

## University of Alaska TEACH Act Worksheet\*

The list below outlines the criteria that must be met before you may use a copyright-protected work under the TEACH Act. According to TEACH, a single "no" response to one or more of the items below disqualifies you from being able to use that work under the legal protection of TEACH legislation. However, if you find yourself checking "no" to one or more boxes, you might want to see if your particular use of that work could be considered a "fair use" under copyright law instead (which is separate and different from TEACH). If your use does not fall under the "fair use" guidelines or the TEACH Act guidelines, then it is your responsibility to contact the copyright holder for permission. This worksheet will document your good-faith efforts for assessing the acceptable use of a work. Documentation such as this could be important, should your use be challenged under copyright law.

Note: One of the problems with TEACH is that while its language is very deliberate, that language can also be quite obtuse. For that reason, each of the criteria below is accompanied with an explanation that offers an informal summary, paraphrase, or explanation of the item in question. It is important to note that **these explanations are not designed to be a legal interpretation of the law, nor are they designed to be used or quoted as legal advice.** If you are ever in doubt about one of these items, please contact the UA Intellectual Property & Licensing Department at (907) 474-7765 for expert clarification and advice.

YES	NO	TEACH ACT CRITERIA
__X__	_____	<p>I am teaching as part of an accredited non-profit educational institution?</p> <p><i>Explanation: Being part of an accredited non-profit educational institution or governmental agency is a necessary first step toward being eligible to take advantage of the exemptions offered by the TEACH Act. UAA, UAF, and UAS are accredited non-profit educational institutions, and so if you are teaching a course for one of those institutions and you intend to use said work in that course, then the response is "yes" for this item.</i></p>
__X__	_____	<p>My institution has a stated copyright use policy?</p> <p><i>Explanation: Instructors may not take advantage of the exemptions of the TEACH Act unless/until their institution comes up with a copyright use policy. UA has a stated copyright use policy, and the response is "yes" for this item.</i></p>
__X__	_____	<p>My institution educates relevant students, faculty, and staff on copyright law?</p> <p><i>Explanation: Instructors may not take advantage of the exemptions of the TEACH Act unless/until their institution educates relevant personnel on the legality of using copyright protected works. UA makes an effort to educate its students, staff, and faculty on copyright law, and so the response is "yes" for this item.</i></p>

TEACH Act Worksheet (continued)

YES	NO	TEACH ACT CRITERIA
_____	_____	<p>The work I'd like to use in my class is not a commercial educational work?</p> <p><i>Explanation: The TEACH Act does not allow instructors to use works which were expressly created for the purpose of being marketed and sold as educational content. Works such as electronic course packs, Blackboard course cartridges, and any other materials designed and sold for educational purposes may not be used under the protections of TEACH, unless permission has been sought from the copyright holder and royalties paid.</i></p>
_____	_____	<p>The work I'd like to use in my class fits under one of the following categories?</p> <ol style="list-style-type: none"> <li>1. a <u>performance</u> of a non-dramatic literary work (may use all)  <i>Explanation: The word "performance" here roughly means "the acting, reading, reciting, playing, or performing" of a work; the word "literary" refers to works that are not audio-visual; and the word "non-dramatic" means "not a stage play." Thus, loosely interpreted, this requirement can be taken to mean the acting, reading, reciting, playing, or performing of a poem, a novel, a textbook, an article, a short story, and any other written work that is not a play.</i> </li> <li>2. a <u>performance</u> of a non-dramatic musical work (may use all)  <i>Explanation: The word "performance" here roughly means "the acting, reading, reciting, playing, or performing" of a work; and the word "non-dramatic" means "not a stage play." Thus, loosely interpreted, this requirement can be taken to mean the acting, reading, reciting, playing, or performing of a musical work that is not a stage play.</i> </li> <li>3. reasonable &amp; limited portions of any other work (for a <u>performance</u>)  <i>Explanation: The word "performance" here roughly means "the acting, reading, reciting, playing, or performing" of a work. The phrase "reasonable and limited portion" is somewhat problematic in that it's not fully clear what it means. The actual legislation on the issue says the following: "In determining what is reasonable and limited one should take into account both the nature of the market for that type of work and the pedagogical purposes of the performance." Thus, loosely interpreted, this requirement can be taken to mean the acting, reading, reciting, playing, or performing of any work in amounts typically applied in a live classroom.</i> </li> <li>4. the <u>display</u> of any work in amounts analogous to live classroom setting  <i>Explanation: The word "display" here roughly means "to show a copy" of a work (i.e., as an image, as a slide, as a photo, as a TV image, as a still frame of a film, etc.). Thus, loosely interpreted, this requirement can be taken to mean showing a copy of any work in portions comparable to the portions that would be displayed if such a work were used in a face-to-face classroom lecture or activity.</i> </li> </ol>

