

Copyright FAQ

A number of inquiries have been made into copyright issues in regards to CME activities. In response, I hope this brief communication will clarify most of those concerns.

Q1: Can I protect the name of my activity and if so how best to accomplish name protection.

A1: Name protection typically comes from a trademark. If we think that "Megaupdate X" represents a trademark of JHU or NIH, then you could simply include the TM insignia after it (i.e., Megaupdate XTM). That would entitle JHU or NIH to seek protection in court and place others on notice of JHU's or NIH's claim to trademark protected status. Alternatively, name protection can be sought through a process of **Registration**, which adds the ability to sue in federal court. There are additional costs associated with registration and this is typically handled by attorneys which the individual or program is responsible for obtaining.

Q2: Can I protect the material in my presentation from others utilizing my slides without assigning credit back to me?

A2: Similar to simple name protection, one can merely place on each slide the comment that it is copyrighted, if it applies, and this would place others on notice that using your slide directly could permit you to claim copyright protected status in court if it could be proven that they utilized your material. Alternatively, an individual with copyright can place the copyright warning on the first slide or within the syllabus, website, monograph, etc. using the designation ©. The Office of CME already places a copyright statement in the syllabus, but if you feel it would offer greater protection, please add to the first slide in your presentation. Federal employees who have created their presentations as part of their official duties cannot claim copyright protection in the United States.

Q3: What copyright laws apply to my slides if they contain information from published works?

A3: The copyright laws include a **Fair Use Exception**. This exception permits the use of limited portions of a published work, but the original source should be referenced. This is best accomplished as follows:

1. The faculty presenter should ensure that all slides or overheads which contain material(s) (e.g., graphs, tables, figures, datasets) taken from published work should be referenced.
2. The reference should be placed directly on the slide whenever possible. If space is limited on the slides themselves, then a reference page that clearly delineates the correct association between listed reference and individual slide is an acceptable alternative.

Q4: What if I am an author on the published work?

A4: Copyright is typically signed over to the publishing group when a manuscript, chapter, guideline, etc are published. Consequently, the same rules as in A3 apply whether one is an author or not unless the work is in the public domain [e.g., work of a federal employee].

Q5: I have been told that I can hand out full published articles or chapters in an educational session without obtaining copyright permission. Is this correct?

A5: No. This is a common misunderstanding. The copyright laws do not recognize a blanket exemption for educational use of material. The law does include two provisions, however, that are useful to understand. One is the Fair Use Exception, which would permit limited portions to be distributed as described above in A3. The other provision is an extension of the Fair use principle and applies specifically to just released information for which it is unreasonable to expect one to have sufficient time to acquire copyright permission. One should always limit the amount distributed to the smallest amount necessary to demonstrate one's point (e.g. a few tables and/or figures).

Q6: Experience dictates that attendees prefer to receive the entire article when possible so how do I best proceed?

A6: If the referenced material is available for free then it can be distributed. Academic center faculty should be reminded that their medical center may have paid for a subscription to reference material and thus it may “appear” free to them through their intranet when in fact it may not be free to the general public. The safest solution is to provide a reference list and avoid including the entire article, although links to the journal or to the abstract on PubMed are acceptable. Alternatively, copyright permission can be sought from the publisher.

Q7: Will OCME seek the permission to distribute copyrighted for me?

A7: Unfortunately, OCME does not have the resources to do this for several hundred speakers a year. OCME will ask the speaker to sign an attestation form that they have sought and received permission to distribute the material. OCME is applying to several of the largest publishers to ask for blanket copyright approval for materials in live presentations and we hope to receive approval and minimize the aggravation for all involved.

Q8: I thought the Medical Education Companies did this for us for OFP activities.

A8: If a Medical Education Company is indeed involved in the production of the activity, then the company may be able to assist you in obtaining permission to reprint and distribute copyrighted material.