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## Teaching & the TEACH Act: Copyright Questions

Paul Royster

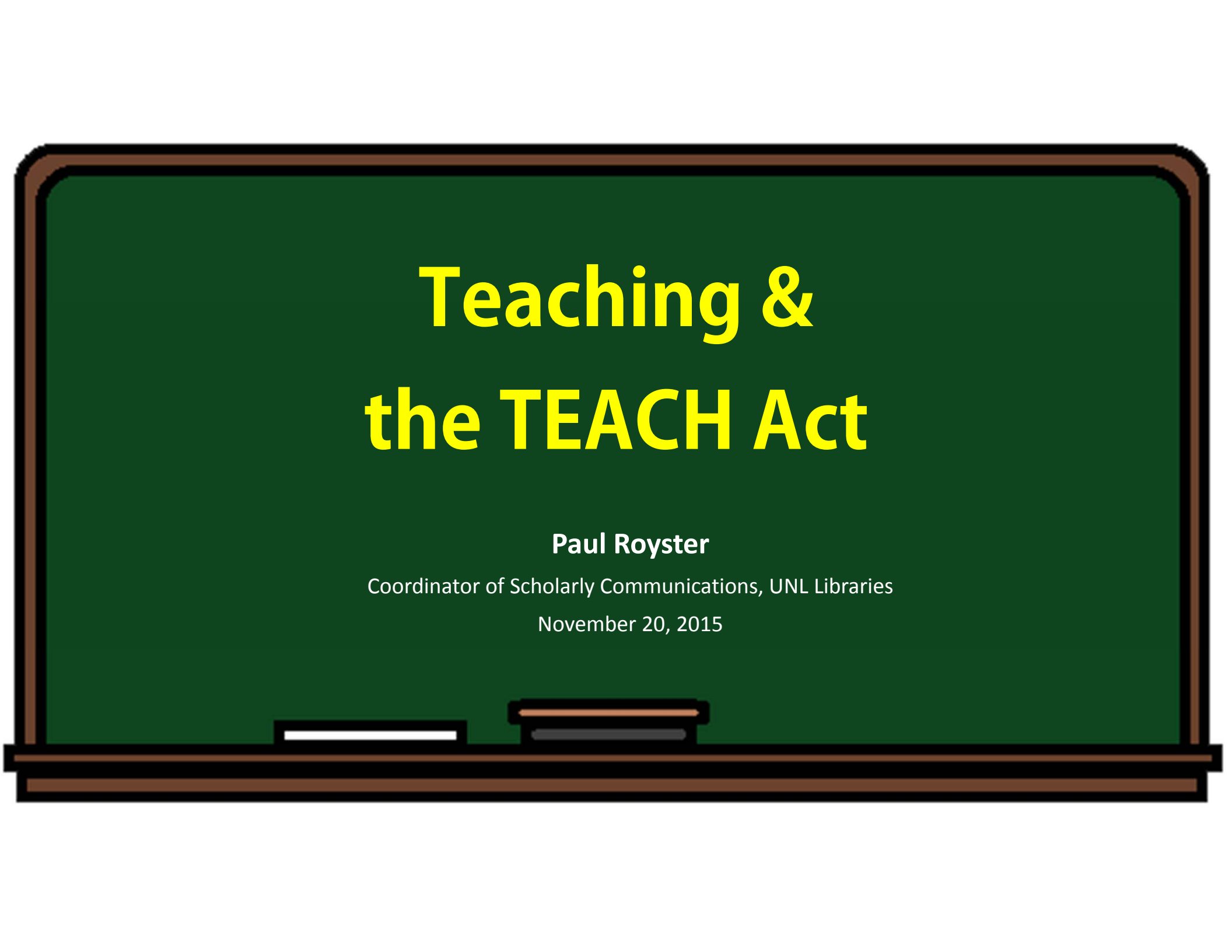
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# Teaching & the TEACH Act

**Paul Royster**

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November 20, 2015

# Questions

- 1) Is Blackboard secure?
- 2) Can copyrighted materials be used in handouts or on Blackboard?
- 3) Who owns recorded lectures, and what if faculty leaves?
- 4) Opt-in vs, Opt-out policy?

# Is Blackboard secure?

Umm...

- As secure as something shared online with multiple students can be.
- Not available to non-enrollees, ... but nothing is un-hackable.
- Don't put secret stuff there: Social Security numbers, private comments, identity of CIA agents in Syria, etc.
- Materials are protected by copyright, even if "unpublished."

