



MSU Extension
Guidelines
for Using
Copyrighted
Materials

MICHIGAN STATE
UNIVERSITY
EXTENSION

■ MSUE Policy ■

All MSU Extension employees shall properly obtain permission to use copyrighted works, unless a clear fair-use exception is allowed by law. Extension employees shall not plagiarize by using the words and ideas of another person as their own without attribution to the source. Failure to follow this policy may result in severe repercussions, up to and including dismissal.



Introduction

Proper use of the intellectual property of others is an increasingly important issue for members of Michigan State University Extension.

As universities today, including MSU, broaden the definition of scholarship to include and reward teaching and outreach, it becomes very important for those who are engaged in teaching and outreach to document their own achievements and to cite and credit the work of others with the same care exercised by those engaged primarily in academic research.

Copying and using the work of others may encompass legal issues (copyright) and issues of academic honesty (plagiarism). Improperly using copyrighted materials is illegal. Presenting another's work as your own is plagiarism, an act of dishonesty. Avoiding plagiarism is extremely important in all educational, research and outreach endeavors because it is integral to academic integrity.

Complying with all legal and ethical requirements is necessary even when information is being passed along for the public good with no professional or financial gain to the person using the material.

These guidelines are based on the premise that no one ever got into trouble for obtaining permission and citing sources appropriately.



What are Intellectual Property Rights?

Intellectual property rights include copyrights, patents and trademarks, which grant the rights to control the use of the products of intellectual activity.

Copyrights and patents exist to encourage creative and inventive efforts by assuring that the financial value of intellectual output will be controlled by the authors and inventors. Trademarks are intended to protect consumers from being deceived by the origin or nature of a product or service being offered for sale.

Copyright

Copyright protects the original expression of an idea. It covers the expression of ideas in a wide variety of tangible media, such as print, software, film, art, music and architecture. A copyright holder has exclusive rights to reproduce, adapt, distribute and publicly perform or display the copyrighted work. A limited exception to these rights allows copying of small portions of the work for a "fair use," such as a scholarly quotation and reference, criticism and similar purposes.

Ideas, as such, are not protectible by copyright. For example, the author of a book on farming could not prevent others from using or writing about the farming systems described in the book, but could prevent reproduction and use of the explanations used. Simple statements of fact (e.g., rules of baseball) are not copyrightable, nor are most federal governmental works.



Copyright exists on a copyrightable work from the moment it is fixed in tangible form. Duration of the protection varies, ranging generally from 50 to 100 years.

Though registration is not required to create the copyright, it is a prerequisite to enforcement of the copyright in the federal courts. Immediate and consistent use of the copyright symbol ©, followed by the date and the copyright holder's name, provides helpful notice of copyright.

Patents

Patents provide exclusive rights to make, use or sell a novel invention or method, usually for 17 years. Unlike a copyright, a patent grants a monopoly on the use of the idea behind an invention and thus is more difficult and expensive to obtain, and has a shorter life.

Information about patenting an invention may be obtained from the MSU Office of Intellectual Property (517/355-2186).

Trademarks

Trademarks are names and logos used in commerce that consumers identify with a particular source of goods or services. The owner of a trade or service mark or name may register it and may sue to keep others from using it with a product in a way that may confuse consumers about the product's origin or sponsorship.

At MSU, the official trademarks (seals, athletic symbols, wordmarks and logotypes) are owned by the Board of Trustees, which governs their usage. MSU and MSUE have graphic standards manuals that specify standardized usage for these elements. In general, correct usage of certain elements, such as for letterhead stationery or publications, is permitted without seeking special permission. However, combining certain symbols with the wordmark and/or using any symbol for commercial/sales purposes necessitates review and permission from the Office of University Licensing Programs.

Information about the use of trademarks may be obtained from the Office of University Licensing Programs (517/355-3434). For university graphic standards, call MSU Public Relations (517/355-2281).

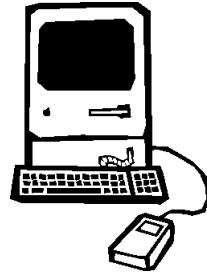
Specific Applications

Cartoons may not be used without the permission of the artist or the publication holding the copyright on the cartoon. Obtaining permission to use cartoons often involves paying a fee.

