

**Testimony Provided by Dr. Barbara Audley, Dean of Continuing Education,
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1. Nature of Distance Education

- a. Distance Education is defined as an education offering where the professor and the students are in different locations from each other. Distance education began with correspondence study and has evolved to offerings provided either by telecommunications to multiple sites and/or by web-based instruction. Depending on the transmission medium (telecommunications or web), there are several defining characteristics:
- (1) Time: either the professor and students all interact at the same time (synchronous) or at differing times of their own selecting (asynchronous). Telecommunications instruction tends to be synchronous and web-based instruction tends to be asynchronous, although it is possible to be synchronous also.
 - (2) Interactivity: traditional classroom instruction places the professor and the students in the same location interacting through person-to-person dialog. Telecommunications comes closest to the traditional through differing levels of interactivity: two-way audio and video between and among all connected sites; one way audio and video to all sites (no return audio and/or video from any receiving site); one way video and two-way audio (the return audio is usually over a subsidiary telephone line). Web-based instruction generally has no personal interaction among participants unless a synchronous chat room is included in the course. Then the interaction is usually audio only at best.
 - (3) Digital technologies: Telecommunications offerings may have a web-based adjunct to the course; web-based is totally digital.
 - (4) Difference: Web-based courses can be done totally over digital technology, rather than as a component of a traditional face-to-face course where the instructor uses web resources for outside student research and e-mail for out-of-classroom communication.
- b. Nature of Programs: At our institution we are developing courses to be delivered totally over the web as well as augmentations of on-campus offerings where the professor mixed media with traditional delivery. We are already delivering real-time live college courses via satellite around Nebraska and in Fall 1999 will begin offering classes over a terrestrial fiber analog network (again 2-way audio-video synchronous classes).
- (1) Students will use the Internet as a resource, communicating with teachers by e-mail, and communicating with class members via chat rooms, bulletin boards and listservs. At this time our telecommunications options include satellite and terrestrial fiber networks.
 - (2) Our satellite and fiber classes usually are at least partially if not wholly interactive and synchronous. At either faculty or student request, tapes are made and kept for the semester to cover for illness or weather travel problems for students getting to an off-campus site. Generally, the site coordinator has the tapes.

- c. Course materials: web-based courses can only be accessed by enrolled students (password protected). Telecourses are received only at specific sites which are monitored and which require enrollment in order to participate. Generally, only the faculty member can modify aspects of the course.
- d. Funding: These offerings are part of the regular offerings of the University and as such students are charged regular tuition and fees. The University is a non-profit organization and views service to off-campus students as part of its mission. There is no profit intent in delivering University courses by technology—simply service to our constituents.
- e. Accreditation: As a part of the regular curriculum of the University, these courses are all accredited. We are accredited by the North Central Association of Colleges and Universities, Chicago, IL.
- f. Audience: As a rural state, Nebraska has many miles of scarcely populated territory and only 2 metropolitan areas on the eastern border of the state. The state has been divided into service areas for public higher education.

Nebraska has several technological capabilities to serve our citizens. The state-wide satellite network, NEB*SAT, provides 2 services. Through one capability--one-way video/2-way audio (as defined above)-- a program can be accessed by any school district which has installed a receive satellite dish. If the university has a state-wide mission, those courses can be targeted to any site in Nebraska. The state-wide mission is defined by the University Board of Regents and monitored by the state-wide Coordinating Commission for Post-Secondary Education (CCPE). If no state-wide mission is involved, then courses can only be delivered in the defined area unless permission is granted by CCPE reflecting special circumstances where the potential students could not be served by the defined provider. Through a further capability of the NEB*SAT agency, there are 19 specified sites where full interactive courses may be received. The CCPE permission system controls course delivery to these sites as well. Finally, there is a teleconference network again at defined sites and the CCPE permission system controls usage here as well.

Except for a few state-wide mission programs, our University basically serves south-central Nebraska. Our service area is primarily rural, with Kearney being one of the largest cities in the area—we are at 28,000 population.

Students may enroll if they meet the regular criteria for admission to the University. Since population sparsity by definition is the usual, most sites have 5 or fewer students in any given class. We do not intend to beam any telecommunications classes beyond the borders of Nebraska.

Web-based courses do not fall under the purview of the CCPE, although the curricula of the University still control the range of offerings available. We do not anticipate any control on the location of the student, although participation will still be by enrollment.

- g. Credit: Offerings are for college credit beginning at the baccalaureate level through graduate classes as authorized by our curricula and mission. The Nebraska legislature, Board of Regents and the CCPE set approved curricula, content and levels. Some offer-

- ings comprise a degree program and others stand alone. At this time we have not used the capabilities of the technology for non-credit offerings. Our students are all adults.
- h. Course development: Most courses are regular courses converted to distance delivery presented by regular, tenure-track faculty. When new needs arise within authorized curricula, faculty design new courses, both for on-campus and distance delivery. Faculty are becoming more innovative in using various materials to augment their teaching. All types of media are used, from traditional books to Internet research and all other possibilities. Each faculty member includes these resources as necessary to meet the instructional objectives of the course, which may vary from a little to a lot. These resources can be part of in-class instruction or out-of-class homework.
 - i. Policies: There are some policies in place which control technological delivery of courses, as well as traditional off-campus extension delivery (faculty member drives to off-campus site each week, etc.). Others are being developed as new issues/concerns arise. Fair use of copyrighted materials under normal academic procedures is used for distance delivery also. By long-stand academic policy, attribution must be given for all sources and is standard conversation in almost any class that requires research, papers, and presentations.

