

Policy on Use of Copyrighted Materials by Faculty in Materials Developed for Educational Activities Sponsored by the American Academy of Allergy, Asthma and Immunology (AAAAI) – Live Events

This Policy is delivered to each faculty member of an AAAAI-sponsored educational live activity. Compliance with this Policy is a condition to the faculty member's participation in such an AAAAI-sponsored activity.

Background

Visual presentations—delivered via PowerPoint, 35mm slides, or other technologies—and handouts are essential components to quality continuing medical education. It is not uncommon for faculty members preparing such presentations and materials for use in activities sponsored by an educational organization such as the AAAAI to include therein limited materials copyrighted by another party.

Although limited use of limited portions of copyrighted materials of others may be permissible under applicable copyright law, it is the policy of the AAAAI to exercise utmost effort to respect the proprietary rights of authors and other creators of medical education works in AAAAI-sponsored Activities.

FOR LIVE EVENTS

Policies and Requirements

AAAAI requests that faculty members preparing visual presentations, handouts and other materials for use in connection with live activities sponsored by the AAAAI be aware of the following policies:

1. Faculty members of AAAAI-sponsored live events should refrain from incorporating materials copyrighted by others whenever possible unless: (A) The faculty member is satisfied that the amount of such copyrighted work and the nature of its use is permissible as a "fair use" (see the Exhibit A to this Policy); or (B) The written permission of the author or other copyright holder is first obtained to the use of such materials for such an AAAAI-sponsored activity.
2. When copyrighted material of others are used as described in Item 1, above, the faculty member must cite the source of the copyrighted material which must include a valid copyright notice (i.e., "Copyright © 2003. John Doe, M.D.").
3. If a faculty member receives written permission of the author or other copyright holder for use of materials, AAAAI does not require a copy of that written permission.
4. If the faculty member is presenting in a session where enduring materials (i.e., webcasts, CD-ROMs, newsletters) are produced, please see the Copyright Policy for Enduring Materials, http://www.aaaai.org/members/cme_ce/copyright/enduring.pdf.

Please contact Steve Folstein, AAAAI Director of Education, by telephone at (414) 272-6071, by fax at (414) 272-6070, or by email at sfolstein@aaaai.org, with any questions or concerns about these policies or compliance therewith.

EXHIBIT A

Faculty Member Guide to Copyright Law and Fair Use

This guide addresses issues concerning the use of copyrighted material in works prepared in connection with AAAAI-sponsored educational activities. The Web site of the U.S. Copyright Office, www.loc.gov/copyright/, provides additional information, including surveys of primary materials, links to other Internet sites, and an overview of copyright law. Specific advice is also available by contacting Steve Folstein, AAAAI Director, Education, by telephone at 414-272-6071, or by e-mail at sfolstein@aaaai.org.

What is a copyright?

A copyright is the set of exclusive legal rights authors have over their works for a limited period of time. These rights include copying the works (including parts of the works), making derivative works, distributing the works, and performing the works (this means showing a slide presentation or playing an audio recording, as well as performing a dramatic work). Currently, the author's rights begin when a work is created. A work does not have to bear a copyright notice or be registered to be copyrighted.

Why does copyright exist?

The Constitution of the United States says that its purpose is to promote science and the useful arts. The government believed that those who create an original expression in any medium need protection for their work so they can receive appropriate compensation for their intellectual effort.

What works are not protected by the Copyright law?

Copyright law does not protect and anyone may freely use:

- Works that lack originality, including logical, comprehensive compilations such as phone books
- Works in the public domain (see below)
- U. S. Government works, such as research publications of the NIH, DHHS, etc.
- Facts
- Ideas, processes, and systems described in copyrighted works.

What is a work in the public domain?

A work in the public domain can be copied freely by anyone. Such works include those of the U.S. Government and works for which the copyright has expired. Generally, for works created after 1978, the copyright lasts for 70 years beyond the life of the author. Works created before but not published before 1978 have special rules. For works created and first published between 1950 and 1978 the copyright lasts for 95 years. For works created and first published before 1950, the copyright lasts for 28 years but could have been renewed for another 67 years.

When planning a project for an AAAAI-sponsored educational activity, start by identifying works in the public domain which can be used in the new work. Request permissions for materials not in the public domain early in your project. If there are images, charts, graphs or text portions for which permission to copy cannot be obtained, it is easier to redesign the project at the beginning rather waiting until the project nears completion.

What is fair use?

Fair use provisions of the copyright law allow for limited copying or distribution of published works without the author's permission in some cases. Examples of fair use of copyrighted materials include quotation of excerpts or a chart in a textbook.

How can it be determined whether copying is allowed by fair use provisions of the Copyright law?

There are no explicit, predefined, legal specifications of how much and when one can copy, but there are guidelines for fair use. Each case of copying must be evaluated according to four factors:

1. **The purpose and nature of the use.** If the copy is used for teaching in a non-profit setting, distributed without charge, and made by a teacher or students acting individually, then the copy is more likely to be considered as fair use. In addition, an interpretation of fair use is more likely if the copy was made spontaneously, for temporary use and not as part of an "anthology."
2. **The nature of the copyrighted work.** For example, an article from a newspaper would be considered differently than a workbook made for instruction. With multimedia material there are different standards and permissions for different media: a digitized photo from a Scientific American, a video clip from ABC News, and an audio selection from a CD would be treated differently--the selections are not treated as equivalent pieces of digital data.
3. **The nature and substantiality of the material used.** In general, when other criteria are met, the copying of extracts that are "not substantial in length" when compared to the whole of which they are part may be considered fair use.
4. **The effect of use on the potential market for or value of the work.** In general, a work that supplants the normal market is considered an infringement, but a work does not have to have an effect on the market to be an infringement.

In order to determine whether a particular use is "fair use," ask:

- Is the use noncommercial (as opposed to use by the copier for profit)?
- Is the use for purposes of criticism, comment, parody, news reporting, teaching, scholarship or research?
- Is the original work mostly fact (as opposed to fiction or opinion)?
- Has the original work been published (as opposed to being sent out to only a few people)?
- Are you copying only a small part of the original work?
- Are you copying only a relatively insignificant part of the original work (as opposed to the most important part)?
- Are you adding substantial new content to the work (as opposed to just quoting parts of the original)?
- Does your content leave unaffected any profits that the copyright owner can make (as opposed to displacing some potential sales or potential licenses or reprint rights)?

The more "yes" answer there are to the above questions, the more likely it is that a use is legal. The more "no" answers, the more likely the use is illegal.

How can a work reference the copyright owner of digital photographs, video, or sounds?

Include the copyright symbol and the name of the copyright owner directly on/under/around the digital material. It is virtually impossible to ensure that digital information located at any distance from the image/video would be seen by a user if the copyright notice is not directly attached to the material.

If the material is only used once for a presentation or a project, does the copyright owner need to be acknowledged?

Images, graphics and video should be credited to their owners/sources just as written material.

What does a copyright notice consist of?

If a copyright notice is used, it should consist of three elements:

- The symbol © or the word "Copyright" or the abbreviation "Copy.>";
- The year of first publication; and
- The name of the owner of the copyright in the work.

A proper copyright notice might look like this: **Copyright © 2003 XYZ Inc. All rights reserved.**

What should I do if I want more information?

Contact Steve Folstein, AAAAI Director of Education, by telephone at 414-272-6071 or by e-mail at sfolstein@aaaai.org.