

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) – Enduring Materials

This Policy is delivered to each faculty member of an AAAAI-sponsored educational enduring material 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 ENDURING MATERIALS (i.e., webcasts, CD-ROMs, newsletters)

Policies and Requirements

AAAAI requests that faculty members preparing visual presentations, handouts and other materials for use in connection with enduring materials (i.e., webcasts, CD-ROMs, newsletter) sponsored by the AAAAI be aware of the following policies:

1. Faculty members of AAAAI-sponsored enduring materials should refrain from incorporating materials copyrighted by others whenever possible unless 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. Faculty members must also provide AAAAI with proof that the appropriate permission has been obtained from the copyright holders of any copyrighted materials of others that are used in or incorporated into the faculty member's presentations and/or handouts. The AAAAI will not allow a faculty member to use copyrighted materials of others in his or her presentations and/or handouts unless the faculty member provides confirmation, using the forms provided with this Policy of the copyright holder's consent to such use such materials.
4. If the faculty member is speaking at a session where an enduring material is not being produced, please see the Copyright Policy for Live Events, http://www.aaaai.org/members/cme_ce/copyright/live.pdf.

Completion of Required Permissions Forms

Once you have reviewed these policies, please complete the attached form entitled "Permission to Use Presentation Materials" and return it accordance with the instructions set forth in that form. If your presentation materials contain works copyrighted by another persons or entity, you must also complete and return the form entitled "Permission to Use Copyrighted Materials." This form must be signed by the appropriate copyright holder(s) of the copyrighted materials to be used in your presentation and/or presentation materials.

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.

Permission to Use Presentation Materials

In connection with my participation in the [Name of Enduring Material] (the "Activity"), I will prepare, or have prepared, certain materials for use in the Activity and/or to be distributed to the Activity attendees (the "Works"). These materials include (check all that apply):

- PowerPoint presentation(s)
- 35mm slide presentation(s)
- Overhead presentation(s)
- Video presentation(s)
- Handout(s)
- Other: _____.

I give AAAAI and its designees and assigns permission to use the Works in the Activity and to distribute the Works to the Activity attendees with the exception of the following slides that I would like deleted from the enduring material:
List slide numbers _____.

My execution of this Permission Form does not transfer my ownership rights in the Works and does not prohibit me from using the Works in the future. The permission by me to AAAAI hereunder shall be perpetual and will not be affected by any subsequent transfer or assignment of any rights I may have in the Works.

Check Only One

- I represent that I am the sole author of the Works and that AAAAI's use thereof will not infringe on the copyright or other intellectual property rights of any other person or entity.
- I represent that the Works to be provided contain certain materials copyrighted by others and that I have (a) obtained the consents of such copyright owner(s) to the use of such materials for the Activity; and (b) I will cite the source of the copyrighted material wherever used in the Works, including use of a valid copyright notice. I have attached a "Permission to Use Copyrighted Material" form executed by each copyright holder of such copyrighted material.
- I represent that I am an employee of the federal government and that the Works were developed as part of my official duties. As such, the Works are not subject to copyright.

Signature: _____ Date: _____

Print Name: _____

Organization (if any): _____

Title/Capacity (if any): _____

If the Works were commissioned by another person or organization or was written as part of the duties of an employee, an authorized representative of the commissioning organization or employer must sign below.

Signature: _____ Date: _____

Print Name: _____

Organization (if any): _____

Title/Capacity (if any): _____

Return to:

Education Team
AAAAI
555 East Wells Street
11th Floor
Milwaukee, WI 53202-3823
Fax: (414) 272-6070

Request to Use Copyrighted Materials

Date: _____

Dear Permissions Editor:

I request permission to reproduce and include, with appropriate credit, the following works created, owned and copyrighted by you:

(the "Copyrighted Works") in the materials created by me entitled _____ in connection with [Name of Enduring Material], an enduring educational material sponsored by the American Academy of Allergy, Asthma and Immunology, Inc. (AAAAI). The AAAAI is a non-profit medical specialty society of more than 6,000 allergists, immunologists, and allied health professionals.

Consideration of this request at your earliest convenience will be most appreciated.

Permission is hereby granted for use of the Copyrighted Works as set forth above. I am (we are) the sole holder of the copyright and other intellectual property rights. I (we) have sole power and authority to grant the permission set forth herein and that no other person or entity is required to consent or approve the permission set forth herein.

Owner # 1:

Signature: _____ Date: _____

Print Name: _____

Organization (if any): _____

Title/Capacity (if any): _____

Owner #2:

Signature: _____ Date: _____

Print Name: _____

Organization (if any): _____

Title/Capacity (if any): _____

Attach additional sheets for additional owner signatures, as needed.

Return by _____ to:

Name: _____

Institution: _____

Address: _____

City/State/Zip: _____

Fax: _____

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 of 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 an 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.