


PROCEDURE MANUAL

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	Last Revision Date:	10-06-10	
Effective Date:		10-06-10	
Section:	Administration	Subject:	Technology Mediated Instruction Copyright And Teach Act

PURPOSE

To ensure compliance with the copyright laws of the United States and the Technology, Education and Copyright Harmonization (TEACH) Act of 2002.

PROCEDURE

1. Definitions

- 1.1 *Technology Mediated Instruction (TMI)* is defined by Arizona Western College as "all forms of instruction that are enhanced by or utilize electronic and/or computer-based technology. It specifically includes distance education, interactive television, instructional modules delivered via mass media, and computer assisted instruction."
- 1.2 AWC recognizes the important aspect of identifying and protecting "original works of authorship" and materials "fixed in any tangible medium of expression." Examples are writings, images, artworks, videotapes, slides, musical works, sound recordings, motion pictures, computer programs and other works specifically protect by copyright laws.
- 1.3 AWC recognizes that not all instruction can be held in a face-to-face classroom and will deliver instruction in any mediated form deemed appropriate by the college. Examples of these delivery mechanism are: videoconferencing, closed circuit microwave , cable television, Web courses, satellite, videotape, CD, DVD, etc.


2. Mediated Instruction

- 2.1 AWC will regulate the access and dissemination of all copyrighted electronic materials used in distance education instruction.
- 2.2 Non-copyrighted materials such as works of the U.S. Government or works whereby the copyright has expired thus placing the material in the "public domain" may be used at the discretion of AWC.
- 2.3 It is NOT the intent of AWC to copy or scan copyrighted materials and make said content available for use by individuals who are not currently enrolled for academic credit at AWC.
- 2.4 AWC reserves the right to store copyrighted materials on central computer servers for delivery of distance learning instruction.

3. Faculty Compliance


- 3.1 AWC faculty shall determine which types of mediated instruction will be used in their courses.
- 3.2 AWC faculty shall inform their students in the syllabus that copyright materials will be used in their course and students will be expected to comply with the copyright laws of the United States and TEACH Act.
- 3.3 The TEACH Act specifically permits the following:

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- 3.3.1 Performances of non-dramatic literary works
- 3.3.2 Performances of non-dramatic musical works
- 3.3.3 Performances of any other work, including dramatic works and audiovisual works, but only in “reasonable and limited portions”
- 3.3.4 Displays of any work “in an amount comparable to that which is typically displayed in a course of a live classroom session.”
- 3.4 The TEACH Act explicitly excludes the following:
 - 3.4.1 Works that are marketed “primarily for performance or display as part of mediated instruction activities transmitted via digital networks”
 - 3.4.2 Performances or displays given by means of copies “not lawfully made and acquired” under the U.S. Copyright Act, if the educational institution “knew or had reason to believe” that they were not lawfully made and acquired.
- 3.5 AWC and the faculty members must adhere to the following requirements:
 - 3.5.1 The performance or display “is made by, at the direction of, or under the actual supervision of an instructor”
 - 3.5.2 The materials are transmitted “as an integral part of a class session offered as a regular part of the systematic, mediated instructional activities” of the educational institution
 - 3.5.3 The copyrighted materials are “directly related and of material assistance to the teaching content of the transmission”.
 - 3.5.4 The copyrighted works and materials must serve educational pursuits and are NOT for entertainment or any other purpose.
- 3.6 Students will be informed that all copyrighted material used in a specific course is for the “sole use of the student and is not intended for individuals who are not officially enrolled in the course.”
- 3.7 Faculty shall not post electronic copyrighted materials for the entire length of the semester, but must inform students as to when and for how long these materials will be available for their usage. The time duration of postings shall be determined by when the materials are needed for the instruction, but under no circumstances shall the materials be posted for student use for more than four (4) consecutive weeks.
- 3.8 Faculty will fill out a form for each piece of copyrighted material to be used in their course. This form will identify the name of the course, name of copyrighted material, copyright holder, anticipated date of use, and duration of availability for students. (*See attached form in the appendix*) These forms will be kept by the Distance Learning office (or designee) and filed according to the semester in which the materials were utilized in the classroom.

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- 3.9 AWC will make sure the materials being utilized in the distance learning courses are protected to the extent possible from copying or downloading by students enrolled in the course.
4. Legality of Copies
 - 4.1 AWC will use copies of mediated materials, which have been purchased, leased or rented by the college in a legal manner.
 - 4.2 Legal copies shall be in their original containers or sleeves whereby the title of the material and the copyright holder are clearly visible.
 - 4.3 Illegal copies shall be those where compensation (excluding free permission in writing) has not taken place for the use of the materials or the materials were duplicated from the original version to a separate tape not bearing the information outlined in section 4.2.
5. Public Performance
 - 5.1 Public performance shall be defined as the showing of any electronic material to any individual (students, staff, community members, etc.) who is not currently in the course where the material is being shown.
 - 5.2 Examples of delivery systems for copyrighted materials, which are considered a public performance, are: cable channels, satellite channels, “open” web pages, videotapes, DVD’s and/or CD’s and events where non-enrolled students in the course are invited.
 - 5.3 When a public performance is to take place, AWC will contact the necessary copyright holder and seek permission to use the material. Copyright permission for “free” performances must be in writing and AWC will include these letters of permission in their copyright clearance files. Where fees are required, AWC will pay those fees to the copyright holder or their licensing agent. Under no circumstances will AWC sanction the use of electronic materials in a public performance without receiving proper authorization.
6. Fair Use
 - 6.1 The copyright law of the United States (Title 17 of the United States Code) governs the making of photocopies or other reproductions of copyrighted material. The making of an electronic copy of a copyrighted work by any means (e.g., scanning, digitizing, ripping, etc.) constitutes reproduction that is governed by copyright law.
 - 6.2 The copyright principles that apply to instructional use of copyrighted works in electronic environments are the same as those that apply to such use in paper environments. Any use of copyrighted electronic course content that would require permission from the copyright owner if the materials were part of a printed course pack


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likewise requires the copyright owner's permission when made available in electronic format.