# Can copyrighted materials be used in handouts or on Blackboard?

“Reproduction for purposes of:  
criticism,  
comment,  
news reporting,  
teaching (including multiple copies for classroom use),  
scholarship, or  
research,  
is not an infringement of copyright.” (“Fair use,” Title 17, Sec. 107)



# Not infringement of copyright



Performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction. (Title 17, Sec. 110)

*(TEACH Act of 2002 extends this to distance learning environments.)*

# As long as . . .

- accredited educational institution
- legally acquired copy
- related to instructional content
- Institution has a copyright policy and educational materials.



# 'multiple copies for classroom use'

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Means you have to talk about it **in class !!!**

Supplemental readings, not part of a specific learning encounter: **No Good**



# Sharing

**One-to-one** sharing (for purposes of scholarship) is not copyright infringement. (This even includes @ICanHazPDF)

**One-to-many** sharing—such as posting to listserve or online—could be infringement.

# Ownership of works created at University of Nebraska

Do the Regents have a claim on your work?



# Governing document

- University of Nebraska Board of Regents Policies
  - Chapter 4. Rights and Responsibilities of Professional Staff
    - RP-4.4 Intellectual Property
      - RP-4.4.1 Ownership of Intellectual Property

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UNIVERSITY OF  
**Nebraska**

“The long standing academic tradition that faculty own the copyright to academic, scholarly and educational works resulting from their research, teaching, and writing is the foundation of the copyright policy described in this document.”



# Instructional materials



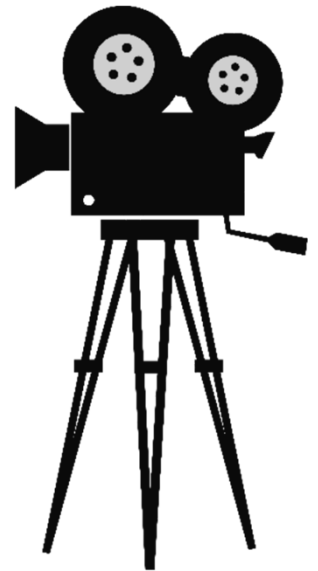
... developed by a faculty member in the process of delivering a course of instruction to students shall be the property of the faculty member.

(Includes textbooks, syllabi, lectures, lecture notes, and study guides.)

# Recordings of lectures



“... shall be the property of the faculty lecturer, unless the recording is an **Institutional Work** or a **University Supported Work** involving use of substantial University resources.”



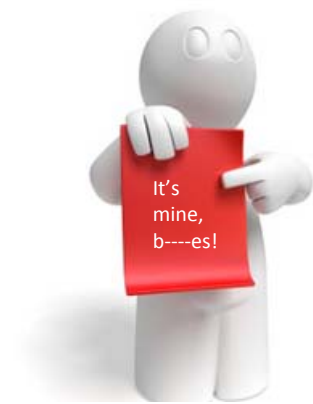
# UN policy recognizes 4 kinds of “works”

- 1) Individual work
- 2) University-supported work
- 3) Institutional work
- 4) Contractual work



# 1. Individual work

Author owns it.





## 2. University Supported Works

may involve substantial use of University funds, facilities, equipment, or other resources significantly **in excess of the norm** for educational and research purposes in the department or unit.



## 2. University supported work

### A. No substantial University resources:

Author owns it “free and clear.”

### B. With substantial University resources:

University owns it, but author gets a non-exclusive, royalty-free license to use the work for non-commercial purposes and may share in commercial proceeds.



### 3. Institutional Works are created at the initiative of the University

For example, the products of a University initiated program in distance learning where an employee or numerous employees are assigned the specific task of creating instructional content would be Institutional Works.



### 3. Institutional work

University owns it.

Essentially a “work for hire.”



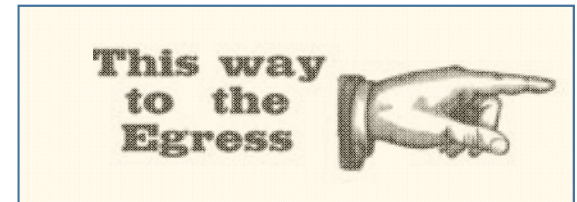
**Dibs!!!**

## 4. Contractual work

Contract determines who owns it.



# Out the door?



Should the Author of Instructional Materials depart the employ of the University, he or she will provide the University with copies of the Instructional Materials (not including lecture notes) and shall grant the University a non-exclusive, royalty free license thereto, when it is determined by the University that such Instructional Materials are necessary to carry out the educational programs of the University.



## contact for

- Consulting on copyright, publishing, rights, etc.



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