ACTCM Copyright Policy
May 2013

1. Copyright Compliance Policy for the Library and Classroom
The purpose of the American College of Traditional Chinese Medicine (ACTCM) Copyright Compliance Policy for the Library and Classroom use is to provide a summary of U.S. copyright law and to provide guidelines and procedures for obtaining permission to use copyright protected materials. Please see Copyright Basics, 2008. (www.copyright.gov/circs/circ01.pdf)

The goal of this policy is to provide ACTCM administrators, faculty, alumni, librarian, students, employees, and others in the ACTCM community with a standard approach for complying with copyright law. This policy covers classroom issues such as photocopying, online and distance education, and course handouts. It also covers library policies on print and electronic reserves and document delivery. Other ACTCM copyright and intellectual property policies complement this policy by providing guidance on copyright issues beyond text-based materials used in the classroom and library.

This policy provides practical advice and procedures on copyright-related matters; however, it is not a substitute for legal advice, and proper legal advice should be obtained when necessary. The information presented here is only general information.

2. What is Copyright?
Simply put, “copyright is a legal device that provides the creator of a work of literature, or art, or a work that conveys information or ideas, the right to control how the work is used” (Fishman, 2008, pg 6). The intent of copyright is to advance the progress of knowledge by giving the author of a work an economic incentive to create new works (Loren, 2000, pg 12). Copyright is an area of law that provides creators and distributors of creative works with an incentive to share their works by granting them the right to be compensated when others use those works in certain ways. Specific rights are granted to the creators of texts, images or audio-visual materials in the U.S. Copyright Act (title 17, U.S. Code). If one is not a copyright holder for a particular work, as determined by the law, one must ordinarily obtain copyright permission prior to reusing or reproducing that work. However, there are some specific exceptions in the Copyright Act for certain academic uses, and permission is never required for certain other actions, such as reading or borrowing original literary works or photographs from a library collection.

3. What is Protected by Copyright?
The rights granted by the Copyright Act are intended to benefit "authors" of "original works of authorship", including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural and audiovisual creations. This means that virtually any creative work that one may come across—including books, magazines, journals, articles, newsletters, maps, charts, photographs, graphic materials, and other printed materials; unpublished materials, such as analysts' and consultants' reports; and non-print materials, including electronic content, computer programs and other software, sound recordings, motion pictures, video files, sculptures, and other artistic works—is almost certainly protected by copyright. Among the exclusive rights granted to those "authors" are the rights to reproduce, distribute, publicly perform and publicly display their works.
These rights provide copyright holders control over the use of their creations and an ability to benefit, monetarily and otherwise, from the use of their works. Copyright also protects the right to "make a derivative work," such as a movie from a book; the right to include a work in a collective work, such as publishing an article in a book or journal; and the rights of attribution and integrity for "authors" of certain works of visual art. Copyright law does not protect ideas, data or facts.

In the U.S., the general rule of copyright duration for a work created on or after January 1, 1978 is the author’s life plus 70 years after the author's death. This is often referred to as "life-plus-70". Works created by companies or other types of organizations generally have a copyright term of 95 years. For more information on copyright duration, visit www.copyright.gov/circs/circ15a.pdf.

4. Fair Use (Please see www.copyright.gov/fls/fl102.html)
A provision for fair use is found in the Copyright Act at Section 107. Under the fair use provision, a reproduction of someone else's copyright-protected work is likely to be considered fair if it is used for one of the following purposes: criticism, comment, news reporting, teaching, scholarship and research. If the reproduction is for one of these purposes, a determination as to whether the reproduction is fair use must be made based upon four factors:

4.1 The purpose and character of use (principally, whether for commercial or nonprofit educational use);
4.2 The nature of the copyright-protected work;
4.3 The amount and substantiality of the portion used; and
4.4 The effect of the use being evaluated upon the potential market for or value of the copyright protected work.