Clip art is available from many sources, but art from a copyrighted source may be used only with the copyright holder's permission. You may have to purchase the rights to use clip art.

Slides and overheads often are produced by photocopying or copying existing illustrations and graphics from textbooks, magazines or other existing sources, but such materials are usually copyrighted and may not be reproduced without permission.

Software, unless it is identified as FreeWare, ShareWare or public domain, may not be downloaded, copied or otherwise distributed without permission. Unauthorized use or reproduction of software may violate contractual license provisions as well as infringe on copyright.



Unpublished manuscripts are entitled to the same copyright protections as published works.

Videotapes may be shown for educational or critique purposes. In general, however, duplication rights and/or permission to use films and audiovisual materials should be obtained from the original source.

Web and other Internet works, including e-mail, are subject to copyright. Public transmission by computer constitutes distribution and/or reproduction of the work and may infringe a copyright.

Plagiarism

Plagiarism is not an intellectual property term, but because plagiarism relates to copying, it is often confused with copyright. Plagiarism involves copying and passing off someone else's work as one's own, which is academically unacceptable even if the work is not subject to a copyright (as in the case of government publications) or is reproduced with consent.

What is fair use?

Under the Fair-Use Statute (Sec. 107 of the Copyright Act of 1976), an author may make limited use of another's work without asking permission. The following are usually deemed instances of fair use:



- Criticism and comment.
- News reporting.
- Research and scholarship.
- Nonprofit educational use.

When determining whether it is fair use or not, four factors must be considered. Each factor is subject to interpretation.

1. **Purpose:** Educational use is more likely to be considered fair use, but not when the material is sold for profit, as in the case of copying articles and selling them as a course pack. Fair use is more likely when the work is transformed into something new.
2. **Nature:** The nature of the work is taken into consideration by the courts when deciding fair use, e.g., published vs. unpublished; fiction vs. nonfiction; workbooks, audiovisual materials, etc.
3. **Effect on the market.** You can't make fair use of something that you should have purchased, regardless of your willingness or ability to pay for it.
4. **Amount.** There is no exact measure under the law, but both quality and quantity are taken into consideration when deciding whether use was fair use.

Some things to keep in mind when trying to decide about fair use:

1. Are you copying or creating something new? The more transformative your work, the more likely it is fair use.
2. Don't compete with the source you're copying from. Copying parts of a book and using them in teaching materials can deprive the author of legitimate sales.
3. Giving credit and fair use are separate concepts. You cannot use any material you want just by giving the author credit. You must obtain permission to use unless it is fair use!
4. The more you use, the less likely it is fair use.
5. Quality is often more important than quantity. The more important the material is to the original work, the less likely it is fair use.

Requesting permission to use copyrighted materials

Obtaining permission to use copyrighted materials need not be difficult. If you have had anything duplicated at a major copy center recently, you were obliged to fill out a release form and/or a copyright permission request form to be sent to the copyright holder. You may want to develop a similar standard permission request form or letter similar to the letter below and keep it on file.

If you are producing an Extension bulletin, you will be asked to sign a document stating that you are the author and that the material does not infringe on any existing copyright.

Sample letter:

Dear copyright owner:

I request permission to copy the material described below for the following use: *(personal, educational, research, commercial, etc.)*.

I wish to copy.... *(describe in detail what you wish to use, including the title of the publication the material is taken from, publication dates, etc., and specific page numbers)*.

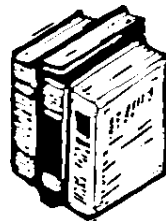
I will be using this material.... *(Describe here how you will use it, including whether it is part of a program or project, how it will be duplicated and how many copies you will print. If the material will be sold, say so. If this material will end up on a Web site, indicate that. If you intend to alter the material in any way, tell how [this could include changing the size of a drawing, altering a recipe to make it low fat, etc.]*).

Please indicate your approval by signing the permission below and returning it to me as soon as possible. If you have any questions about the proposed use, please call me at (telephone number).

