

Copyright Guidance Through the Lens of the Teach Act: A Descriptive Study

Abstract

This research examines the copyright guidelines and policies from a purposeful sample of colleges and universities in the United States. It is a descriptive, qualitative study of 39 copyright and intellectual property policies and guidelines from these institutions. Compliance to the Teach Act of 2002 was the initial feature that this research examined. This research details the trends, contradictions, and unique features of these policies and guidelines. The goal of the research was to provide a resource for institutions creating or revising copyright policies.

Background

The Technology Education and Copyright Harmonization (Teach) Act of 2002 reformed copyright law relating to distance education. This Act updates the 1976 Section 110(2) of US Copyright Law. The authors of the previous version of this law had only anticipated the use of copyrighted material for distance education that used closed circuit television, and the law was highly restrictive when applied to online environments. The Teach Act's revised Section 110(2) opens many opportunities for institutions and educators to enhance online education with copyrighted material without gaining the copyright holder's permission. However, unlike the protections of Fair Use (1976) that are strengthened by the absence of institutional policies, the Teach Act has "Many provisions [that] focus entirely on the behavior of educational institutions, rather than the

actions of instructors. Consequently, the institution must impose restrictions on access, develop new policy, and disseminate copyright information” (Crews, 2004).

One of the major provisions for an institution to use copyrighted material without the permission of the copyright holder under the Teach Act (2002) is the establishment and promotion of copyright policies and guidelines, “the transmitting body or institution institutes policies regarding copyright, provides informational materials to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright.” Regarding these conditions of the Teach Act (2002), Lindsey (2003) states that although the policy requirements are “somewhat nebulous” that “information about copyright law must be provided to faculty, students, and relevant staff members” (p. 36). Indeed, although many of the specific of the Teach Act are ambiguous (Russell, 2003; Schuler, 2003), the core requirement for the dissemination of relevant copyright law is clear.

Purpose

The purpose of this study is to describe the consistent and variant features among copyright policies and guidelines from a purposeful, stratified sample of American colleges and universities. The hope is that this research will be useful to institutions, spurred by the Teach Act and other related pressures of digital technology and distance education, that are developing or revising copyright policies.

Method

Sampling Method

A purposeful sample was drawn from the Carnegie Classification of Institutions of Higher Education (Carnegie Foundation for the Advancement of Teaching [Carnegie], 2003)

There are 10 classifications in the Carnegie system. Sampling percentages from these 10 strata were chosen to get a rich amount of data regarding copyright policy from the broadest possible range. To develop a sufficient database using purposeful sampling in descriptive research, Polkinghorne (1991) advocates a sample that provides descriptive information and “enough variation in the data to develop a comprehensive structural description” (p. 11).

The sampling proportions heavily weighted the Doctoral and Master’s institutions and still included representation from every other available classification (see Table 1). A presurvey found that Doctoral and Master’s institutions were more likely to have detailed, publicly available copyright policies. Another consideration in deciding the sampling percentages of the strata was the limited descriptive benefits of institutions classified as “Specialized Institutions.” These institutions are designed as Specialized Institutions because they “award a majority of degrees in a single field” (Carnegie, 2003). The assumption was that the policies would reflect the unique goals of these particular institutions, and not be of broad descriptive value. Similarly, a presurvey found a lack of policies among Associate's Colleges. Although these institutions constitute 42.3% of Carnegie classified institutions, they only represent 5.13% of the sampled policies.

The rationale for the sample allocations in this study was to optimize the descriptive potential of the total sample. The percentages were designed to be broad,

coming from every strata, and deep, focusing on classifications with the richest amount of data.

Table 1. Population and Subpopulations of Carnegie Classified Colleges and Universities in the United States and the Number and Percentages Used in the Stratified Sample

Carnegie Classification	Population	Percent of Population	Sample Allocation	Percent in Sample
Doctoral/Research Universities—Extensive	$N_1=151$	3.8	$n_1=10$	25.64
Doctoral/Research Universities—Intensive	$N_2=110$	2.8	$n_2=10$	25.64
Master's Colleges and Universities I	$N_3=496$	12.6	$n_3=5$	12.82
Master's Colleges and Universities II	$N_4=115$	2.9	$n_4=3$	7.69
Baccalaureate Colleges—Liberal Arts	$N_5=228$	5.8	$n_5=3$	7.69
Baccalaureate Colleges—General	$N_6=321$	8.1	$n_6=3$	7.69
Baccalaureate/Associate's Colleges	$N_7=57$	1.4	$n_7=1$	2.56
Specialized Institutions	$N_9=766$	19.4	$n_9=2$	5.13
Tribal Colleges and Universities*	$N_{10}=28$	0.7	$n_{10}=0$	0.00
Associate's Colleges	$N_8=1,669$	42.3	$n_8=2$	5.13
Total	$N=3,941$	100%	$n=39$	25.64

*The initial sample design included one Tribal College or University. However, no copyright or intellectual property policy was found for a school with this classification.