Fair use is an ambiguous concept and the law does not state exactly what uses of a copyrighted work will be considered fair uses under the law and may therefore be used without obtaining permission. As such, individuals who are not lawyers may often need to be interpreters of the law in everyday circumstances, and answers as to how much reproduction may be considered fair use often remain unclear. The bottom line is that fair use requires a very circumstance-specific analysis as to whether a particular use or reuse of a work may indeed be considered fair use.

To minimize the risk of copyright infringement, ACTCM interprets the following situations as fair use:
1) Quotation of short passages in a scholarly or technical work for illustration or clarification of the author’s observations;
2) Reproduction of material for classroom use where the reproduction is unexpected and spontaneous – for example, where an article in the morning’s paper is directly relevant to that day’s class topic. This would generally cover one time use in only one semester/quarter;
3) Use in a parody of short portions of the work itself; and
4) A summary of an address or article, which may include quotations of short passages of the copyright-protected work.
If the use does not meet the above criteria and the work is protected by copyright, one should obtain permission to use the work from the copyright holder or its agent.

All ACTCM faculty must include the following statement in their PowerPoint/slide presentations to protect themselves and the college “Graphics and quotations contained in these slides may be copyrighted and are intended for educational purposes only in the context of this class.”

**In summary, the general rules for ‘Fair Use’ for faculty are as follows:**

Copying by instructors must meet tests for brevity and spontaneity:
- Brevity refers to how much of the work you can copy
- Spontaneity refers to how many times you can copy and how much planning it would take to otherwise seek and obtain permission from a copyright holder (US Copyright Office, 2009, p. 6).

According to the rule, the need to copy should occur closely in time to the need to use the copies. If you use something repeatedly, it is less likely to be considered fair use. The expectation is that you will obtain permission from the copyright holder as soon as it is feasible. Using something over a period of multiple semesters/quarters or years is not within the spirit of the fair use exception. In addition, works should never be copied in their entirety. Until faculty have time to obtain permission, they may use a chapter from a book (never an entire book), an article from a periodical or newspaper, a short story, essay or poem, a chart graph diagram, drawing, cartoon, or picture from a book, periodically or newspaper.

What should faculty avoid: Copying an entire book; making multiple copies of different works that could substitute for the purchase of books, publisher’s reprints, or periodically; copying and using the same work from quarter to quarter; copying and using the same material for several different courses at the same institution; and copying more than one separate time in a single quarter/semester.

Obtaining permission is required when one wants to use the materials repeatedly, for commercial purposes or when you want to use a work in its entirety, especially when it is longer than 2,500 words (US Copyright Office, p. 7)

**Students** must follow all the copyright rules as stated in this policy. In addition, students may not take materials such as but not limited to faculty notes, syllabi, handouts, graphs, PowerPoint presentations and re-produce them or sell to others without the written permission of the faculty member.

**5. Types of Use (Please see “Reproduction of copyrighted works by educators and librarians” at www.copyright.gov/circs/circ21.pdf)**

5.1 Classroom Handouts
Based on ACTCM’s fair use analysis, classroom handouts fall into two categories; one that requires permission and one that does not. If the handout is a new work for which one could not reasonably be expected to obtain permission in a timely manner and the decision to use the work was spontaneous, one may use that work without obtaining permission. However, if the handout is planned in advance, repeated from quarter to quarter, or involves works that have existed long
enough that one could reasonably be expected to obtain copyright permission in advance, one must obtain copyright permission to use the work.

5.2 Course Packets (collection of articles, chapters, etc. put together for a class)
All articles, chapters and other individual works in any print or electronic course packets require copyright permission. [The exception is if the library has an electronic version of an article, professors can link to that version of the article without needing copyright permission, as long as the article is licensed for use at ACTCM, no additional copyright clearance is needed.] Copyright permission for course packets is usually granted by the academic period. To reuse a course packet in subsequent academic periods (e.g. semester, quarter, trimester, etc.), one should obtain permission again. Many copyright holders provide time sensitive permission because their own rights may be time-sensitive and could be transferred to different copyright holders at any time. When ordering course packets it is important to clarify who will obtain permission for the course packet—the librarian, the faculty member or a member of the administrative staff. Deferring responsibility for copyright permission will not provide one protection against a claim of copyright infringement.