Thank you very much.

Sincerely,

your name and title



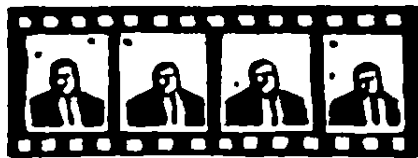
Copyright permission approval

I, _____, give unconditional permission to adapt and publish, in print and electronically, the excerpts or elements from _____ as requested and described above. I am the copyright owner or am authorized to act for the owner.

I, _____, relinquish copyright protection for the material described above, subject to the following conditions:

Owner signature

Date



Example 1

I was given the charge of developing educational materials for a workshop series in my county. There was no existing packet of materials and no campus specialist who could help me put one together. The training was going to take six hours and I was authorized to charge \$25 per person, which could cover breaks, lunch and materials and leave me a \$2.50 profit per person to be used for future programs.

After the course outline was approved, I started preparing the notebook. I found great graphics on the Web, so I downloaded them and was able to print them in color. I copied an old Extension bulletin, blacking out the irrelevant information. I found several magazine articles that were useful and copied those. Since I wanted the group to discover their learning styles, I used a couple of surveys that had been helpful to me in previous workshops.

I duplicated and handed out a very attractive notebook. The sessions went very well. Participant evaluation showed a gain in knowledge and skills. However, one participant said I should be sued for plagiarism and fired for unethical behavior!!

What went wrong? You borrowed from some materials and quoted from others without giving appropriate citations and references. You also used other materials directly without obtaining permission to use them. Participants were left with the impression that you developed all the materials. Further, you made a small profit from the use of these materials. Your behavior was unethical and illegal and leaves you vulnerable to disciplinary and civil actions.



Example 2



I am preparing a newsletter that needs a recipe for Roasted Szechwan Pepper Salt and directions for hard cooking eggs. *My China Moon* cookbook has a recipe for Roasted Szechwan Pepper Salt. The cookbook is copyrighted and includes a statement saying that no portion of the book may be reproduced without permission of the publisher, but I saw the same recipe in the newspaper last month. Also, I bought the cookbook and I'm using the recipe for educational purposes and not selling it, so what's the harm? Just in case I could get in trouble, I'll slightly modify the ingredient list so that I am not copying the recipe exactly.

For the hard-cooked eggs, I'll look up the directions in the *Better Homes and Gardens Cookbook* and use them. The copyright statement says "all rights reserved," but I'm not sure what that means, and all directions for hard-cooked eggs are pretty much the same, anyway.

After the newsletter came out, I was called on the carpet and am facing disciplinary action.

What went wrong? *The China Moon cookbook is copyrighted. When it says no portion may be used without permission, it means just that. Even if the recipe appeared in a newspaper, you may not clip it and reprint it. The newspaper had to get the author's permission, but that permission does not extend to you. Altering the recipe does not make it your property. If you do alter a recipe because you like it better that way, you still have to seek permission from the author and note in your citation that the original has been modified and indicate how.*

If you quoted the hard-cooked egg directions exactly, you must seek permission. However, since the process of hard cooking eggs is in the public domain, general use of the directions with proper citation is acceptable. In other words, you're using the cookbook as a reference, not for a specific direct quotation.

Sources of more information:

United States Copyright Office

Public Information 202/707-3000

Forms Request 202/707-9100

United States Treasury Department 202/622-2000

At MSU:

Office of Intellectual Property 517/355-2186

Office of Public Relations. 517/355-2281

Outreach Communications 517/432-1555

University Licensing Programs. 517/355-3434

Web sites:

U.S. Government Office. . . <http://www.lcweb.loc.gov/copyright/>

Copyright Clearance Center <http://www.copyright.com>

Copyright and Fair Use <http://fairuse.stanford.edu>

Fair Use Guidelines . . <http://www.library.miami.edu/tools5.html>

Other Sources You Find Helpful:

MSU is an Affirmative-Action Equal-Opportunity Institution. MSU Extension programs are available to all without regard to race, color, national origin, sex, disability, age or religion.

Use of Copyrighted Materials Decision Tree

