

Utah Tech University Policy



145: Use of Copyrighted Materials

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1. Purpose

- 1.1. Utah Tech University (“the University”) is committed to adhering to all applicable laws regarding intellectual property. Faculty, staff, and students are required to comply with all U.S. copyright laws, including Title 17 U.S. Code, the United States Copyright Act, the Digital Millennium Copyright Act of 1998, and the Technology, Education, and Copyright Harmonization (TEACH) Act 2002.

2. Scope

- 2.1. All faculty, staff and students are required to familiarize themselves and to follow copyright and fair use requirements. Individuals are solely responsible for violations of copyright laws.

3. Definitions

- 3.1. **Copyright:** a form of protection grounded in the U.S. Constitution and granted by law for original works of authorship fixed in a tangible medium of expression. Copyright covers both published and unpublished works.
- 3.2. **Fair use:** a legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances. Section 107 of the Copyright Act provides the statutory framework for determining whether something is a fair use.
- 3.3. **Intellectual property:** is defined as property (such as an idea, invention, or process) that derives from the work of the mind or intellect.
- 3.4. **Public Domain:** Creative materials that are not protected by intellectual property laws such as copyright, trademark, or patent laws. The public

owns these works, not an individual author or artist. Anyone can use a public domain work without obtaining permission, but no one can ever own it.

- 3.5. **TEACH Act:** The “Technology, Education and Copyright Harmonization Act,” commonly known as the “TEACH Act,” was enacted by Congress on October 4, 2002. It is a full revision of Section 110(2) of the U.S. Copyright Act. Its provisions enable educators to use copyrighted materials for distance education, with certain restrictions.

4. Policy

- 4.1. The United States Copyright Office explains that “copyright, a form of intellectual property law, protects original works of authorship including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture. Copyright does not protect facts, ideas, systems, or methods of operation, although it may protect the way these things are expressed.” Exceptions allow for the use of a work without requesting permission from the copyright holder. Commonly used exceptions are fair use, online education under the TEACH act, and face to face instruction.
- 4.2. To use copyrighted materials under fair use, the following must be considered:
 - 4.2.1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
 - 4.2.2. The nature of the copyrighted work;
 - 4.2.3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
 - 4.2.4. The effect of the use upon the potential market for or value of the copyrighted work.
- 4.3. To qualify for the TEACH Act exemptions for the use of copyrighted materials in online education, the following criteria must be met:
 - 4.3.1. The institution must be an accredited, non-profit educational institution.
 - 4.3.2. The use must be part of mediated instructional activities.
 - 4.3.3. The use must be limited to a specific number of students enrolled in a specific class.

- 4.3.4. The use must be for 'live' or asynchronous class sessions.
- 4.3.5. The use must not include the transmission of textbook materials, materials typically purchased or acquired by students, or works developed specifically for online uses.
- 4.3.6. The institution must have developed and publicized its copyright policies, specifically informing students that course content may be covered by copyright, and a notice of copyright must be included in course syllabi.
- 4.3.7. The institution must use technological measures to limit access to students enrolled in the course, and to prevent unauthorized student retention of copyrighted materials and/or downstream redistribution (Canvas).
- 4.3.8. Text and images displayed must be in amounts comparable to in-class teaching. Presentation of dramatic works (including musical works or other media) is allowed only for "reasonable and limited portions."
- 4.3.9. If a digital version of the work is already available, then an analog copy cannot be converted for educational use.
- 4.4. In a traditional classroom with face-to-face instruction at a non-profit education institution, performances and displays of work are allowed. Requirements are:
 - 4.4.1. All materials must be legally acquired.
 - 4.4.2. Teaching must occur in a classroom or similar place devoted to instruction.

5. References

- 5.1. [Copyright law of the United States](#)

6. Procedures – N/A

7. Addenda

- 7.1. Copyright and Fair Use: Copyright Compliance Guidelines for Faculty
<https://libguides.utahtech.edu/c.php?g=57903&p=371816>
- 7.2. Sample Copyright Statement for Course Syllabi
<https://libguides.utahtech.edu/c.php?g=57903&p=371816>

7.3. The TEACH Act and some Frequently Asked Questions

<https://web.archive.org/web/20180408224010/http://www.ala.org/advocacy/copyright/teachact/faq>

Policy Owner: General Counsel

Policy Steward: Library Dean

History:

Approved 2/1/2002

Revised 04/24/2020

Editorial 07/01/2022