5.3 Reserves
If the ACTCM library owns a copy of a publication, the library may place that copy on reserve without obtaining copyright permission. If the library wishes to reproduce additional copies of a work and place them on reserve for students to review, in either paper or electronic format, the library must obtain copyright permission.

5.4 Photocopying in the Library
It is permissible to photocopy copyright-protected works in the ACTCM library without obtaining permission from the copyright owner at request of the library user when the requested material consist of articles and short excerpts. At the request of a library user or another library on behalf of a library user, the ACTCM library may make one reproduction of an article from a periodical or a small part of any other work. The reproduction must become the property of the library user, and the library must have no reason to believe that the reproduction will be used for purposes other than private study, scholarship and research. As recommended by Section 108 of the Copyright Act, the library must display the register's notice at the place library users make their reproduction requests to the library. ACTCM will post the copyright notice by the photocopy machine.

5.5 Archival Reproductions of Unpublished Works
Up to three reproductions of any unpublished work may be made for preservation or security or for deposit for research use in another library or archive. This may be a photocopy or digital reproduction. If it is a digital reproduction, the reproduction may not be made available to the public outside the library or archive premises. Prior to receiving any of the three reproductions permitted under this provision from another library or archive, the ACTCM library or archive must make a reasonable effort to purchase a new replacement at a fair price. The reproducing library or archive must also own the work in its collection.

5.6 Replacement of Lost, Damaged or Obsolete Copies
The ACTCM library may make up to three reproductions, including digital reproductions, of a published work that is lost, stolen, damaged, deteriorating or stored in an obsolete format. Any
digital reproductions must be kept within the confines of the library (that is, available on its computer but not placed on a public network.)

5.7 Library User Requests for Entire Works
One reproduction of an entire book or periodical may be made by the ACTCM library at a library user's request, or by another library on behalf of an ACTCM library user upon certain conditions being met. These conditions include the library determining after reasonable investigation that an authorized reproduction cannot be obtained at a reasonable price. Once made, the reproduction must become the property of the library user. The library must have no reason to believe that the reproduction will be used by the user for purposes other than private study, scholarship and research, and the library must display the register's notice at the place library users make their reproduction requests to the library.

5.8 Photocopying for Students
The ACTCM library may make reproductions for library users (students, faculty, etc.), provided the following criteria are met:
   a) The library makes one reproduction of an article from a periodical or a small part of any other work.
   b) The reproduction becomes the property of the library user.
   c) The library has no reason to believe that the reproduction will be used for purposes other than private study, scholarship and research.
   d) The library displays the register’s notice at the place library users make their reproduction requests to the library.

5.9 Photocopying by Students
Photocopying by students is subject to a fair use analysis as well. A single photocopy of a portion of a copyright-protected work, such as a copy of an article from a scientific journal made for research, may be made without permission. Photocopying all the assignments from a book recommended for purchase by the instructor, making multiple copies of articles or book chapters for distribution to classmates, or copying material from consumable workbooks, all require permission.

5.10 Document Delivery Services
It is important to maintain a distinction between Inter-Library Loan (ILL) and Document Delivery Services (DDS). Photocopying for DDS requires copyright permission.

