	It's in the public domain.
Published between 1923 and 1963 with a copyright notice that wasn't renewed.	It's in the public domain.
Created after March 1, 1989.	It's copyright protected automatically unless specifically placed in the public domain.

As you can see from the chart, there are a number of circumstances that cause works published after 1923 to be in the public domain. However, because it is often difficult to verify, most experts agree the prudent advice is, when in doubt, assume the copyright is in full force and effect.

Finally, works are not in the public domain simply because they are out of print. So, unless you know the copyright has expired on an out of print work, treat it like any other copyright protected materials.

Practical Suggestions

1. The U.S. National Archives & Records Administration (NARA) is a good source of federal documents.
2. Type "public domain" into a search engine to locate sources of public domain works.
3. Consult Stephen Fishman's book *The Public Domain: How to Find & Use Copyright-Free Writings, Music, Art & More*.
4. If you want to place your works in the public domain, go to the Creative Commons web site for suggestions on how to do that.
5. By virtue of the rules, public domain works are more common in some fields than others.

Rule #3

You are not allowed to use materials you acquired or accessed unlawfully.

Advances in information technologies significantly increase the opportunities for and ease of illegally copying or accessing protected works. And, while teaching continues to be a noble profession, there is no "noble profession" defense to copyright infringement. Like everyone else, educators are not allowed to use materials acquired or accessed unlawfully. This applies to the full array of works including: pirated software, music, videos or films; illegally copied books, periodicals, and television broadcasts; and illegal file sharing. It also applies to works accessed by hacking. Finally, it applies when you lawfully access material, but then use them in a manner that exceeds your authorization. For example, if you have a personal subscription to a secured online journal, you may not give your password to every student in your class to enable your students to read the journal unless the terms of use permit you to do so (and this is unlikely). In the worst case scenario, judges can award as much as \$150,000 per infringement for willful violations of copyright law.

Rule #4

You are not allowed to use materials you acquired or were given access to by someone else if you know or have reason to know that person obtained the materials or access to them in an unlawful manner.

This is the rule that doesn't allow you to pretend that out of sight out of mind is a legal defense to anything. Copyright infringement is a strict liability offense. That means you can be guilty of it even though you didn't mean to do it and didn't realize you were doing it. It's analogous to being in possession of stolen property. So, if it's not properly packaged, labeled and priced, it's probably too good to be true. Even innocent infringements can be expensive. If the copyright to the infringed work is registered (likely with virtually all commercial products), the copyright owner can ask for what are called statutory damages. In this category, the minimum damages for even an innocent infringement is \$200 per violation.

Rule #5

If you own a copy of the materials, but not the copyright *or* you lawfully accessed (e.g. went to a web site) materials to which someone else owns the copyright, you may use them in your courses if you use them:

- In a manner that is consistent with their intended purpose (i.e. implied license)
- In a manner that is consistent with permission explicitly granted per a statement contained in or on the materials (i.e. express license)
- If the use is a fair use
- If you obtain permission and pay required royalties

This is the rule that causes faculty members the most consternation and not unjustly so. It requires interpretation. The rules themselves are pretty easy to describe. It's their application that causes the problem.

Implied and Express Licenses

The rules governing licenses are pretty straightforward. A license is nothing more than an agreement governing the relationship between the owner of a copyright and the user of copyright protected materials (e.g. the Terms of Use for a web site, software, or online subscription). Some licenses are implied while others are express. Regardless of the type, the lawful owner of a copy of a copyright protected work may use the work in any manner consistent with the terms of the license.

An implied license exists by virtue of the nature of the work. That is, permission to use the work is implied from the work itself and you are allowed to use it for its intended purpose. For example, there is implied permission to access and view unsecured web sites. For that reason, you can link to such sites or give your students their URL's. In so doing, the copyright owner's rights of reproduction and distribution are not violated. You're giving your students directions to the site so they can access it under the same implied license you utilized to access it. Many experts advise that linking be done to home pages only. If you want your students to access materials deeper in the site, give them instructions on how to do so.

Questions concerning the scope of implied licenses often arise in regard to textbook supplements. Certainly, textbooks and their supplements may be used in a manner consistent with their intended purpose. So, faculty members can use the test banks, outlines, exercises, cases and presentation materials given them for textbooks they adopt for their courses. However, supplements designed for student purchase do not fall under this. Students must purchase such materials. Faculty members cannot reproduce them instead. Another question that sometimes arises in regard to supplements involves situations in which a faculty member adopts one textbook but wants to use some of the supplementary materials from another. It's doubtful that the author and publisher of one text went to the trouble they did to create such materials to supplement a competing textbook. So, it is unlikely such a practice falls under an implied license. The more likely case is that use of a sufficiently small portion of the competitor's supplementary materials qualifies as a fair use. Or, the publisher may be willing to give permission for their use. Of course, the other way to deal with this is simply to go back to one of the most basic principles of copyright law. Copyright law protects the expression of ideas, not the ideas themselves. Consequently, it is perfectly legal to create your own version of the idea, graph, chart, etc.