**TEACH Act Worksheet (continued)**

YES	NO	TEACH ACT CRITERIA
_____	_____	<p>The work I'd like to use in my class was lawfully made/acquired?</p> <p><i>Explanation: If the work in question was unlawfully obtained (e.g., it was stolen, shoplifted, illegally copied, illegally downloaded from the Internet, etc.), then that work--regardless of its type--may not be used under the exemptions of the TEACH Act.</i></p>
_____	_____	<p>The work I'd like to use in my class is of "material assistance" to my teaching?</p> <p><i>Explanation: Copyright-protected works may not be used under the TEACH Act unless they are of direct relevance to a particular instructional lesson. In other words, the work in question should play an integral role in a classroom activity and not an ancillary one. For example, using copyright-protected images simply to "dress up" the look of an online course probably wouldn't be something protected under TEACH. Posting electronic copies of articles and essays for "supplemental reading" could/may be prohibited under TEACH</i></p>
_____	_____	<p>The work I'd like to use in my class is part of a "systematic mediated instructional activity"?</p> <p><i>Explanation: Works used under TEACH must not only be an integral part of a specific lesson, but they must also be used under the control and supervision of an instructor. That means that if you plan to use a work in your class, then you need to play a direct role in facilitating the use of that work.</i></p>
_____	_____	<p>The work I'd like to use in my class will only be made accessible to my students for the "class session" of which the work is a part?</p> <p><i>Explanation: The phrase "class session" roughly refers to the duration for which a student is "logged on" to an online course. What this means will vary, depending on the design of the course, but in most instances will mean that works should not be accessible for the entire length of the course.</i></p>
_____	_____	<p>The work I'd like to use in my class will only be made accessible to students who are formally enrolled in my course?</p> <p><i>Explanation: Works used under TEACH should not be broadly accessible to everyone. Instead, their access should be limited to the group of students who are formally enrolled in the course. Online course management systems like Blackboard make this requirement easy to meet because such systems often allow for courses to be password-protected.</i></p>

TEACH Act Worksheet (continued)

<p>_____</p>	<p>_____</p>	<p>I have taken reasonable measures to prevent the further retention and dissemination of the work in question?</p> <p><i>Explanation: Preventing the storage and distribution of works that are posted online is not an easy task. Many would maintain, in fact, that such a task is virtually impossible, given the current technologies we have to work with. TEACH does not ask instructors or institutions to do the impossible; however, TEACH does require that reasonable measures be in place so that works are not further duplicated and disseminated. Some strategies that the institution will adopt to fulfill this requirement: a) "turning off" student access to your course at the end of the semester; b) posting warning notices alerting students that certain works should not be duplicated or passed around; c) password-protecting your course as the default option. In addition, instructors should consider the following: d) using streaming technology for the broadcasting of video and audio content; e) hiding or deleting content in your course after its use has expired; f) using other technological protections that might be available</i></p>
<p>_____</p>	<p>_____</p>	<p>I have posted a warning notice alongside the work in question, stating that the work is copyright-protected and should not be copied, downloaded, or disseminated without proper permission from its copyright holder?</p> <p><i>Explanation: TEACH requires instructors and institutions to let students know if certain works are copyright-protected and to warn students against the inappropriate handling of those sources.</i></p>
<p>_____</p>	<p>_____</p>	<p>(Only answer this item if you are converting an analog work to a digital format)</p> <p>I am converting an analog work to digital format because</p> <ol style="list-style-type: none"> <li>1. a digital version is not available to my institution, <u>or</u></li> <li>2. a digital version is available to my institution but it has technological protections with it that prevent me from using it in accordance with TEACH</li> </ol> <p><i>Explanation: Suppose you wanted to show parts of a VHS video in an online film class. Before that video could be posted online, it would need to be digitized. The TEACH Act allows instructors to convert analog content (e.g., a portion of a VHS video) into digital formats only under certain circumstances. First, according to TEACH, instructors may only digitize portions of that content that are allowable under the "portion" requirements of TEACH. Second, instructors may only digitize that content if an electronic copy is not already accessible to the instructor's institution.</i></p>