5.11 Interlibrary Loan (ILL)
The ACTCM library may participate in interlibrary loans without obtaining permission provided that the "aggregate quantities" of articles or items received by the patron do not substitute for a periodical subscription or purchase of a work. ACTCM follows the National Commission on New Technological Uses of Copyrighted Works (CONTU) guidelines for defining "aggregate quantities." The CONTU guidelines state that requesting and receiving more than five articles from a single periodical within a calendar year or a total of six or more copies of articles published within five years prior to the date of request would be too many under CONTU. If the articles or items being copied have been obtained through a digital license, one must check the license to see under what terms and conditions, if any, interlibrary loan is permitted.
5.12 Distance Education and Course Management Systems
In 2002, the Technology, Education and Copyright Harmonization (TEACH) Act became law and expanded the latitude universities and colleges, including ACTCM, have for the performance and display of copyright-protected materials in a distance education environment, including through the use of Course Management Systems (CMS). The copyright requirements for Teacher Education Assistance for College and Higher Education (TEACH) and Content Management System (CMS) postings are similar to those of classroom handouts, but extend the traditional rules for those handouts to the digital transmission of materials to distance education students. If the use is spontaneous and will not be repeated, copyright permission is not required; however, the content may not remain posted for extended periods of time. If the use is planned, repeated or involves works that have existed long enough that one could reasonably expect to receive a response to a request for copyright permission, you must obtain copyright permission.

6. Copyright and Foreign Works
The United States is a member of the leading international copyright treaty, the Berne Convention. As such, when ACTCM uses a copyright-protected work from another country, the protections provided to works by U.S. copyright law automatically apply to the use of that work as well (assuming the use takes place in the U.S.). Copyright Clearance Center has many reciprocal licenses to allow use of materials from other countries.

7. How to Obtain Copyright Permission to Use Copyright-protected Materials, When Required
Such permission must be obtained prior to using those materials. Obtain permission in writing (including e-mail). Provide the ACTCM librarian a copy of each permission form or letter. The time to obtain permission may vary and, where possible, it is recommended to start the permissions procedure at least six months prior to the time that you wish to use the materials. If one needs a quicker permission, let the copyright owner know this and he/she may be able to get back to you more quickly. Please see # 9 for a sample letter requesting permission.

The ACTCM Library is the quickest one-stop resource for obtaining copyright permission. The Learning Resource Center (LRC) will facilitate contacting rights-holders, vendors or copyright clearinghouses on your behalf.

Please remember to allow adequate time for permissions to be obtained. All costs associated with obtaining permission to reproduce materials will be charged back to the appropriate department.

8. Fact Finding Questions
Once one has identified the materials one wishes to use and determined that copyright permission is required, one must locate the copyright holder. If the copyright holder is not listed on the work, locating the appropriate person or entity to grant permission may take some investigative and creative work.

The Copyright Office of the Library of Congress (www.loc.gov) may be of assistance in locating a copyright owner if the work is registered. Note, however, that copyright is automatically granted to all works upon their being written down and that registration with the Copyright Office is not required. The ACTCM Library is the primary copyright contact for the ACTCM
9. Information in One’s Permission Request

The copyright holder or its agent will require the following information in order to provide one with permission:

a. Title of the material;

b. Creator/author of the material;

c. Publisher of the material;

d. Description of material;

e. ISBN or ISSN, if applicable;

f. Date of publication, if applicable;

g. Purpose for which one wishes to reproduce the item (research, commercial, educational, etc.);

h. How the material is to be reproduced (e.g., photocopied, digitized); and

i. Where the reproduced material will be used or will appear and for how long.

The following sample letter is for your convenience:

“Materials Permission Department
Academic Book Company
Street, City, County and zip-code
Date

Dear Sir/Madam:
I would like permission to copy the following for use in my class (name of the class) next quarter or (next quarter and subsequent quarters) during which the course is offered.

Title:
Copyright:
Author(s)

Material to be duplicated (example – Chapter 9 or list pages)
Number of Copes: example – 30

Distribution: The material will be distributed to students in my class and they will pay only the cost of the photocopying.

Type of reprint – Photocopy

Use: The chapter (or pages) will be used as supplemental teaching materials.

I have enclosed a self addressed envelope for your convenience in replying to this request.

Sincerely yours,

Name
Position
American College of Traditional Chinese Medicine
455 Arkansas Street
San Francisco, CA 94107
USA”
The above letter may be modified if written by a staff member, student, etc.

10. **Reporting Suspected Infringements**
If one suspects that anyone at ACTCM, including a student, is using any copyright-protected material without the permission of the copyright holder, immediately report this to the Librarian at 415-355-1601 x 320.