2. Role of Licensing

- a. Permissions: University faculty usually implement the 'fair usage' policy that has traditionally existed in academe. If something is reproduced and sold as course handouts, they request permission from the authors/publishers.
- b. Fair use: This is the usual basis for faculty to use materials. Of course, public domain materials are used if appropriate to the course and objectives. Because of the comprehensive nature of the University's curriculum, more specificity is not possible. One other issue to be considered is the fact that University budgets are severely limited in funds for such things as copying, office supplies, and any fees that might be due for use of any materials. Demanding payment may have the result that university curricula become terribly out-of-date because departments can not afford the fees for current materials.
- c. Process: It is sometimes difficult to obtain permissions. Generally, one does not know where to go, it is difficult to find the correct contact (address, phone number, e-mail, etc.) and the response time is not good. In the case of the famous 'teachable moment,' when in the course of discussion with students a really good opportunity arises to make a point, faculty would not have time to get permission if a resource were restricted to permission only. 'Fair use' is key in this situation.
- d. Amelioration: All vendors would need to agree to participate in a clearing house and would have to pay to staff the facility and to have stated turn-around times that are workable.
- e. Options: A web-based clearinghouse seems logical. The concept of 'fair use' should also be considered for academic purposes, especially as the obsolescence of knowledge is rising at ever-increasing speeds.

3. Use of Technology

- a. For telecommunications it is University faculty who present programs over media built for the purpose on the University or cooperating off-campus sites, usually at area high schools or specific learning centers administered by the University. For web-based courses again faculty prepare classes using commercially available software and disseminate using University computing capabilities. Most of these media are developed for educational use by a number of providers, with significant tailoring for each particular application.
- b. These offerings are either password protected over a given semester, which means a student has registered and paid for the class, or monitored at telecommunications site for approved registration and payment of tuition. In general, students are not permitted to attend class who are not registered and paid by an early point in the semester, usually a few weeks after inception.

4. Application of Copyright Law to Distance Education

- a. The concept of “fair use” for educational purposes has served well over the years. The instructional setting will still exist even though the faculty member may not physically be present in the same room as the students. The relationship of faculty and students will continue even in cyberspace or over optical fiber. Faculty are not out to make money from their classes. They view technology as a tool to do a better job of teaching a given content area and reaching students who may not be close enough to campus to commute. Thus, the use is the same; the teaching environment has changed somewhat.
- b. The concept of “fair use” has served well in the past for instructional purposes. Keeping the process simple and expeditious should be the goal.
- c. No reference site was provided for the cited document. Thus, specific comments can not be made.
 - However, as knowledge is being generated at such a terrific rate, if education is to be successful and efficient, all sources must be available.
 - Most faculty only use pieces of a work outside of textbook purchases and Internet references must be cross-checked for accuracy, so only portions become usable again.
 - Educational institutions, public and private non-profit, should not be charged for this access. Most institutions are trying to keep costs reasonable, and high fees to access materials would hamper or even eliminate access, thus dooming classes to obsolete materials. This applies to the K-12 sector as well.
 - When a provider is doing distance education for a profit, then that provider should pay full cost.
 - If the Internet/World Wide Web were to become so proprietary that everything is password protected so a fee of some sort could be charged, use of the cyber resource would become quite limited in short order.
 - Requiring students to turn in materials at the end of the semester might be possible; however, the sheer enormity of handling that function would be overwhelming to already overloaded staff people. Limiting copying again would be difficult to police.

- Electronic reserves may beg the question, because students will want to print copies for studying purposes, which gets to the earlier issue. It is very difficult to study from a computer screen and to make notes and references on the document.
 - Faculty frequently discuss this issue with their classes already. How would you police any such requirement?
 - If vendors don't want to grant unlimited access to any materials, perhaps they should not put them in cyberspace in the first place. The Internet has a reputation for easy access with few strings. Changing that reality will be difficult
- d. From the point of view of educational institutions, the economic impact of exemption would be continued constant updating of course materials to produce graduates who are ready to take a productive place in the world. Adding fees would severely constrain that process, causing business to have to spend even more money to bring their new employees to a usable level of expertise. It is enlightened self-interest on the part of the commercial community to make sure the colleges and universities can be the most effective they can be through broad access to current information.
- e. No comment.

Dr. Audley has been involved in outreach education for more than 25 years. She has actively participated in the development of 4 state-wide distance education networks in 3 states (South Dakota, Wisconsin and Nebraska) over the last 10 years. In addition, she has managed course delivery over all 4 networks. She is presently working with UNK faculty to develop on-line courses using a commercially-available authoring package.

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