

Overview of Technology, Education and Copyright Harmonization Act (TEACH)

The primary benefit of the TEACH Act for educators is its repeal of the earlier version of Section 110(2), which was drafted principally in the context of broadcast or closed-circuit television. That law permitted educators to perform only certain types of works and generally allowed transmissions to be received only in classrooms and similar locations. These restrictions, and others, usually meant that the law could seldom apply to the context of modern, digital transmissions that might utilize a range of materials and need to reach students asynchronously at home, at work, and elsewhere. The new version of Section 110(2) - the TEACH Act - offers these explicit improvements:

- Expanded range of allowed works. Works in this context refers to the tangible output of a writer, artist, musician, etc such as books, magazine articles, graphics, paintings, videos, music, plays, etc . The new law permits the display and performance of nearly all types of works; however, a few narrow classes of works remain excluded (e.g., works produced and marketed primarily for display as part of mediated instructional activity via digital networks). The display of any work must be in an amount comparable to that typically displayed in live classroom but uses of some types of works, such as audiovisual works, dramatic works, and musical works, are subject to reasonable and limited portions. For all works:
 - The copy must have been lawfully made and acquired; and

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- The performance or display must be made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic, mediated instructional activities of the educational institution; and
- The works must be directly related and of material assistance to the teaching content of the transmission. Textbooks, course packs, or other materials in any media format which are typically purchased or acquired by students for their independent use and retention are not covered.
- Expansion of receiving locations. The former law limited the transmission of content to classrooms and other similar location. The new law has no such constraint. Educational institutions may now reach students through transmissions over digital networks and distance education at any location.
- Storage of transmitted content. The former law often permitted educational institutions to record and retain copies of the distance-education transmission, even if it included copyrighted content owned by others. The new law continues that possibility. The law also explicitly allows retention of the content and student access for a brief period of time, and it permits copying and storage that is incidental or necessary to the technical aspects of digital transmission systems.
- Digitizing of analog works. In order to facilitate digital transmissions, the law permits digitization of some analog works, but in most cases only if the work is not already available in digital form and as long as it is free from technological protection measures (i.e., must not engage in conduct that could reasonably be expected to interfere with technological measures designed to regulate the storage or dissemination of the works).