

COPYRIGHTED MATERIALS CHECKLISTSTEACH Act Checklist

- 1. The district is an accredited nonprofit educational institution or governmental body.
- 2. The district has an institutional policy that addresses the use of copyrighted materials and promotes compliance with U.S. copyright law.
- 3. The district provides educational materials/resources to faculty, students, and staff that accurately describe copyright rights and responsibilities.
- 4. The work is not a digital educational work produced or marketed primarily for performance/display as part of mediated instructional activities transmitted via digital networks.
- 5. The work is not a textbook, coursepack, electronic reserves, or similar material typically purchased individually by the students for independent review outside the classroom or class session.
- 6. The work is lawfully made and acquired. Would a reasonable evaluation indicate the origin of the work to be questionable?
- 7. The work is an integral part of the class session. The materials are specifically for students enrolled in the course.
- 8. The work is part of systematic mediated instructional activities, provided at the instructor's direction during the relevant lesson.
- 9. The work is directly related and of material assistance to the teaching content and is a part of the regular offerings of the district.
- 10. The work is (check one):
 - Nondramatic literary work (may use all)
 - Nondramatic musical (may use all)
 - Reasonable and limited portion of any other work (dramatic literary, musical, or audiovisual works) *or*
 - Display of any work in an amount similar to typical displays in face-to-face teaching in a live classroom setting
- 11. The transmission of the work is limited, as technically feasible, to the students enrolled in the course.
- 12. Reasonable downstream controls have been instituted.
 - Reasonable measures been implemented to prevent retention of the works for longer than the class session.
 - Reasonable measures have been implemented to prevent unauthorized dissemination in accessible form by the recipients.
- 13. Materials will be stored on a secure server and transmitted only as permitted by the TEACH Act.

COPYRIGHTED MATERIALS CHECKLISTS (Cont.)

- 14. Copies of the work will not be made other than the one needed to make the transmission.
- 15. For conversions of analog to digital
 - No digital version is available to the educational institution.
 - The digital version available is technologically protected to prevent TEACH uses.
 - Yes: Conversion of analog to digital permitted
 - No: Conversion of analog to digital not permitted
- 16. There is a warning notice present on the work notifying students that the work may be protected by copyright.

Permissions Guide

1. Does the proposed use require permission from the copyright holder?
 - A. Is the work subject to copyright?
 - Is it an original work of authorship?
 - Is it fixed in a tangible medium of expression?
 - Is it **not** an “idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied” in a copyrighted work?
 - Is it **not** a work produced by a U.S. government employee in the scope of employment?
 - Is it **not** a work the author has expressly made available for unrestricted copying, distribution, etc., effectively dedicated to the public domain?
 - Has the copyright expired?
 - B. Is there a legal basis for use without permission?
 - Is it fair use? To enhance the fair use argument, especially for coursepacks and web-based teaching materials, (1) use excerpts that are short and qualitatively insubstantial; (2) limit access to students enrolled in the course; (3) end access after the course; (4) do not use the material repeatedly for a course; (5) include the copyright notice and appropriate attributions; (6) obtain permission if easy to do so (cost and timing perspective).
 - Is it a performance and/or display of a work in a face-to-face teaching setting?
 - Is it a transmission of a performance and/or display of limited works to a classroom setting for teaching purposes?

COPYRIGHTED MATERIALS CHECKLISTS (Cont.)

2. Obtaining permission to use copyrighted works:

- Identify the copyright holder (best to confirm by phone or e-mail before seeking permission).
- Send written request for permission to use.
 - Allow several weeks lead time.
 - Can the district pay a licensing fee/royalty?
- If license fee is too much or there is no response, be prepared to use a limited amount that qualifies for fair use, or use alternative materials.
- Obtain legal review/contract review for any license agreements other than the district's permissions form.