

**A COMPARISON OF PRIOR AND CURRENT LAW GOVERNING
THE USE OF COPYRIGHTED MATERIALS IN INSTRUCTIONAL ACTIVITIES**

FACE-TO-FACE INSTRUCTION (17 U.S.C. § 110(1))	DISTANCE EDUCATION (FORMER 17 U.S.C. § 110(2))	TEACH ACT (REVISED 17 U.S.C. § 110(2))
Applies to nonprofit educational institutions	Applied to nonprofit educational institutions	Applies to accredited nonprofit educational institutions
Permits the display of any work	Permitted the display of any work	Permits the display of any work in an amount comparable to that which is typically displayed in the course of a live classroom session
Permits the performance of any work	Permitted the performance of non-dramatic literary and musical works	Permits the performance of non-dramatic literary and musical works and reasonable and limited portions of any other works
(No similar provision)	(No similar provision)	Excludes the performance and display of works produced or marketed primarily for performance or display as part of mediated instructional activities* transmitted via digital networks
The performance or display of a motion picture or other audiovisual work cannot be made by means of a copy that was made unlawfully if the person responsible for the performance or display knows or has reason to believe that the copy was made unlawfully	(No similar provision)	The performance or display cannot be made by means of a copy that was made or acquired unlawfully if the institution knows or has reason to believe that the copy was made or acquired unlawfully

<p>The performance or display must be made in the course of face-to-face teaching activities in a classroom or similar place normally devoted to instruction</p>	<p>The performance or display had to be by or in the course of a transmission made primarily for reception in classrooms or similar places normally devoted to instruction</p>	<p>The performance or display must be by or in the course of a transmission made solely for, and to the extent technologically feasible reception of which is limited to, students officially enrolled in the course for which the transmission is made</p>
<p>The performance or display must be made by an instructor or pupil</p>	<p>(No similar provision)</p>	<p>The performance or display must be made by, at the direction of, or under the actual supervision of an instructor</p>
<p>(No similar provision)</p>	<p>The performance or display had to be:</p> <ul style="list-style-type: none"> • directly related and of material assistance to the teaching content of the transmission • a regular part of the systematic instructional activities of the institution 	<p>The performance or display must be:</p> <ul style="list-style-type: none"> • directly related and of material assistance to the teaching content of the transmission • an integral part of a class session offered as a regular part of the systematic mediated instructional activities* of the institution
<p>(No similar provision)</p>	<p>(No similar provision)</p>	<p>The transmitting institution must:</p> <ul style="list-style-type: none"> • institute policies regarding copyright • provide faculty, students, and relevant staff with informational materials that accurately describe and promote compliance with copyright law • provide notice to students that materials used in connection with the course may be subject to copyright protection

(No similar provision)	(No similar provision)	<p>In the case of digital transmissions, the transmitting institution:</p> <ul style="list-style-type: none"> • must employ technological measures that reasonably prevent recipients from retaining the work in accessible form for longer than the class session and further disseminating the work to others without authorization • must not interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination
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* The term “mediated instructional activities” means activities that are an integral part of the class experience, that are controlled by or under the actual supervision of the instructor, and that are analogous to the type of activities that would take place in a live classroom setting, other than activities that use works such as textbooks, course packs, and similar materials in any media that typically are purchased by students for their independent use and retention.

** Note that the TEACH Act authorizes the institution to convert a print or other analog material into digital format, in order to conduct TEACH-authorized displays and performances, if “no digital version of the work is available to the institution” or “the digital version of the work that is available to the institution is subject to technological protection measures that prevent its use” for such TEACH-authorized activities.