



The New Copyright Law and Teaching College-Level Agriculture

Jack C. Everly

Abstract

The major concerns of faculty and institutions as users and producers under the new copyright law are covered with concluding statements about the future.

On October 21 President Ford signed into law a comprehensive copyright reform bill. The law will take effect January 1, 1978. While a precise assessment of its impact is difficult, it certainly will have important implications for NACTA members who are both **producers** and **users** of copyrighted materials. The new measure represents the first major revision in federal copyright laws in 67 years. Supplanting the archaic copyright law of 1909, the new measure attempts to reconcile the rights and interests of the **producers** and the **users** of copyrighted materials while recognizing such technological innovations as video taping, photocopying, and other duplicating procedures which can be used to abridge the author's rights.

User or Producer

Your "attitude and concern" about the new law as a teacher depends on the kinds of instructional projects you have on hand. If you are developing an instructional module which you think is excellent and you might want to share with others by marketing, but want to maintain legal rights to it for your institution or yourself, as a producer, you are interested in copyright protection.

On the other hand, if you are putting together a lecture and wish to use materials which have been copyrighted by others, you probably think the whole copyright legal framework is something you wish would go away so you could just do your teaching job. Thus, your concern has shifted as a user.

It is important for NACTA members to keep in mind that in both these cases, copyright forms the basis for the creation and dissemination of unique instructional materials, be they print, slides, audio cassettes, films or video tapes. Without copyright provisions, most of the classroom books and references, the instructional films and videotapes and other multimedia materials, would not exist for you to use in teaching. In our society, as well as the rest of the world, few efforts in the pro-

Jack Everly is associate professor of Agricultural Communications, College of Agriculture, and head of the Instructional Media and Television Divisions, Office of Instructional Resources, University of Illinois at Urbana-Champaign.

duction of instructional materials are sustained without some promise of reward, either monetary or personal, or in the best of all situations, both.

Teachers have accused copyright specialists of making copyright complicated. Fortunately, it can be reduced to these two cardinal rules that you need to know:

1. If you are using copyrighted materials, make sure your use is legal.
2. If you are developing materials worth protecting, copyright them.

Teacher as User

Of special concern and interest to users is the interpretation of Section 107 of the new copyright law which covers the concept of "fair use." This defines what is legal for a teacher to duplicate with no infringement on copyright. The criteria for establishing "fair use" under the new law are:

- (1) the purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

Although these criteria are general, past court cases and guidelines drawn up for Congress help the user to interpret what he can legally do under "fair use." These indicate that a teacher or research scholar will be allowed to make, for use in his or her professional work, a single copy without copyright infringement of:

- a chapter from a book
- an article from a periodical or newspaper
- a short story, short essay, or short poem

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- a chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper.

Producing multiple copies of "brief" works for classroom use is permitted. Brief is defined as:

- a complete poem, if it is less than 250 words and printed on not more than two pages.
- an excerpt from a longer poem, if it is less than 250 words.
- a complete article, story, essay, if it is less than 2500 words.
- an excerpt from a prose work, if it is less than 1,000 words or 10 per cent of the work, whichever is less.
- 1 chart, graph, diagram, drawing, cartoon, or picture per book or periodical.

Permissible photocopying must be "spontaneous," in that the "decision to the use the work and the moment of its use, for maximum teaching effectiveness, are so close in time that it would be unreasonable to expect a timely reply to a request for permission."

No photocopying of "consumable" works such as workbooks or standardized tests is allowed.

In putting together audiovisual materials to support teaching, care must be taken that all four conditions of "fair use" are met or you must get permission from the copyright holder to prevent copyright infringement and possible complications for you and your institution. It's important to remember that some instructional media, like film, are sold with conditions of sale which prohibit their use in any form other than that which they were originally sold without expressed permission of the copy-right owner.

It is illegal to do a "quick and dirty" audiovisual creation where you combine parts of your own with parts of other material which may or may not be copyrighted and portray them as your own creation. The way around this dilemma is to take the ideas which you find expressed in the copyrighted materials and make your own unique audio and visual expressions in new words and visuals. Obviously, in the case of photographs, films, and drawings, this is difficult. However, ingenuity can do wonders. It's up to you to decide whether you are willing to use your ingenuity to develop a different way of expressing the idea or whether you wish to get permission from the copyright owner to use his creation.