Search Criteria

The schools were randomly selected in the allocated numbers from a database of Carnegie institutions (2003), and the documents were gathered from the Web. The Web

was a logical source to gather the policies and guidelines due to the specification of the Teach Act (2002) that the information be disseminated to faculty and students. Once the colleges were randomly selected in the allocated strata numbers, I followed a search protocol to locate the institution's copyright policy, guidelines, or similar document. I went to each institution's Web site and used, if available, the site's search feature. I searched for the following terms in this order: copyright policy, "copyright policy," copyright guidelines, intellectual property policy, "intellectual property policy," "faculty handbook." If a copyright policy was found, the search ended; therefore, it is possible that an institution had both copyright and intellectual property policies, but only the copyright policy was included in this research. As the research will show later, there are some general distinctions between policies titled "copyright" and "intellectual property"; however these distinctions are not absolute. If the first five search terms did not provide an acceptable document, but a faculty handbook was found, then the handbook was searched for a policy, guidelines, or a section on copyright or intellectual property. If there was no internal search engine or if this search did not produce a policy, I used the advanced search features of the Google search engine (<http://www.google.com>). I followed the same order of terms, and limited the search to the domain of the institution (e.g. und.edu).

The search terms were developed from the presurvey and similar lists of copyright policies. The presurvey tested variations of the search protocol. It was a smaller, more flexible version of the search protocol on random institutions. The search terms were selected not only because they reflected the terms of policies on the presurvey, but they also were similar to the titles and terms of similar compellations (Lindsey, 2003, p. 39;

American Association of Community Colleges, 2004; University of Maryland Office of Information Technology, 2004).

For a policy to be included in the research, it had to clearly be for the entire institution, as opposed to, for example, a library policy or a policy focused primarily on information technology. Although many of the documents were titled as university policy, some were called handbooks, and some had other titles. Each document was downloaded and stored on a local hard drive. It is important to note that some of the documents were not titled as official policy, and there should be caution in assuming that some of these documents are official policy as defined by the governing laws and procedures of these institutions. See the Appendix for a full list of the document titles, dates accessed, and URLs.

If one of the randomly selected institutions did not have a policy or document that met these criteria, another one was randomly selected. This method prohibits defining the sample as representative of all Carnegie institutions, but would define the sample as that from all Carnegie institutions with copyright or intellectual property policies on their Web sites.

Analysis of Data

The documents from the 39 institutions in the sample were inductively coded for their descriptive features. These categories were refined through a repetitive process as described by Dey (1993). I created an extended abstract for each one, noting all salient content and sections along with the length, document type, url, date, and title. An initial

set of categories was created based on the abstracts. I reread the documents and refined the categories. This process was repeated several times until a features table was created. When the categories were established, notes for each institution for each category were put in the appropriate cell. I then referenced the features table, abstracts, and original documents for the analysis of the data.

Findings

Sites Searched

The data of this descriptive study was drawn from a purposeful, stratified sample of 39 institutions. Initially, the sample goal was 40 institutions; however, a policy from a Tribal College or University was not found. In total, the Web sites of 147 institutions were searched using the search protocols.

Table 2. Total Number of Sites Searched for Policies

Carnegie Classification	Policies in Study Samples	Web Sites of Institutions Searched to Get Sample
Doctoral/Research Universities—Extensive	$n_1=10$	18
Doctoral/Research Universities—Intensive	$n_2=10$	15
Master's Colleges and Universities I	$n_3=5$	9
Master's Colleges and Universities II	$n_4=3$	14
Baccalaureate Colleges—Liberal Arts	$n_5=3$	6
Baccalaureate Colleges—General	$n_6=3$	18
Associate's Colleges	$n_8=2$	8

Specialized Institutions	$n_9=2$	41
Tribal Colleges and Universities	$n_{10}=0$	16
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Total	$n =39$	147

File Types, Lengths, and Dates

The 39 documents came in two basic formats: 26 were html files with various numbers of hyperlinks and 13 were single file documents (11 were Portable Document Format (pdf) files and 2 were Microsoft Word documents). A detailed study of all of the policies' lengths was not possible. Several of the policies that were html files linked to related policies and external sites; for example, the Dartmouth College (2004) policy and the Washington State University (2002) policy had links to internal documents at the institution and external links to government Web sites. With such hyperlinked documents, it was impossible to reliably compare the lengths.

