

What's Policy Got to Do with IT?

Understanding the impact of federal and state policy on the daily operations of an information technology (IT) organization within a campus environment can be difficult. Yet policy decisions made at the federal and local levels increasingly influence what colleges and universities can and cannot do in the day-to-day delivery of new technology products and services. Keeping abreast of those developments, influencing the outcomes of policy debates, and integrating the issues into the mainstream of institutional priorities and decision-making are thus necessary actions for those involved with IT in higher education.

Computers and the Internet have radically transformed higher education institutions and how they operate—from the computerization of student services to the collaborative and resource-rich networked environments for research and learning. In addition, state agencies and the federal government are beginning to adopt Internet-based services on a wide scale. The transition from the industrial revolution to what some have called the information age has arrived. But these changes present a major problem: the laws, regulations, and community standards established in the prior era are not easily transferred to or appropriate for the high-tech environments that have become common in the workplace, marketplace, and educational communities today. Thus, over the next several years, Congress and state legislatures, regulatory agencies, the courts, and the public will be continuously engaged in creating an appropriate balance of laws and freedoms in the realm of information technology.

Some of the earliest public policy debates involving the Internet concerned how to make the Net safe for children and free of objectionable material. The Communications Decency Act of 1996 was one of the first attempts by Congress to regulate this new, seemingly limitless forum of expression. The courts quickly took up the case and, in a decision that largely held the act unconstitutional, provided a glimpse into the types of contentious battles that would follow. Although courts have held that pornography and indecency are protected under the First Amendment, the more specific categories of child pornography and obscenity continue to be illegal. Threats and libel (or defamation of character), although subject to fairly narrow definitions, are also among the few exceptions to freedom of speech.

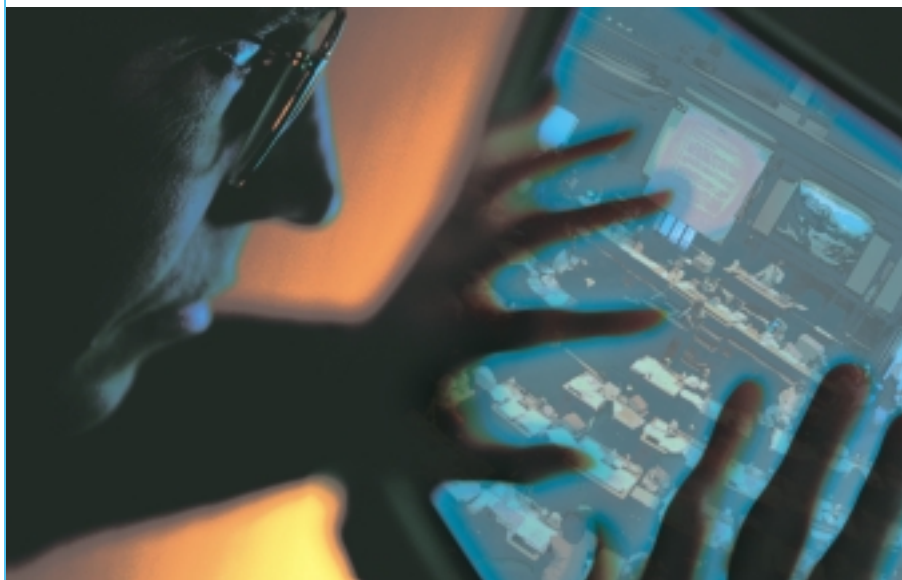
The digital revolution has also intensified debates over appropriate intellectual property protections, especially the application of the law of patents, trademark, and copyright to digital content. The Digital Millennium Copyright Act (DMCA) of 1998 resulted in a series of complicated rules that permitted access controls, established complex procedures for Internet Service Providers to minimize their liability, and introduced to federal law a host of other changes that were hardly technology-neutral. For example, a recent study (http://www.loc.gov/copyright/reports/studies/dmca/dmca_study.html) conducted by the U.S. Copyright Office as required by the DMCA indicates the death of “digital first sale”—that is, one set of rules will apply to traditional print materials and another to digital information. In addition, the

TEACH Act, a bill designed to modify copyright law to accommodate distance education, is presently before Congress. Finally, the Uniform Computer Information Transactions Act (UCITA), a proposed model for state contract law, supports the use of information licenses and enhances the ability of the content community to control information access and use.