When requesting permission, include the following information:

1. Complete details on materials to be used, including title, author and/or producer, edition, etc.
2. Identify exact portion of materials to be used, giving amount, page numbers, location from start frame of footage, frames, etc., or if audio the time in from start plus first phrase

and ending phrase of the portion used and total time of portion used.

3. The number of copies to be made.
4. The use to be made of the creation.
5. Whether the material is to be sold.
6. The type of use (identify medium like slide, videotape, etc.).

Standard application forms for obtaining permission from publisher's or producers are available from the following associations:

Print

Association of American Publishers
1707 L Str, NW, Suite 420
Washington, DC 20036

Non-Print

Association of Media Producers
1707 L Str, NW, Suite 515
Washington, DC 20036

Teacher as the Producer

The right of "fair use" for a user of copyrighted materials is closely tied to the "bundle of rights" reserved for the producer of such materials. These are defined as the exclusive rights to copy (publish) in any and all forms, the right to translate into other languages and dialects, the right to dramatize, the right to novelize, the right to arrange or adapt, and the right to perform.

What may be copyrighted?

Ideas cannot be copyrighted; only the expression of ideas can be granted protection. For example, the concept "how rain is formed" cannot be copyrighted, but the unique expression of this concept developed by a teacher can be.

NACTA members may have had difficulty in exchanging locally produced teaching materials between institutions because instructors who created the materials were unwilling to let them be sent to other universities. They feared that if the materials got out of their control, they would lose the right to have the materials copyrighted.

Their concern is well founded. Materials are fully protected by common law copyright from the moment of creation. This can last indefinitely, but it is lost through **publication**. It can also be lost through uncontrolled duplication or circulation. The creator may make multiple copies of the materials for distribution to a limited number of people for a limited purpose. This usually includes distribution to obtain criticism, or evaluation, or to validate the materials, or to seek publication.

It may also be safe for the creator to make limited use of materials in his/her classes as long as the copies are all recovered and may not be duplicated.

Whenever the distribution or copying ceases to be carefully controlled by the creator, it may be considered "divestive publication." Divestive publication may occur even though the item has not been published in the normal sense of the word. Divestive publication forfeits common law copyright and all future claims for statutory copyright.

Teachers have been reluctant to offend their peers by not sharing their creative works. However, it can be done simply by the use of the statutory copyright to protect the learning materials used outside the personal control of the creator. To implement this, all you have to do is put the proper copyright notice on the material and make sure this is retained by the user. The fact that you have to put the copyright notice on the material clears the way for unlimited sharing of the material between teachers or institutions without fear of losing the copyright on the work.

How to Do It

In the past, institutions and individuals were reluctant to get involved with registration and deposit procedures required. However, the courts have determined that one does not forfeit copyright protection because of failure to complete registration and deposit. To guarantee statutory copyright protections it is only necessary to place a correct copyright notice on your material before it enters the channels of distribution. The copyright notice consists of the following elements:

1. "Copyright" or the symbol © small c in a circle for everything except sound recordings which must use Ⓟ small p in a circle.
2. The above is followed by the year of publication.
3. The final element is the name of the copyright owner or owners.

The following examples illustrate the use of these elements.

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In non-print materials the copyright notice should be located where it is easily seen. For example, in projected materials it should be in the title frame or credit frame(s) of the slide set, videotape, or film. For individual slides the normal practice is to place the notice on the mounts, however, some institutions are starting to superimpose the notice right in the projected image near the base of the slide. This may become more of a common practice as institutions start to share resources but want to protect their rights to the original creation.

For audio cassettes, the notice should appear right on the body of the cassette, not on the box. For printed materials, the notice is located on the title page or the page following the title page.