There were 26 documents that could be considered in a comparison of lengths. Though some of them had hyperlinks, the links were for further reference and not substantive to the document. The median length of these documents was 1278 words. The shortest two copyright documents were Milligan College's (2001) at 54 words, though it was embedded in a longer intellectual property policy which was unrelated to the criteria of the Teach Act (2002) and Regis University (2004) at 57 words. The longest two policies were the University of Louisiana at Lafayette (2001) *Copyright Handbook* at 9079 words and the Georgetown University (1999) policy at 4977 words.

The documents in this study included distinct policies, sections from faculty handbooks, and school guidelines, and the formats ranged from pdf versions of print editions to hypertext documents that appeared to be frequently updated.

Table 3. Stem and Leaf Diagram of the Document Publication Years (N=34)

198	3,8
199	5,7,7,8,8,9,9
200	0,0,1,1,2,2,2,2,2,2,2,2,2,3,3,3,3,3,4,4,4,4,4,4

*5 of the 39 documents had no date.

The policies years ranged from 1983 to 2004 and the median year was 2002. For a list of documents and dates see the Appendix.

Discussion

Document Types

After the documents were chosen, they were first examined through the basic criteria of the Teach Act (2002), “the transmitting body or institution institutes policies regarding copyright, provides informational materials to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright.” There were 23 policies found with the search

protocol that addressed compliance with copyright laws consistent, though to varying degrees, with this Teach Act language.

The broad legal issues of copyright were not addressed in 16 of policies; they were primarily concerned with the proprietary issues and financial arrangements regarding intellectual property created by faculty and staff of the institution. Some of them describe or make references to fair use (University of California-Riverside, 1983, October 1; New School University, 2002, June 30; Texas Christian University, 2001, April 5), but these sections were brief and tangential to the purpose of these policies to describe propriety relationships of intellectual property between the institution and employees.

Many of these latter policies were called “intellectual property” policies. However, this was not consistent. For example, the policies for the University of North Dakota Main Campus (1999, March 4), Utah Valley State College (2002, September 16), and the University of Rhode Island (2004) were titled “copyright policies,” yet they were primarily concerned with proprietary and financial arrangements of faculty created intellectual property. Furthermore, some policies combined or embedded copyright information consistent with the Teach with proprietary and financial issues. For example, Laredo Community College (n.d.) has a copyright policy followed by an intellectual property policy; Milligan College (2001) has its copyright policy nested within its intellectual property policy; the University of Maryland Baltimore County (2002) had copyright guidelines as an appendix to its intellectual property policy. The rest of this section will concern itself with the 23 documents consistent with the criteria in the Teach Act.

Copyright Overview

To varying degrees the majority of the 23 documents consistent with the criteria of the Teach Act (2002) began with an overview of copyright law. Some continued with subsequent delineation of material protected by copyright. These overviews cite, quote verbatim, or paraphrase US Copyright Law (17 U.S.C. 101 et seq.). Several institutions give brief overviews of copyright law (Pfeiffer, 2002; University of Louisiana at Lafayette, 2001). Some institutions have combined aspects of the law relevant to faculty and students in a conflated version of the rights, protections, and scope of copyright law (Ramapo College, 1997; National Louis University 2003). And some institutions give detailed explanations of the relevant legal aspects and the legal history (Kalamazoo, August 24, 2004; Washington State University, 2004).

Fair Use Factors

The Fair Use Factors (1976) are in 15 of these documents as guidelines for faculty to use copyrighted work without the copyright holder's permission. The Fair Use Factors are:

1. The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes;
2. The nature of the copyrighted work;
3. Amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

4. The effect of the use upon the potential market for or value of the copyrighted work.

Some of the policies offer guidance on applying the four factors, and there is divergence in this guidance. While all documents state that the factors must be considered together, there are stresses and additions worth noting.

Both the Indiana University-Perdue University Fort Wayne (2004) and the Beloit College (1997) policies make special note of the importance of the fourth factor. The Indiana University-Perdue University Fort Wayne policy emphasizes that the determination of fair use is subjective, but suggests attention to the fourth factor.

