

Guidelines for Releasing Information on the Web at the University of Tsukuba

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Information Infrastructure Committee

1. Purpose

It is indispensable to release information on the internet from the University of Tsukuba. However if the information released on the web pages or message boards brings about infringement of rights, it could result in damage for the university by lowered efficiency (having to deal with the troubles created) or it could leave the public with a negative image of the university. To lessen such risks and protect informational assets, the following guidelines shall provide for necessary matters concerning the user to release information contents on the web accurately, safely, and securely.

2. Users

The following guidelines apply to all the users who release information onto web pages through the university information systems. Caution should be exercised in that the responsibilities in web contents lie with the university even when it is out-sourced to external contractors.

3. General rules

The internet users on the university network systems who are releasing information must abide by both civil and criminal laws and regulations, as well as regulations on the use of university network, SINET (Science Information Network), and any of the relevant university rules. Also, such conduct as offending public order and morals or actions inappropriate under social conventions must not be carried out on the web.

Notes:

The following is an excerpt from the SINET regulations. For more details, go to the SINET page.

(<http://www.sinet.ad.jp/>)

Article 7: Member rules

The members must comply with the rules that follow:

1. Do not use the network other than for research and education, or administrative work in support of research and education.
2. Do not use it for the purpose of profit-making.
3. Do not interfere with the privacy of communication.
4. Do not disturb network operations.
5. Make utmost efforts to prevent inappropriate actions against the network or computer terminals with which you are connected.
6. Other rules that the director specifies separately.

3.1 Intellectual property such as copyright

Do not infringe on intellectual property rights that others possess. On releasing information on the web especially, one must pay utmost attention not to violate author's copyrights.

Notes:

All the works that other people have made are copyrighted. Therefore as a rule, contents that were not made by oneself must not be included in the web page without permission. Also, one needs to note that even if one gets permission to duplicate certain contents from the author, it does not mean the contents can be publicly transmitted on the internet. Rights of public transmission (rights of making transmittable), in which the copyright holder gives permission for publication on the web, is a separate branch of rights from reproduction rights that permit normal duplication. Therefore one needs to have permission for transmission separately. Similarly, it should be noted that the "reproduction, etc., in schools and other educational institutions" provided in Article 35 of the Copyright Act merely refers to the act of "reproduction." All other actions that follow are not permitted. However, "quotation" is a possibility without permission from the author, if a certain set of criteria in the copyright law are met.

Notes: (Term of protection of a copyrighted work)

The term of protection of a copyrighted work, as a rule, is 50 years after the author's death (if it is published under a corporate body, 50 years after the work is published). Therefore, if the work is from the Meiji period to pre-World War II, it is important to see if the copyright is still protected. Also note that the term of copyrighted cinematographic works was changed to 70 years.

Notes: (Criteria for quotation of the copyrighted work)

Quotation, as an exceptional measure, can be made without the author's permission.

Article 32 of Copyright Act:

It shall be permissible to quote from and thereby exploit a work already made public, provided that such quotation is compatible with fair practice and to the extent justified by the purpose of the quotation, such as news reporting, critique or research. From court cases, the following criteria have to be met for quotation:

- Legitimacy: There has to be a legitimate reason for the material to be quoted as it is. Without any contextual connection, it does not work as quotation.
- Clear division: There has to be clear difference between the author's text and the quoted author's text. In an academic paper, quotation is designated with quotation marks, but it can be done with underlines or different fonts or colors of the text on the internet.
- Clear indication of sources: The source of the quoted material should be as detailed as possible. For instance, page numbers

should be added on top of the name of the periodicals or books. If it is quoted from other web pages, the URL should be mentioned as well.

- One's own material first, quoted material comes second: The quotation should come in place to supplement one's own work. If the amount of quoted material exceeds one's own work, it cannot be regarded as quotation.

Notes: (Moral rights of author (particularly right to maintain integrity))

The author has the right to maintain the integrity of one's work. The Copyright Act does not allow distortion, mutilation or other modification that might be against the author's will, which is a moral right of personal nature that cannot be sold or transferred. It is therefore imperative to keep an author's work unchanged, when it is transmitted on the internet with permission or quoted with the proper criteria met.

Notes: (Non-copyrighted material)

No copyrights are applied to factual data such as economic indexes or meteorological statistics. However, when the factual data made by others is copied, put together and made into a new database (the so called non-creativity database), it must be noted that the creator of the database could call for criminal penalty or compensation for damage, as an illegal act under unfair competition prevention law or Civil Law (Article 709). For this, the ruling on the database on car performance and other information "Tsubasa System versus System Japan" (Tokyo District Court, May 25, 2001) will serve as a reference.

For more information on copyright on the internet, refer to the following URL:

-Copyright Research and Information Center (CRIC):

<http://www.cric.or.jp/>)

-National Institute of Multimedia Education (NIME):

<http://www.nime.ac.jp/>)

3.2 Never infringe portrait rights and publicity rights

Notes:

It is considered that each person holds portrait rights as a human right. One should pay special attention on portrait rights when putting photographs on the internet. Photographs must not be put on the internet without the person's consent. In the case of prominent figures, it is considered that their portrait rights are limited as compared with the general public; however, they have what is called "publicity rights." These rights allow celebrities to receive profits from the use of their names and photographs. Therefore photographs of celebrities or athletes must not be published without permission.