- 6.3 Fair use is a longstanding doctrine, embodied in Section 107 of the Copyright Act, which recognizes the importance of accessing, using, and building upon copyrighted works in the context of teaching, research, and scholarship. The law establishes a zone of "fair use" protection for copying or disseminating copyrighted works without obtaining permission from the copyright owner under certain circumstances. The copyright statute provides a framework for deciding whether a particular use is a "fair use." The "fair use" analysis, whether in the paper or electronic environment, includes the following factors:
- 6.3.1 The purpose and character of the use;
 - 6.3.2 The nature of the copyrighted work;
 - 6.3.3 The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
 - 6.3.4 The effect of the use upon the potential market for or value of the copyrighted work.
 - 6.3.5 Permission may be required for the use of copyrighted material as electronic course content even when such material is:
 - 6.3.5.1 Available elsewhere on the internet;
 - 6.3.5.2 Being used in a course for the first time;
 - 6.3.5.3 Characterized for purposes of course use as optional, supplemental, or ancillary material.
 - 6.3.6 No one should post course content consisting of copyrighted works or portions of such works in electronic form without first either:
 - 6.3.6.1 Obtaining the permission of the copyright owner or
 - 6.3.6.2 Concluding after reasonable inquiry, with the benefit of resources made available by the university for these purposes, that the use qualifies as a fair use or other exempt or licensed use for which permission is not required.
 - 6.3.7 To the extent technologically feasible, instructors should use passwords, ID numbers, or other appropriate means to limit access to copyrighted electronic course content to students enrolled in the course or other individuals requiring access to the course materials for purposes of conducting the course. The availability of such content to students should terminate when the students have completed the course. Support exists for implementing these features in Blackboard.
 - 6.3.8 It is preferable to link to materials already legally available at another site rather than scanning or making a digital copy.

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- 6.3.9 Copies of copyrighted works, regardless of their format, should include proper attribution and copyright notices.
- 6.3.10 Instructors should not direct or encourage students to print unauthorized copies of course content. Students seeking information about how to make or acquire personal copies for purposes of private study, scholarship, or research should be directed to consult available resources.

7. Non-Compliance

- 7.1 AWC employees who violate this policy are putting both themselves and the college at risk for non-compliance with the U.S. Copyright Laws and the TEACH Act.
- 7.2 Violators to this policy will be disciplined according to the AWC code of conduct for faculty, students and staff and may be restricted from using any mediated materials in their classroom instruction.
- 7.3 Continued violations after having been disciplined in section 6.2 could lead to further disciplinary action including possible termination from the institution.

8. Distribution of Information

- 8.1 AWC will hold workshops for faculty and staff using distance learning in order to explain and train them in the compliance with this policy before mediate instruction is used in their electronic courses.
- 8.2 AWC will prepare an electronic document, which will outline for students their duties and responsibilities when using copyrighted materials in their electronic classrooms.
- 8.3 The Distance Learning office IT Director (or designee) will establish regular schedules for faculty and staff workshops and approve all material disseminated to students pertaining to U.S. Copyright Laws and the TEACH Act

ARIZONA WESTERN COLLEGE TEACH ACT CHECKLIST

Use this checklist to help you determine if you can apply the TEACH Act:

Name: _____

Project/Course/etc.: _____

Quarter and year course will be taught: _____

- AWC is a nonprofit accredited educational institution or a governmental agency
- AWC has a policy on the use of copyrighted materials
- The policy provides accurate information to faculty, students and staff about copyright
- AWC's systems will not interfere with technological controls within the materials I want to use
- My course is part of the regular classes offered by my institution
- The materials I want to use are specifically for students in my course
- Only students currently enrolled in my course will have access to the materials
- The materials will be provided at my direction during the relevant lesson
- The materials are directly related and relevant to my course content
- Students are required to follow copyright
- I will include a notice that the materials are protected by copyright
 - o [Sample Notice](#)
- I will use technology that reasonably limits the students' ability to retain or further distribute the materials
- I will make the materials available to the students only for a period of time that is relevant to the context of a class session
- I will store the materials on a secure server and transmit them only as permitted by this law
- I will not make any copies other than the one I need to make the transmission
- The materials are of the proper [type and amount](#) the law authorizes:
 - ♦ *Entire performances of non-dramatic literary and musical works*
 - ♦ *Reasonable and limited parts of a dramatic literary, musical, or audiovisual works*
 - ♦ *Displays of other works, such as images, in amounts similar to typical displays in face-to-face teaching*
- The materials are not among those the law specifically excludes from its coverage:
 - ♦ *Materials specifically marketed for classroom use for digital distance education*
 - ♦ *Copies I know or should know are illegal*
 - ♦ *Textbooks, course packs, electronic reserves and similar materials typically purchased individually by the students for independent review outside the classroom or class session*
- If I am using an analog original, I checked before digitizing it to be sure:
 - ♦ *I copied only the amount that I am authorized to transmit*
 - ♦ *There is no digital copy of the work available except with technological protections that prevent my using it for the class in the way the [statute authorizes](#)*