No one factor is determinative under the law. The application of these factors by faculty and staff who wish to make multiple copies for education/classroom use must be determined on a case by case basis.

In most instances, the four factors alone fail to provide faculty and staff with a precise determination. The fourth factor, however, tends to weigh against a finding of "Fair Use," as multiple copies generally deprive the copyright owner of sales.

The Beloit College (1997) policy also emphasizes the importance of the fourth factor, "The four-factor test is difficult to apply because the factors are interdependent.

Although the fourth factor has been considered by some courts to be the most important, other courts have emphasized different factors, depending upon the facts of the case."

Some institutions contextualize the Fair Use Factors in other ways. In a list titled "Fair Use Standards," Carnegie Mellon University (1995, February 22) blends the Fair Use Factors (1976), which are labeled A-D, with:

E. The copyright holder explicitly releases the published materials from strict observance of the law.

F. The faculty member has obtained the right to use the materials in writing from the copyright holder who has explicitly released them for stated classroom or research purposes.

Washington State University (2004a) has extended, cited directions for applying the Fair Use Factors. The directions refer to 17 sources including US case law.

Safe Harbor Guidelines

A related feature in 10 of the 15 documents was specific guidelines for the application of Fair Use (1976). These guidelines are based on the Safe Harbor Guidelines that inform the application of fair use (United States Copyright Office/Library of Congress, 1998, June). In 8 of these 10 instances this guidance was provided for a variety of media in addition to print. These Safe Harbor Guidelines provide specific limits on the amount that can be copied from published works, music, and broadcast recordings (e.g. under certain conditions multiple copies can be made for classroom use of a complete article, story or essay of less than 2,500 words).

Table 4. Policies with Fair Use and Safe Harbor Guidelines

Institution	Fair Use Factors	Safe Harbor Guidelines
Beloit College	X	X
Carnegie Mellon University	X	C
Dartmouth College	X	

Indiana University-Purdue University Fort Wayne	X	X
Kalamazoo College	A	X
Laredo Community College	X	
National-Louis University	X	
Southern New Hampshire University	X	X
Pacific University	B	
Pfeiffer University		X
Ramapo College	X	X
University of Louisiana at Lafayette	X	X
University of Maryland Baltimore County	X	X
Washington and Lee University	X	X
Washington State University	X	

A) Links to Stanford University

B) Mentions "Fair Use" but does not give four factors

C) Safe Harbor Guidelines available in the Libraries and at University Printing and Publications

The Safe Harbor Guidelines are separate sets of guidelines written by three groups representing the specific interests of industry and academia regarding print, music, and broadcasting. The “Agreement On Guidelines For Classroom Copying In Not-For-Profit Educational Institutions With Respect To Books And Periodicals” (Classroom Guidelines) (1976), “Guidelines For The Educational Uses Of Music” (1976), and “Guidelines For Off-Air Recording of Broadcast Programming For Educational Purposes” (1979). One, two, or all three of these documents were used by ten schools in their copyright guidance.

These guidelines give specific minimum thresholds for fair use. For example, they provide numbers of words, types of copying, and operational definitions for many of the terms in the Fair Use Factors (1976). They are intended as a definitive safety zone, “There may be instances in which copyright which does not fall within the guidelines stated below may nonetheless be permitted under the criteria of Fair Use” (Classroom Guidelines, 1976). Lindsey (2003, p. 27) characterizes the Classroom Guidelines as ‘the most conservative and least contentious ground of fair use... considerably biased in favor of commercial interests...’

There is criticism that educational institutions are using these Safe Harbor Guidelines as the maximum allowable for use instead of a definitive minimum threshold of legal compliance (Talab, 1999, p. 30; IP Watchdog, 2004). Of the 10 schools that use or refer to the Safe Harbor Guidelines, 5 of them state or imply that these guidelines give the maximum amount of copyrighted material to copy without a copyright holder’s permission, and 4 of them state or imply that the guidelines represent minimum. The University of Louisiana at Lafayette’s (2001) *Copyright Handbook* is ambivalent about the role of the Safe Harbor Guidelines as a maximum or minimum. Although the handbook introduces fair use by stating, “Neither the law nor jurisprudence has set specific guidelines for fair use,” a reader could infer that the Safe Harbor Guidelines are the maximum permitted as they are under the title “Guidelines for Copying Print.”