3.3 Never transmit information that may cause trouble for others

One must not transmit information on the internet that could cause

trouble for others. Such information includes that which is defamatory to others, and that could infringe on the privacy of others.

Notes:

Do not defame others either on one's own web page or on public message boards. It is possible that one could be sued for libel for such conduct, which could result in damage compensation under civil law, or a criminal penalty of up to 3 years imprisonment or imprisonment without work, or a fine of up to 500,000 yen. Attention is required when dealing with other people's private information. Privacy in general refers to the so-called sensitive information an individual does not want others to know about. However, there is no clear-cut definition in law and court cases, and therefore it is not very easy to deal with. Thus, when dealing with others' information, if there is a possibility that the transmission on the internet might affect the others, one should not put the information on the internet. (If there is a slight chance that the transmission could affect the other person, the information should be withheld. Even when one assumes that it would bring about positive results, it could produce a non-desirable result for the other person.)

3.4 Risks of releasing information of finished or un-finished research results

Always be cautious when deciding whether or not it is appropriate to put information of finished or un-finished results of studies on the internet.

Notes:

When the project is the result of a collaboration with a private business or other researchers, always pay close attention so as not to violate the nondisclosure agreement. If there is a possibility of a patent application, publicizing the findings of studies on the internet could result in disqualification due to "lack of novelty," which is a condition for the patent application.

3.5 Corporate names and logos

Always consult with the other party when putting corporate logos on the internet on occasions of academic conferences and symposia.

3.6 Risks of releasing portraits on the internet

Think about the risks of putting your own photograph on the internet.

Notes:

It is important to weigh the pros and cons of releasing one's own name or photograph on the internet. Caution is needed because in some cases, one could be accused of or defamed for no reason, or be tripped up on one's wording or remarks, or worse, become a stalking victim. It is advised that one should be even more

cautious when putting information or group photographs of the laboratory members on the internet.

3.7 Never transmit information in violation of laws and regulations or public order and morality

Do not transmit information that is in violation of laws and regulations, not to mention harmful information and the kind of information that is against public order and morality.

Notes:

Other than obscene documents and graphics, harmful information includes the following:

- information that could attract illegal actions (firearms or explosives, banned drugs or narcotics)
- information that could solicit suicide
- solicitation for pyramid schemes
- information that contains harassing descriptions

For detailed description of harmful and illegal information, refer to the operation guidelines on the web site of Internet Hotline Center

(<http://www.internethotline.jp/>).

4. Digital Archives

It is imperative to go through necessary procedures before releasing classical material on the internet.

Notes:

In general, copyrights are expired on classical material (copyrighted material is protected up to 50 years after the author's death). However, there are many other agreements that are made other than copyright. Some examples include ownership rights, or agreements that were made at the time of digital archiving bearing the cost of archiving, etc. Therefore, careful assessments are needed when releasing digitalized information on classical material. For example, some classical material that the university possesses could be items or a collection of items a local family requested the university take care of. Or in some cases, agreements were made for the university to digitally duplicate the artifact on condition of not releasing it on the internet. Court rulings have found that "when releasing duplication of any contents that are in the public domain, if acquired by legitimate means, it is not necessary to ask for permission of the original owner". However, in practice, there are cases in which monetary compensation could be assessed. It is more desirable to have a detailed preliminary discussion with the donor of the material (digital archive cooperator), because in some cases, the way that the digital information is released on the internet becomes the focus of trouble. It is also strongly advised that written consent should be exchanged between the two parties in order to avoid subsequent troubles and regrets.

*Yan Zhenqing Jisho kenchu shinkoku shinchou case

(Supreme Court, January 20, 1984)

Yan Zhenqing was a leading Chinese calligrapher in the Tang Dynasty. A publisher owned the photographic plates that duplicated Yan's work "Jisho kenchu shinkoku shinchou" and put them together in a book for publication. The owner of the original work of Yan sued for suspension and disposition of the books. The publisher acquired the photographic plates in a legitimate way; it was not a case of stolen property or illegal photographing. The Supreme Court ruled that the property rights on the original artwork only apply to the right to exclusively owning the tangible entity, but not to the duplicated photographs. The Court also ruled that: "At museums and art galleries, it is allowed to charge a fee for shows or authorizing permission to take photographs because of the proprietary privileges for the original work. It appears as though the owner exclusively possesses the rights to give permission to duplicate the original work, but it merely reflects the effect that the owner has the original work as a tangible entity, which belongs to the public domain." There are detailed notes on the FAQ page on the web site of the aforementioned Copyright Research and Information Center (CRIC):

http://www.cric.or.jp/qa/sodan/sodan7_qa.html

5. Policy on Links

Exercise caution when providing links on web pages.