Express licenses are more straightforward; the permission is explicit. Users are allowed to use the copyright protected work as long as their use is limited to the scope of the permission given. For example, Brad Templeton has a popular web site containing an article entitled *10 Big Myths About Copyright Explained*. The first page of his article contains a statement giving people permission to link to the piece. That permission is limited in more detailed language later in the piece. This creates an express license. If you want to use the work in a manner that exceeds the limits of the express license, you'll need to either get permission to do so or utilize it in a manner that satisfies fair use.

If your library has electronic journals, the licenses may allow links directly to the database. Check with your library for applicable policies and practices.

Fair Use

The fair use rules permit the use of copyright protected works without permission from or payment of royalties to the owner. The fair use rules apply to material used for a variety of purposes including: criticism, comment, news reporting, teaching, scholarship, and research. Certainly, designing and delivering both traditional face-to-face and distance education courses fall within this scope. Nevertheless, fair use is often misunderstood. For example, many faculty members mistakenly believe that any use that is educational automatically qualifies. Or, it's OK as long as no one is making money from the copying. The reality of the situation is none of the above. To qualify as a fair use, the use must be for one of the allowed purposes *and* satisfy the fair use factors.

Unfortunately, the application of the four fair use factors is not formulaic. The rules say that all the factors must be weighed and balanced to determine whether a particular use is a fair use. In other words, this is squarely in the world of *It depends!* Nevertheless, you don't need to be a lawyer to learn to make good faith judgments about fair use. And remember, judges can reduce damages to as little as nothing when a faculty member from a nonprofit educational institution commits copyright infringement under the mistaken but nonetheless reasonable and honest belief that the use qualified as a fair use. It's worth a bit of trouble to learn the rules and how to apply them.

The four fair use factors are: the purpose or character of the use, the nature of the work, the portion used, and the effect of the use on the market for the work. The purpose or character of the use goes to what you're doing with it. Are you using it in a commercial or noncommercial setting? Commercial uses weigh against fair use; noncommercial uses weigh in favor of fair use. Clearly, academic courses are on the noncommercial side. The second factor is the nature of the work being used. Is it fiction or nonfiction? Is it published or unpublished? Works of fiction are given greater protection than nonfiction so using works of fiction is less likely to be a fair use. (Remember, things like facts, theories, formulas and discoveries aren't protected under copyrights.) Unpublished works are given greater protection than published works so you're more likely going to need permission to use an

unpublished work. The third factor goes to the portion used. Was the quantity used large or small? Was the portion used qualitatively significant or insignificant (e.g. the opening bars of a popular musical score)? Finally, the fourth factor goes to the effect of the use on the market for the work. Any use that impairs the marketability of the work weighs heavily against fair use. In contrast, if the use has no impact or if the work is no longer for sale, a strong case exists that the use qualifies for fair use treatment.

The market for permissions has to be considered when determining whether a particular use impairs the market for a work. A given use may not impair the market for the entire work, but it may impair the market for permission to use a portion of it. The advent of online permissions enterprises such as the Copyright Clearance Center significantly increased this market.

Nevertheless, fair use has not been abandoned. It's still part of the law. A Fair Use Checklist (many versions are available online) is helpful in this evaluation. Further, retaining a hard copy in your records documents your good faith, honest belief that the use qualified. Another approach is to use established Fair Use Guidelines (also available online). While the guidelines aren't laws, they offer a safe harbor for copyright compliance because they were established in cooperation with representatives from affected industries. Even if you don't restrict yourself to the letter of the guidelines (remember, they're not laws), they offer valuable insight into the types of limitations to consider: portions used, length of time available, restriction to enrolled students, and avoiding repeated uses of the same material. Guidelines exist for: books and periodicals, music, off-air recording of broadcasts, multimedia, distance learning, digital images, and software.

Getting Permission

If you want to use materials in a way that doesn't fall under any of the other rules, you need to get permission and pay required royalties. If you have the time and expect the permission to be given free of charge, doing it yourself isn't a bad option. Just remember to keep copies of your correspondence or e-mail messages giving you the permission.

Many commercial copy shops, print shops, and textbook stores provide this service as well. They need lead time to get required permissions, so it's a good idea to check with them first. Typically, the royalties are added to the cost of the course packs purchased by students. If you are concerned about royalties making the packet cost prohibitive, work this out in advance with the shop. With enough advanced planning, they should be able to get you a price quote first so you can make adjustments if it is too expensive.

Another option is to use your library's print or electronic reserve system. Institutional policy and practice will determine how permissions and royalty payments are handled. Again, check in advance to avoid problems and delays.

Practical Suggestions

1. Web sites may be here today and gone tomorrow. Plan accordingly.
2. Locate a Fair Use Checklist online.
3. Locate the Fair Use Guidelines online.
4. Consult my book, *Fair Use Guidelines for Educators, 4th Ed.* which contains all the guidelines, plus examples.
5. Many publishing companies have Permissions links on their web site.
6. Some permissions are expensive, but others aren't. So, don't assume it's too costly.