Other policies and guidelines are overt in using the Safe Harbor Guidelines as allowable maximums. The Pfeiffer (2002) policy categorizes activities based on Safe Harbor Guidelines as “permissible” and “permitted” uses. Similarly, Ramapo College has adapted the Safe Harbor Guidelines as policy (1997). The Ramapo College policy

introduces the Fair Use Factors and the Safe Harbor Guidelines by stating, “The College adopts the following guidelines to assure compliance with the law.” The Beloit College policy is also unambiguous about using the Safe Harbor Guidelines as an institutional standard. The policy states that the Safe Harbor Guidelines are the “de facto law covering the meaning of fair use” and that “Because of the de facto status of the guidelines, educational institutions should abide by them” (Beloit College, 1997).

Indiana University-Perdue University Fort Wayne (2004) also places the Safe Harbor Guidelines as a maximum threshold with the accompanying caveat, “If these guidelines are not met, copyright permission should be sought.” Though the Appendix to the University of Maryland Baltimore County (2002) policy, mentions that the guidelines are a minimum, the policy also cautions about relying on the guidelines as a minimum threshold, “The following guidelines are not law and may not be relied upon exclusively to determine whether or not a work may be copied.” The lack, or impossibility, of clear legal standards for fair use seems to have lead to a conservative adherence to the Safe Harbor Guidelines.

Conversely, 4 of the 10 documents that use or refer to the Safe Harbor Guidelines mention that the guidelines are a minimum threshold for fair use. Although the Carnegie Mellon University (1995, February 22) policy does not have the Safe Harbor Guidelines on its Web site, the site directs faculty, staff, and students to the libraries and university printing office for them. The site does have the following notice:

These three guidelines provide a "safe harbor" with regard to fair use, in that any copying or use within these guidelines should be well within the limits of fair use, although other broader activities may also be within the fair use doctrine.

Kalamazoo College (2004, August 24a) emphasizes that the safe harbor guidelines are a minimum threshold for fair use:

These examples reflect the most conservative guidelines for fair use. They do not represent inviolate ceilings for the amount of copyrighted material which can be photocopied within the boundaries of fair use. When exceeding these minimum levels, however, you again should consider the four factors listed in Section 107 of the Copyright Act to make sure that any additional photocopying is justified.

Washington and Lee University's (n.d.) policy mentions that the Safe Harbor Guidelines are a minimum amount permissible but are not legally binding, "Higher education recognizes that these guidelines are inadequate and are generally considered to establish minimum permissible conduct under the fair use doctrine for unauthorized copying; however, these guidelines are not binding on the courts." Although Southern New Hampshire University also notes that the Safe Harbor Guidelines are a minimum threshold, the policy emphasizes that they are not legally binding, "It is important to note that although they have been endorsed by Congress, they do not carry the force of law. In addition, the guidelines listed below represent the minimum standards for educational copying" (2003).

Other Common Features

Six of the institutions provide guidelines for course packs (Baylor University, 2002; Beloit College, 1997; National-Louis University, 2003, December 15; Southern New Hampshire University, 2003; Indiana University-Purdue University Fort Wayne,

2004; Washington and Lee University, n.d.). The guidance from each institution's document is brief and general.

Six of the institutions give procedures for acquiring permissions for the use of copyrighted material (Beloit College, 1997; University of Louisiana at Lafayette, 2001; University of Maryland Baltimore County, 2002; Mt. San Jacinto College, 2003; Kalamazoo College, 2004, May 17; Washington and Lee University (n.d.)). Beloit College gives the background and procedures for using the Copyright Clearance Center (<http://www.copyright.com>).

Mt. San Jacinto College and Kalamazoo College give directions for contacting the copyright holder. The University of Maryland Baltimore County and Washington and Lee University give sample letters for faculty to obtain permissions. The University of Louisiana at Lafayette gives both directions and a sample letter. All of the directions and the sample letters reflect the guidelines from the Association of American Publishers (1998). The following directions from the University of Louisiana at Lafayette were typical of the directions and content of the sample letters.

How to Obtain Permission

When a proposed use of copied material requires a faculty member to request permission, communication of complete and accurate information to the copyright owner will facilitate the request. The Association of American Publishers suggest that the following information be included to expedite the process.

- title, author and/or editor, and edition of materials to be duplicated;
- exact material to be used, giving amount, page numbers, chapters and, if possible, a photocopy of the materials;
- number of copies to be made;
- use to be made of duplicated materials;
- form of distribution (classroom, newsletter, etc.);
- whether or not the materials is to be sold; and
- type of reprint (ditto, photocopy, offset, typeset).