5.1 It is recognized that providing links is customarily done without obtaining permission. However, putting links on other hierarchical pages is not always regarded the same as the top page. Therefore, try providing links on the top page.

Notes:

There are overseas cases where the validity of a deep link was the focal point in lawsuits. The courts have ruled negatively in cases of providing links so as to disable banner advertising, or showing others' content such as news stories from other web sites as one's own.

6. Adherence to rules and regulations; prohibition on use for purposes other than the original intent

6.1 Prohibition on the use for purposes other than the original intent

Those who release web pages must comply with these guidelines as well as related rules and regulations on the use of university information systems. One must not use the web page for purposes other than what are outlined in the university regulations and SINET regulations. The university information system facilities and SINET are provided for education and research promotion, as well as carrying out job duty and support services. Therefore for those who transmit information, there must be a line between private and public matters and intention not to release information that is irrelevant to the purposes of the system.

A typical violation of this rule is the case in which one uses the university facilities not for research purposes but to gain profit for commercial purposes.

Notes:

The following are examples of use deviating from the original purpose, and students are advised against them:

- advertising on web pages about private tutoring
- making a profitable website with affiliate advertising

Faculty members should also take care in introducing their own books. Too much information on advertising and the sale of one's books other than a mere introduction or book sales as students' textbooks can be regarded as excessive or a violation of academic network use policy.

6.2 University regulations prohibit the following activities:

- (a) Commercial activities
- (b) Activities concerning specific political parties or religious groups
- (c) Damaging the reputation of and demeaning the University of Tsukuba
- (d) Campaign activities as described in Public Office Election Law
- (e) All other violations of university regulations

7. System Security policies

7.1 When building web pages, be aware of security. Operating systems and application software should always be updated with the latest patches. The same applies when the home page building is outsourced to external contractors.

Notes:

The server system, needless to say, must be kept secure as much as possible. When web contents are out-sourced, the security technology should be an important element in the contract with external contractors, not to mention design and accessibility. Also, an appropriate amount must be invested for security. The university is also held accountable even in the case of external contractors' involvement.

7.2 Hidden directories

Never embed information on the web page that one does not want to be released to the public, even in the form of a hidden directory.

Notes:

The so-called "hidden files" and "hidden directories" that are not linked directly from the web page can be picked up by robot-type search engines. Therefore, never put information that must not be seen by the general public under `public_html`, which is an often-used procedure to provide information to selected members. If necessary, do so only for a limited period of time, or use other means such as basic access authentication.

In the past, there was an incidence when an instructor tried to release the grades only for auditing students and left the information under a hidden directory on the server, which was later revealed by the search engine and released to the general public. In any event, never put information on the web server that must not be seen by the general public as stated above. Also, never use dates and file names for a URL that could easily be assumed by others. Even if a link is not visible from the top page, people can guess the URL and obtain access to sensitive information. There was a case in which the results of a university entrance examination were leaked before the announcement day because of a URL that was easily guessed.

7.3 Server capacity and network resources

Try to secure enough capacity for the server and network before setting a server for a web page opening, so it can deal with the access volume.

Notes:

It is often the case that the laboratory server is used as part of the preparation for academic conferences and symposia. However this tends to overload the system. When large volumes of documents are exchanged, special consideration has to be made for one's own server as well as the capacity of the system upstream. This applies with the university and department servers, when the announcement is to be made for the results of the university entrance examination.

8. Scope of liability on the administrator of web servers and message boards

It must be noted that the server administrators are liable inside and outside of the campus. Internet Service Provider Law (ISP Law) in particular, regards administrators of websites and message boards as the providers of the "specified telecommunication service." Therefore, such administrators are cautioned to be aware of what is regulated in the ISP Law.

Notes:

ISP Law regulates limitation of liability for damages for specified telecommunication service providers and the right to demand disclosure of identification information of the senders. The administrators of websites and message boards are regarded as "specified telecommunication service providers" in this law. When there is an infringement of rights (infringement of human rights or intellectual property rights) by others on the web, the administrator of the web is required to eliminate the infringing content. If the elimination does not take place immediately, the administrator is liable for the damage done for the victim of the infringement. However, if the administrator eliminated the information according to the procedure in the ISP Law, the administrator is freed from liability for damage. Also, if it is done according to the guidelines of ISP Guidelines

Association, it is expected that the court would deny the responsibility of damage liability for the administrator. For further details, please refer to the following URL:

<http://www.telesa.or.jp/consortium/provider/index.htm>

When there is a demand for disclosure of identification information of the sender because of an infringement of rights taking place on one's webpage, but the infringement is not very clear, the administrator is not obligated to disclose the information immediately. The same applies to an inquiry from an investigating authority; unless there is a warrant, there is no obligation to cooperate with the investigation by disclosing the information.

9. Inquiry for the above guidelines

In cases where the interpretation of the above regulations is not clear or are beyond the scope of these regulations, the web administrators must contact, report to and follow the instructions of the department technical personnel (Chairperson of the Sub Network Administration Committee) when it is urgent and an immediate response is required.