Privacy has been at the center of many recent public policy debates as well. The desirability of promoting fair practices in the collection and use of personal information has resulted in many legislative proposals and Federal Trade Commission interventions. These in turn have created a de facto policy encouraging the voluntary adoption of privacy policies. Some states (e.g., Maryland and Virginia) have enacted laws that require state agencies to post privacy policies on their Web sites and to inform citizens of their information-collection practices, especially in light of open-records laws that may subject certain information to disclosure. Both lawmakers and citizens are increasingly concerned about computer security and the need to protect the integrity and privacy of information stored in databases. Most recently, the USA PATRIOT Act was enacted in response to the events of September 11; this act expands the electronic surveillance authority of law enforcement agencies.

Of course, policies that address First Amendment freedoms, copyright, and privacy are just a small sample of the public policy agenda that is shaping the Internet of the future. Other issues that will likely attract heightened interest are Internet taxation, computer and network

security, encryption, broadband, and unfair competition, among others. These issues are not within the exclusive domain of Congress and federal authorities; many will be deliberated by state legislatures and other local entities and will have an international dimension as well. Consequently, IT professionals in higher education will need to develop a strategy for remaining informed and for influencing the outcomes of these public policy debates, which are sure to shape the regulatory environments of tomorrow. The following actions are suggested:



- **Stay Informed.** The EDUCAUSE policy office, through its Web site (<http://www.educause.edu/policy/policy.html>) and various outreach activities, is an excellent source of information. The Computer Policy and Law Program at Cornell University (<http://www.cornell.edu/cpl/>) holds an annual seminar and reports on the latest legal and legislative developments. Additionally, other higher education associations regularly monitor public policy (see, for example, <http://www.oit.umd.edu/pp/relations/#higheredu>); IT leaders should encourage these groups to pay attention to technology issues and information policy if they are not already doing so.
- **Reach Out.** Many colleges and universities have government relations staff members who focus on federal policy, state and local relations, or both. Some institutional governance organizations

have government relations committees. IT professionals should establish ongoing communications with these people and bring them to events such as the annual Networking policy conference, which is sponsored by EDUCAUSE and its association partners. The annual Networking conferences provide the premier forum for higher education IT leaders to gather to discuss policy and practical issues associated with advancing networking technologies and usage and to launch and report on major initiatives (see <http://www.educause.edu/netatedu/events/net2002/> for more details).

- **Improve Awareness.** Increasingly, chief information officers or heads of the technology function at colleges and universities are becoming vice presidents or are being appointed to cabinet-level positions. Relationships with senior administrators and key decision-makers are important for advancing IT strategic plans, securing resources, and promoting agendas. IT leaders must inform other administrators and key personnel about federal and state policy that will affect technology and higher education.
- **Get Involved.** There is nothing worse than public policy that is developed by politicians and lawyers without the input and expertise of the information technology community. IT professionals must look for opportunities to serve at the local, state, and federal levels.

- **Institutionalize Advocacy.** There is much work to be done in higher education technology organizations, and the time available for monitoring and influencing federal and state policy is limited. Aside from leveraging campus government relations personnel and riding the coattails of EDUCAUSE and other higher education associations' policy staff, IT leaders should consider assigning their own staff the responsibility of monitoring policy developments and advocating the interests of information technology organizations and higher education.
- **Endure.** The establishment of an appropriate public policy environment for information technology use within higher education will not be a short-term assignment but will instead take many years and span many government administrations. The contributions of seasoned, experienced, and mature IT professionals will be essential to the overall quality and success of future public policy programs.

What's policy got to do with IT? Without a doubt, technology issues will be the center of policy debates and the subject of numerous legislative and regulatory proposals. In many cases, new policy directions will be beneficial for information technology organizations within higher education. In other cases, laws and regulations may hinder the ability of colleges and universities to make necessary advances or may threaten their autonomy to make decisions. It would seem, then, that the goal should be to support and promote favorable policy decisions and to oppose or at least influence policy directions that may be harmful or misinformed. The development of relevant and informed federal and state policy that favorably affects campus networks and the Internet requires the involvement of one key group: college and university IT professionals.

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