The University of Louisiana at Lafayette also had procedures to record responses from copyright holders to faculty requesting permission. National-Louis University (2003, December 15) has instructions for faculty to use its Permissions Department. Several of the institutions had contact numbers and copyright compliance officers; the roles and titles varied among institutions, but such a designee is part of the Safe Harbor Provisions of the Digital Millennium Copyright Act of 1998.

Special Features

There are some special features of note. Carnegie Mellon University has several cases that illustrate various aspects of copyright law and fair use (1995, February 22). Dartmouth College (2004) and Southern New Hampshire University (2003) have guidelines for online courses. The University of Louisiana at Lafayette (2001) has specific copyright guidelines for online portfolios. Dartmouth College (2004) and Kalamazoo College (2004, May 17) have sections on peer to peer (P2P) networks.

Two documents mention the Teach Act (2002). A link on the Washington State University (2002) site leads to a page that says “Coming Soon.” Southern New Hampshire University (2003) describes the law in this way:

The Teach act did revise section 110 (2) to give distance educators more leeway in using copyrighted materials. However, even the revised section does say that some copyrighted materials (mainly audiovisual and dramatic musical works) have to be used only as clips (i.e., “reasonable and limited portions”).

Considering the complexity and ambiguity of the Teach Act (Lindsey, 2003; Russell, 2003; Schuler, 2003), it is not surprising that more institutions have not yet addressed it.

Many of the sites refer to works in the public domain; however, two policies have noteworthy sections. Kalamazoo College (2004a) and Washington State University (2004b) have descriptions and criteria for identifying and using material in the public domain in clear, succinct language. Washington State University also has a hyperlinked list of resources of material in the public domain (Washington State University, 2004c).

Conclusion and Recommendations

For institution of higher education to take advantage of the copyright permissions of the Teach Act of 2002 they need to have and disseminate copyright policies and guidelines to faculty and students. A logical means of doing this is through the World Wide Web. This research looked at a purposeful sample of 39 institutions of higher education will copyright policies and guideline on their Web sites and looked for trends and variations.

The purpose of each document was the primary characteristic that marked them for further analysis in this study. As a general trend, policies title “intellectual property” detailed the proprietary and financial arrangements between the institution and employees in regards to the creation of original work. Of the 39 in the sample, 16 fit this description. Approximately 59% of the policies met the broad standard that they,

“describe, and promote compliance with, the laws of the United States” (Teach Act, 2002). The study focused on the 23 policies.

Of these 23 policies, the strongest common component was a section on the Fair Use Factors (1976). Moreover, a majority of institutions that referred to fair use also cite the Safe Harbor Guidelines that complement them. There was significantly different context for these guidelines with some institutions using them as a maximum threshold for unauthorized copying and some citing them as a minimum threshold. Though not legally binding, these guidelines were intended as a minimum threshold.

For institutions creating or revising copyright policy or guidelines, I offer a few recommendations. I concur with Carrie Russell, a copyright specialist with the American Library Association, who suggests a team approach with a diversity of stakeholders (2004). I would also suggest examining all relevant laws and accompanying documents, such as the Safe Harbor Guidelines and guideline from Association of American Publishers (1998). I would further note that a policy for students and faculty on copyright would not replace policies from other departments in the institution. For example, libraries, information technology departments, and on campus computer labs each need unique policies that address their needs as well as issues of copyright.

There are several elements that I would recommend including in the policy. The inclusion of the Fair Use Factors (1976) seems like a logical and straightforward compliance with the Teach Act (2002). However, I would strongly recommend a thoughtfully worded introduction to the Safe Harbor Guidelines, one that considers the legal obligations of the institution and the intention of the guidelines.

I would suggest institutions include relevant information from the Digital Millennium Copyright Act of 1998 (DMCA). There were six institutions that referred to the DMCA, but others had incorporated its requirements for safe harbor into different policies of locations on their sites. Colleges and universities are considered Online Service Providers and can be liable for copyright infringement of students and faculty using their networks. The DMCA provides Safe Harbor provisions that can help insulate institutions from liability. Two key components of these Safe Harbor provisions are a designated agent to address claims of copyright infringement and the establishment of take-down procedures of material that allegedly violates copyright (Band, 2001). An institution should strongly consider including the contact information for a designated representative who can address copyright infringement. Institutions should strongly consider including both of these items in their policies.