The placement of the copyright notice on the materials gives you full copyright protection with little fuss or hassle. However, the copyright office may become aware that registration and deposit has not been completed and demand that it be done. Teachers or institutions that receive such a notice have three months to complete the registration and deposit process. Those who do not, lose the copyright and may, in addition, be fined

up to \$100 and be required to pay the Library of Congress up to twice the retail price of the item.

The copyright protection has been extended by the new law to 50 years after the death of the author. In the case of institutions, copyright protection is for 75 years.

Conclusion

The new copyright law is a fact of life, and as a user or producer we need to comply. Certainly, much of the hassle in copyright protection has been removed for the producer and the "fair use" doctrine now has guidelines for the user. By using proper copyright notices, universities and individual teachers can share their teaching materials and not jeopardize the future use of the materials by themselves or their institution.

Faculty and institutional rights in institutional-sponsored instructional materials will receive renewed interest. Many institutions already have well defined policies. For those faculty and institutions searching for good criteria for the establishment of policy, the following references are suggested:

For two-year institutions

George H. Voegel and Marshall Fisher, "Copyright and Ownership of College-Developed Materials," *New Directions for Community Colleges*, No. IX, Spring, 1975, pp. 51-57.

For four-year institutions

Faculty and University Rights in University-Sponsored Instructional Materials, Michigan State University, Approved by Board of Trustees, November 16, 1973, East Lansing, MI. (a copy may be obtained by requesting it from the Office of the Provost, Michigan State University, East Lansing, MI 48824.)

As teachers of college level agriculture we can continue to gripe about copyright. A much better alternative is to accept and work with the new law and use it to help our profession to grow and develop.

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An Approach

Instructional Development In A College of Agriculture

Keith Wharton

Abstract

This article describes the instructional improvement activities of the College of Agriculture, University of Minnesota, during the years 1971-76. Based upon the belief that an already good instructional program could be made even better by encouraging and supporting the development of individual faculty members, strategies for accomplishing this were devised. These strategies included efforts to bring faculty members together to study and discuss teaching, to seek fresh ideas from outside the College, to take the program of instructional improvement to the teachers, and to provide tangible rewards to those who were making gains. Examples of these activities of the program include off-campus instructional retreats, "brown-bag" discussion groups, special college-wide seminars, travel-study grants to individual teachers, projects funded by the University Educational Development Program, and assistance provided by the College of Education. Plans are to continue the program, with modifications made to permit more in-depth study and work on specific projects by small groups of teachers.

It is often good to stop what you are doing, back away from it all, try to see what has been accomplished, and plan for the future. We have recently done that with our instructional improvement activities in the College of Agriculture at the University of Minnesota, and I want to share our experiences with you, the members of NACTA, who I know are dedicated to the improvement of instruction in Agriculture. I do so, not with the implication that you should do likewise, but simply to continue the interchange of experiences among colleges and teachers of

Agriculture that has helped to bring the quality of instruction in Agriculture to the high level that it is today and will keep it there in the years ahead.

I will review the beliefs upon which we have operated for the past five years (1972-1976), outline the strategy we have followed, give some examples of our activities, and discuss briefly our plans for the future.

Beliefs and Strategies

We began with the belief, based upon the best evidence that we had, that the quality of instruction in our College was already good, but that we could make it better. This may at first glance appear to be a trivial point, one that might be stated out of politeness to avoid offending and alienating the faculty members involved in teaching; but it was, in fact, one of the two primary beliefs that have given overall guidance to our entire instructional improvement program. Given that the quality of instruction in the College was good, we could proceed judiciously to identify and respond to unmet needs and to introduce ideas and innovations that would make good programs better. In other words, we could make fine adjustments to our operating machinery rather than having to begin with a complete overhaul.

The second major belief upon which we have based our instructional improvement program is that the only person who can significantly change and improve instruction is the individual teacher in the classroom. Until that person becomes dissatisfied with what he or she is accomplishing, makes a commitment to do something about it, and follows through on this commitment, not much is going to happen. We have, therefore, directed our attention toward the continued development of the individual faculty member within the context in which he or she is working. This means that we have considered

Keith Wharton is professor and coordinator of Educational Development, College of Agriculture, University of Minnesota.