

The purpose of this document is to provide you with an understanding of the AAFP's copyright and permissions standards to assist you in your creation of CME or non-CME presentation materials. The AAFP understands these guiding principles may differ from your usual preparation process; however, this process is required in order for your presentation and materials to be offered at AAFP CME meetings, as well as being repurposed into other formats for AAFP distribution and/or resale.

Q: What is copyright?

A: Copyright is a form of protection provided under the laws of the United States (Title 17., U.S. Code referred to as the "Copyright Act") to owners of "original works of authorship" including literary, dramatic, artistic and certain other intellectual works, both published and unpublished.

Q: What is copyright infringement?

A: It is the unauthorized copying, modification, or use of someone else's copyrighted material.

Q: What is fair use?

A: The Copyright Act provides that the use of copyrighted materials for purposes such as criticism, comment, news reporting, teaching, scholarship or research is not an infringement if the use satisfies the fair use test. This test requires the court to weigh a number of factors including the purpose and character of the use, the nature of the copyrighted materials, the amount and substantiality of the portion used in relation to the copyright materials as a whole, and the effect of the use upon the potential market or value of the copyrighted materials.

Q: Is any use at CME meetings automatically considered fair use?

A: No. Just because a work is used for educational purposes does not mean the use will be considered fair, particularly when multiple copies of a "work" are being distributed. Many CME professionals are teachers or professors in educational institutions and assume the standards they utilize in determining fair use in a classroom are the same standards to be applied to CME seminars. **Non-profit educational institutions are entitled to additional statutory exceptions and are treated differently for fair use purposes from other non-profit organizations such as AAFP.** A more complete discussion of fair use and its application to CME professionals is provided in the attached article entitled "Fair Use: A Primer for CME Professionals" by John D. Pent, MA, President of Center for Continuing Professional Education, reprinted with permission from the Alliance for CME.

Q: What does "Public Domain" mean?

A: Products of the human mind – such as books, inventions, computer programs, songs, movies, and other works – are often owned by the creator as "intellectual property," meaning that the creator may have control over uses of the work such as reproduction. If a work is not legally protected as intellectual property (possibly because its protection has expired), it is said to be in the "public domain." Anyone may reproduce, sell, or otherwise use a public domain work without having to obtain permission. This includes works created before 1922, created for public use, or those works that have over the years fallen into public domain because the copyright expired. This includes documents of the United States government, unless stated otherwise.

Q: Is content posted to the World Wide Web in the "public domain"?

A: No. Many individuals believe that everything on the internet is in public domain. It is not. Only works with an expired copyright, works created by (and possibly "for") the federal government, or works specifically dedicated by the copyright holder as "public domain" are considered public domain. NEVER assume something is in public domain. It is prudent to always assume something is protected by copyright and permission is required for reuse unless it is clearly stated otherwise.

Q: If I already obtained permission for an earlier use, do I have to request permission again?

A: Probably — depending upon the scope of the permission obtained. In many cases, CME professionals request permission to use a chart, graph or other materials in a particular article or for a particular presentation. The permission they obtain is therefore limited to that particular use. If you intend to use that same chart in a new article or presentation, you need to obtain permission again. Thus, in securing permission, you should attempt to obtain the broadest permission possible, not limited to a particular use or format.

Q: Is permission necessary even if I'm only using portions, adapting, or modifying the original work?

A: Yes. Copyright owners have the exclusive right to control modifications of their "work." Permission is necessary if you add a new layer of material to a previously existing "work," or if you significantly revise the work. This would be called an adaptation or derivative work.

Q: The "work" I want does not have a copyright notice, so do I need permission?

A: Yes, copyright notices are optional and not required in order to retain copyright protection.

Q: Can I use copyrighted material without permission if I give credit to the original source/copyright owner?

A: No. Merely giving credit is not a defense to copyright infringement and has legal consequences.

Q: What is the Right of Publicity?

A: These laws protect against unauthorized uses of a person's name or image for commercial purposes. Essentially, the law provides an individual the right to control the commercial use of his/her name, likeness or identity.

Q: What is the Right of Privacy?

A: These laws protect against unauthorized uses of a person's likeness in a manner that invades his/her privacy. Essentially, the law provides an individual the right to control the commercial use of a person's likeness in a manner that invades his/her privacy.

Q: Why do I need permission to use graphic images and photographs?

A: Graphic images such as illustrations, photographs and cartoons are protected by copyright and are typically owned by the creator/illustrator/photographer. For photographs or graphics of people, in addition to obtaining permission from the photographer/illustrator, you may need to obtain permission from the people depicted in order to avoid infringing their Right of Publicity and/or their Right of Privacy. Thus, if your CME materials include a photograph of an identifiable individual, you should secure permission from the adult individual or a child's guardian to use their photograph in your presentation. In securing permission, be aware that if you know that your presentation will be repurposed into other formats, such as print, DVD, online, audiovisual formats (and the like), your permission request or photograph release form should specify those uses.

Q: Why is it necessary to provide full source citations of third party "works" to the AAFP?

A: Full source citations provide credit to the copyright owner. It also enhances the permission requesting process, a service that is being provided to you by the AAFP as a speaker. A permission request should contain the following details:

- Author names
- Title, edition, volume number of book/periodical
- Copyright date
- Name and contact information of copyright owners
- Page, figures/tables/illustration numbers
- Web page URL

Q: How should I cite the use of third party material in my materials?

A: When formatting your third party material within your handout materials, please use the following credit lines underneath any third party content included within a slide or full text article:

- "Reprinted with permission [plus full citation]" means that you are directly using a table or figure from another source without any significant changes
- "Adapted with permission [plus full citation]" means that you've adapted [i.e., used, but in a changed form] material from one or more published sources
- "Information taken from [plus full citation]" means that you created a table or figure from data/text of another source and presented in a form quite different from that in the original source. For example, you found a series of symptoms in the text of an original source and extracted those symptoms to construct a table in the format of a list of symptoms.

Q: As a speaker of an AAFP activity, what are my responsibilities?

A: As a presenter for AAFP educational activities, you are responsible for:

1. Obtaining the rights to use any third party content in your materials and to license to the AAFP any third party content in your materials for the AAFP's commercial and educational purposes.
2. With respect to images, photographs or videos of an individual, obtaining permissions from the photographer and the individual subject of the image, photograph or video.