As a faculty member, I appreciated the institutions that gave detailed procedures for obtaining permissions of copyrighted work (Beloit College, 1997; University of Louisiana at Lafayette 2001; Mt. San Jacinto College 2003; University of Maryland Baltimore County, 2002; Kalamazoo College, 2004, May 17; Washington and Lee University, n.d.). Institutions creating policy should consider providing sample letters for obtaining permissions and information about the Copyright Clearance Center (<http://www.copyright.com>).

Institutions creating or revising policies should consider including some of the uncommon elements of some of the documents in the sample. For example, Carnegie Mellon's (1995, February 22) cases, "Examples of Fair Use Practice," provide illustrative examples for faculty. The inclusion of clear descriptions of works in the public domain

(Kalamazoo, 2004, August 24b; Washington State, 2004b) would also be a useful to faculty, staff, and students.

The Teach Act (2002) explicitly requires the dissemination of information about copyright. This research looked at guidelines and policies with this purpose. With an educational landscape of expanding use of digital technology, distance learning, and digital rights management, the Teach Act (2002) is only one of a variety of related causes for educational institutions to clarify and disseminate information on copyright. It is my hope that this research will facilitate the creation or revision of thoughtful copyright policies.

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APPENDIX

Copyright and Intellectual Property Policies from Sample of Carnegie Classified Institutions

Institution	Date of Policy	Document Name/Source	Web Site Address of Policy	Date Accessed
Doctoral/Research Universities—Extensive				
Carnegie Mellon University	1995	“Copyright Policy of Carnegie Mellon University”	http://www.cmu.edu/policies/documents/Copyright.html	June 6, 2004
Georgetown University	1999	“Policy and Procedures for Inventions, Copyrights, Patents, and Technology Transfer” in <i>Faculty Handbook</i>	http://www.georgetown.edu/facultysenate/handbook.html#copyrights	May 27, 2004
Stanford University	1998	“Copyright Policy” From <i>Research Policy Handbook</i>	http://www.stanford.edu/dept/DoR/rph/5-2.html	June 7, 2004
Tulane University	2003	“Intellectual Property Policies and Procedures” in <i>Faculty Handbook</i>	http://www.tulane.edu/~fachand/Intellectual_Property.htm	May 27, 2004

University of California-Riverside	1983	<i>Campus Policy Number: 550-20, Copyrights</i>	http://vca.ucr.edu/index.php?content=policies/section550/p550_20.html	June 1, 2004
University of Hawaii at Manoa	2000	<i>University of Hawai'i Copyright and Patent Policy</i>	http://www.svpa.hawaii.edu/svpa/ar/arch3.pdf	May 27, 2004
University of Maryland Baltimore County	2002	<i>Intellectual Property Policy</i>	http://www.umbc.edu/otd/forms/UMBC%20IP%20Policy_Final%20Approved%20Policy.pdf	May 27, 2004
University of Nevada, Reno	2002	<i>University of Nevada, Reno Digital Millennium Copyright Act (DMCA) Enforcement Statement</i>	http://www.unr.edu/content/copy.asp	May 27, 2004
University of Rhode Island	2004	"10.42.10 Copyright" in <i>The University Manual</i>	http://www.uri.edu/facsen/CHAPTER_10acopy.html	May 27, 2004
Washington State University	2002	<i>Copyright Policy</i>	http://www.wsu.edu/Copyright.html	June 1, 2004
Doctoral/Research Universities—Intensive				
Baylor University	2002	"Copyright Policy" in <i>Baylor University Faculty Handbook</i>	http://www.baylor.edu/provost/pdf/EmployPol02.pdf	May 27, 2004

College of William and Mary	2001	<i>College of William and Mary Revised Policy on Intellectual Property</i>	http://www.wm.edu/provost/intellectual_property%20.pdf	June 3, 2004
Dartmouth College	2004	<i>Dartmouth Copyright Policy and Guidelines</i>	http://www.dartmouth.edu/copyright/	June 3, 2004
Florida Institute of Technology	1998	"Policy on Patents and Copyrights" in <i>Faculty Handbook 1998</i>	http://www.fit.edu/research/policies/patent.html	May 27, 2004
New School University	2002	<i>Intellectual Property Rights Policy</i>	http://www.newschool.edu/admin/provost/intellrights.html	June 3, 2004
Portland State University	2002	<i>Intellectual Property</i>	http://oaa.pdx.edu/IntellectualProperty	May 27, 2004
Texas Christian University	2001	Intellectual Property Policies and Procedures	security.tcu.edu/INTELLECTUAL%20PROPERTY%20POLICY%20AND%20PROCEDURESLast.pdf	June 3, 2004
University of Alaska Fairbanks	<i>n.d.</i>	Copyright Issues	http://www.alaska.edu/active/level2/copyright.html	May 27, 2004
University of Louisiana at Lafayette	2001	<i>Copyright Handbook</i>	http://www.louisiana.edu/InfoTech/MediaPrintSvcs/Copyright/handbook.html	May 28, 2004
University of North Dakota Main Campus	1999	<i>Copyright Policy</i>	http://www.und.edu/dept/orpd/plcyproc/intlprop/undcpyplcy.htm	June 3, 2004