11. **Review and Interpretation of the Policy**
This Policy is reviewed annually by the President’s Council. For interpretation of this Policy, contact the Librarian.

12. **Digital Millennium Copyright Act**
ACTCM complies with the provisions of the Digital Millennium Copyright Act (DMCA). Pursuant to the DMCA, it is illegal, as described in the federal law (Title 17 of the US Code, and more recently the Digital Millennium Copyright Act, 105 PL 304), to download, upload, or distribute in any fashion, copyrighted material in any form including, but not limited to electronic data, information, voice, video, and software without permission or a license to do so from the copyright holder. The College neither condones nor supports in any way the use of copyrighted material in ways in which it was not intended. The designated agent for the College to receive notification of claimed infringement under Title II of the DMCA is the Chair of the Copyright Committee.

13. **Procedure to Resolve the Matter**
   a. If IT is informed about a copyright infringement, they will send the entire complaint to the Chair of the Academic Council;

   b. If the complaint involves faculty, administrators, alumni or staff, the Chair of the Academic Council will send the entire complaint to the person involved, with copies also being sent to the appropriate department head, with a request to produce proof that they have explicit permission or license to use that material in the manner described in the complaint. If the complaint involves a student, the complaint will be sent directly to the Academic Council to investigate.

   c. If the involved person does not produce the proper documents, the Chair of the Academic Council will ask that the specific material and any other similar material they may have stored be removed. The Chair of the Academic Council also will inform a faculty member that if the College receives a second complaint related to this incident and the permissions required are not produced, the Copyright Committee will send the complaint to the Human Resources to investigate and take appropriate disciplinary action up to and including termination. In the event that the individual involved is a student, the Chair of the Academic Council will inform the Director of Student Affairs of the concern. The non-compliant student may be expelled if she or he does not comply with the request of the Academic Council. In the event that the individual involved is a staff person, the issue is forwarded to the office of the President. In the event that the person involved refuses to comply, the Academic Council, after consulting with the appropriate department head, and Human Resources, will ask the network administrator to block access to or from that account or
computer, and send a report of this action to the Academic Council. The Academic Council will notify the complainant of how the issue was resolved and the procedure that was followed.

d. The Academic Council will retain the record for three years from the date of receiving the complaint.

14. Ownership of Copyrightable Materials and Patents
The following describes ACTCM policies and associated administrative procedures for ownership of copyrightable materials and patents. Its objectives are:

- To enable the College to foster the free and creative expression and exchange of ideas and comment;
- To establish policies and procedures for sharing income derived from copyrightable materials and patentable inventions produced at the College; and
- To protect the College’s assets.

15. Copyright Ownership
Copyright is the ownership and control of the intellectual property in original works of authorship that are subject to copyright law. It is the policy of the College that all rights in copyright shall remain with the author or authors of the work, with certain stated exceptions.

The exceptions to this policy that shall vest ownership of the copyright in a work with the College, rather than with the author or authors of the work, are:

15.1. If the work is a work-for-hire as defined by United States copyright law.

15.2. If the work is defined as an Institutional Work: Institutional works include works that are supported by a specific allocation of College funds or that are created at the direction of ACTCM for a specific College purpose. Institutional works also include works whose authorship cannot be attributed to one or a discrete number of authors but rather result from simultaneous or sequential contributions over time by multiple faculty and students. For example, software tools developed and improved over time by multiple faculty and students where authorship is not appropriately attributed to a single or defined group of authors would constitute an institutional work. The mere fact that multiple individuals have contributed to the creation of a work shall not cause the work to constitute an institutional work.

15.3. If the work is commissioned by the College.

15.4. If the work makes significant use of the College resources or personnel. ACTCM resources are to be used solely for College purposes and not for personal gain or personal commercial advantage, nor for any other non-College purposes. Therefore, if the creator of a copyrightable work makes significant use of the services of the College non-faculty employees or College resources to create the work, the creator shall disclose the work to the chief academic officer of the College and assign title to ACTCM. Examples of non-significant use include ordinary use of desktop computers, the Librarian and limited secretarial or administrative resources. Questions about what constitutes significant use shall be directed to the College’s outside legal counsel.
15.5. If the work is otherwise subject to contractual obligations.