Rule #6

If the requirements of the TEACH Act are met, you may do the following in online and other distance education courses:

- **Transmit entire performances of non-dramatic literary and musical works (e.g. everything but operas, musicals and music videos)**
- **Transmit any other performance as long as the portions transmitted are limited and reasonable**
- **Transmit the display of any other work as long as it is comparable to that typically used in face-to-face instruction**

Purpose of the TEACH Act

The Technology, Education and Copyright Harmonization Act (TEACH Act) became effective in 2002. Unlike other aspects of copyright, compliance with the TEACH Act is optional. Qualifying institutions that choose to comply enjoy expanded rights to transmit performances in distance education courses that were explicitly prohibited under prior law. Congress wanted to bring copyright law governing distance education more in line with that regulating traditional face-to-face classroom instruction. Consequently, the TEACH Act generated a fair amount of attention when enacted, though, to date, indications are its not been widely adopted.

Before taking a closer look at its requirements, it is important to be clear about its scope. Its purpose is to make the online or distance-based classroom more like traditional face-to-face classrooms. Consequently, its expanded rights apply *only* to transmissions that are part of in-class activities. The TEACH Act *does not* apply to such things as outside assignments or supplemental materials.

TEACH Act's Requirements

The TEACH Act imposes a number of requirements that must be met *before* faculty members are legally entitled to rely on its expanded transmission rights. First, only accredited nonprofit educational institutions are eligible. So, traditional colleges and universities qualify while for-profit and unaccredited institutions do not. Second, qualifying institutions must satisfy a number of affirmative obligations set out in the statute. Some of the affirmative obligations are of a technical nature, while others more directly involve faculty members.

On an institutional level, the TEACH Act requires colleges and universities to create policies in regard to the proper use of copyright protected works. It does not, however, specify what the policies must contain. In a similar vein, it requires institutions to provide faculty members, students and relevant staff with information about copyright compliance. And, in the language of the statute, institutions must provide "notice to students that materials used in connection with the course may be subject of copyright

About the Author

Linda Enghagen is an attorney and Associate Professor at the University of Massachusetts at Amherst. Her teaching career began in distance learning when she first taught Engineering Law & Ethics as part of the university's Video Instructional Program in 1984. In 1990, she became the first woman to receive an Outstanding Instructor Award from National Technological University which also offered her course. In 2002, she received a second Outstanding Teacher Award from the College of Food & Natural Resources at the University of Massachusetts.

Professor Enghagen teaches cyber law at both the graduate and undergraduate levels and developed a corporate training program entitled *Information Technology and the Law: Software, the Internet and E-mail* in conjunction with the PBS Business & Technology Network. Her scholarly contributions related to intellectual property are directed to the needs of faculty members. Her publications include two books, *Technology and Higher Education: Approaching the 21st Century* and *Fair Use Guidelines for Educators*, as well as numerous articles such as *Fair Use in an Electronic World* and *Copyright Law and Fair Use—Why Ignorance Isn't Bliss*. She also developed a pamphlet entitled *Educators, Technology and the Law: Common Questions/Direct Answers* and a brochure entitled *Legal Literacy in the Information Age—Ten (easy to understand) Rules of Thumb*. In addition, she has been a guest commentator on a local NPR affiliate where she discussed copyright piracy in a piece entitled *Napster Worries Me*.

protection." Again, it leaves the precise manner of compliance up to each institution.

On a more technical note, but still of relevance to faculty members, the TEACH Act requires that transmissions be made to enrolled students only. In the case of courses taught via learning management systems such as Blackboard and WebCT, this is easy to accomplish because they are secure systems. However, in many cases, course web sites are not secure. So, even though an institution may be in compliance with all the prerequisites of the TEACH Act, it cannot be relied on for transmissions via any unsecured system.

In one of the more ambiguous portions of the TEACH Act, it imposes the requirement that retention of copyright protected works be limited to a class session. This makes sense from the perspective that the purpose of the TEACH Act is to, as closely as possible, duplicate the traditional face-to-face classroom experience. However, "class session" isn't defined. Presumably, this requirement can be met by establishing appropriate deadlines for viewing the transmissions and then disabling access to them.

Finally, the TEACH Act prohibits a few of things. First, it is illegal to interfere with security measures taken by copyright owners to control the storage and distribution of their works. So, technological measures taken by a copyright owner to prevent copying cannot be overridden or circumvented. Second, the TEACH Act specifically prohibits copying materials sold for the distance education market. Materials designed for purchase, can't be copied instead.

Practical Suggestions

1. Check institutional policies to find out if your institution is TEACH Act compliant.
2. If your institution is not, you can still rely on fair use. Just because you can't do something under one rule, doesn't mean you can't do the exact same thing under another rule.
3. Do not rely on the TEACH Act when using unsecured systems.
4. Do not rely on the TEACH Act for any activity that is not part of the same course when taught in a face-to-face classroom setting.