Master's Colleges and Universities I

Indiana University-Purdue University Fort Wayne	2004	<i>Copyright Policy</i>	http://www.ipfw.edu/printserv/PRINTING/SERVICES/Copyrit.htm	May 27, 2004
National-Louis University Pacific University	2003 n.d.	<i>Copyright Permissions</i> <i>Policy on Copyrighted Materials</i>	http://www3.nl.edu/CopyrightPermissions/copyright.cfm http://library.pacificu.edu/about/copyright/copyright.htm	May 27, 2004 May 27, 2004
Regis University	2004	"Copyright in Academic Information and Resources" in <i>Faculty Resource Handbook</i>	http://insite.regis.edu/content/spsufac/spsufac.g3.htm	May 27, 2004
Troy State University	n.d.	"University Copyright Policy" in <i>Faculty Handbook</i>	http://www.troyst.edu/adminserv/html/partl.html#1.6.9	May 27, 2004

Master's Colleges and Universities II

Milligan College	2001	"Copyright/Photocopy /Software Policy" in <i>Faculty Handbook</i>	http://www.milligan.edu/academics/PDF/FacultyHandbookApril04.pdf	May 27, 2004
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Pfeiffer University	2002	<i>Pfeiffer University Copyright Policy</i>	http://www2.pfeiffer.edu/services/admin/forms/faculty_handbook/Section%2038%20Copyright%20Policy.pdf	May 27, 2004
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Southern Utah University	2000	<i>Southern Utah University Policies and Procedures: Intellectual Property</i>	http://www.suu.edu/pub/policies/pdf/PP552Intellectual.pdf	May 27, 2004
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Baccalaureate Colleges
--General

Elmira College	2003	<i>Elmira College Student Handbook 2003-2004</i>	http://www.elmira.edu/pdfs/campuslife/handbook_0304.pdf	June 3, 2004
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Langston University	2003	<i>Langston University Copyright Compliance</i>	http://www.lunet.edu/copyright%20compliance.htm	June 3, 2004
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Ramapo College of New Jersey	1997	<i>Copyright and Duplication Procedures</i>	http://www.ramapo.edu/facultystaff/EmployeeServices/emprelations/cprightpolicy.htm#5	June 3, 2004
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Baccalaureate Colleges
--Liberal Arts

Beloit College	1997	<i>Beloit College Copyright Policy (Proposed Policy)</i>	http://cs.beloit.edu/~chavey/CopyrightPolicy.html	June 3, 2004
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Kalamazoo College	2004	<i>Copyright at Kalamazoo College-- Kalamazoo College Copyright Policies</i>	http://www.kzoo.edu/is/copyright/policies.html	June 3, 2004
Washington and Lee University	n.d.	<i>Policy for the Use of Copyrighted Works</i>	http://library.wlu.edu/copyrighttoc.html	June 3, 2004

Baccalaureate/
Associate's Colleges

Utah Valley State College	2002	<i>Copyright Policy</i>	http://www.uvsc.edu/scholarship/F-7.2UVSCCopyrightDraft071002.doc	June 3, 2004
Arizona State University East	1988	"Intellectual Property Policy" in <i>Arizona Board of Regents Policy Manual</i>	www.abor.asu.edu/1_the_regents/policymanual/chap6/chap6_part2.htm	June 3, 2004

Specialized Institutions

Southern New Hampshire University (Formerly New Hampshire College)	2003	Copyright Policies	http://www.snhu.edu/img/assets/1052/Copypolmaster1103b.doc	June 6, 2004
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Associate's Colleges

Laredo Community College	n.d.	Section "Copyright Policy" in Laredo Community College Manual of Policy	http://www.laredo.edu/manpolicy/ manual_instruction.htm#Copyright% 20Policy	June 3, 2004
Mt. San Jacinto College	2003	Copyright Policy in Faculty Handbook	http://www.msjc.edu/studentlearning/ fachb0304rev.pdf	June 3, 2004