15.6. If the work is an audio, video, photographic or any form of digital reproduction of a class, course, or presentation made by College faculty, staff, or students with the permission of those appear in these materials.

Courses taught and coursewares developed for teaching at ACTCM belong to the Developer. Courses, which are videotaped or recorded using any other media, are College property, and may not be further distributed without permission from the chief academic officer of the College.

Faculty are paid to produce course syllabi; as such, syllabi remain the property of ACTCM, and without requesting permission from the Developer, to use within the College in perpetuity all Academic Works created by the Developer for educational and administrative purposes. The Developer retains the right to be identified as the creator of such Academic Works if desired. The Developer will be kept informed of the use of the work if requested, and retain control over the use of the Developer's name on the work if the content is changed.

15.7. If the work includes images of College-owned facilities, buildings, or property for purposes other than scholarly research and publication.

15.8. If the work includes the name, seal, logo, insignia, trademark or wordmark of ACTCM as an endorsement, enhancement, or sanction for a product or service. With respect to the foregoing works, the College shall be the owner of the copyright of the work. As such, the College may decide to assign its copyright to the author or authors of the work on a case-by-case basis.

16. Contractual Obligations of ACTCM

This Copyright Ownership Policy shall not be interpreted to limit the College’s ability to meet its obligations for deliverables under any contract, grant, or other arrangement with third parties, including sponsored research agreements, license agreements and the like. Copyrightable works that are subject to sponsored research agreements or other contractual obligations of the College shall be owned by ACTCM, so that the College may satisfy its contractual obligations.

Reconveyance of Copyright to the Creator: When copyright is assigned to the College because of the provisions of this policy, the creator of the copyrighted material may make a request to the President of ACTCM that ownership be reconveyed back to the creator. Such a request can, at the discretion of the President and approval of the Board of Directors, be granted if it does not: a). Violate any legal obligations of or to the College; b). Limit appropriate College uses of the materials; c). Create a real or potential conflict of interest for the creator; or d). Otherwise conflict with the College’s goals or principles.

17. Determination of Ownership

The President, in consultation with the President’s Council and the Board of Directors, will resolve any questions of ownership or other matters pertaining to materials covered by this policy. In the President’s discretion, he or she may refer the matter to the Academic Council (or a Copyright Committee) for consideration. In such an event, the Council (or Committee) shall
review the case and offer a recommendation to the President regarding the appropriate
disposition of the invention. The decision of the President and Board of Directors is final.

18. Licensing and Income Sharing
18.1 Licensing: The College seeks the most effective means of technology transfer for public use
and benefit and, toward that end, handles the evaluation, marketing, negotiations and licensing of
College-owned inventions or copyrightable materials with commercial potential. Computer
databases, software and firmware, and other copyrightable works owned by the College are
licensed through the Office of the President. The President must approve in advance exceptions
to this procedure.

18.2. Royalty Distribution: The President will allocate royalties assigned to the College, upon
approval of the Board of Directors. If copyright protection alone is claimed, royalties normally
will be allocated in a similar manner, with the “inventor’s share” allocated among individuals
identified by the investigator (or department head if not under a sponsored agreement), based on
their relative contributions to the work. Where royalty distribution to individuals would be
impracticable or inequitable (for example, when the copyrightable material has been developed
as a laboratory project, or where individual royalty distribution could distort academic priorities),
the “inventor’s share” may be allocated to a research or educational account in the laboratory
where the copyrightable material was developed.

19. Assignments
No assignment, license or other agreement may be entered into or will be considered valid with
respect to copyrighted works owned by the College except by an official specifically authorized
to do so.

20. Use of the ACTCM’s Name in Copyright Notices
The following notice should be placed on the College-owned materials in order to protect the
copyright: “Copyright © [year] American College of Traditional Chinese Medicine. All Rights
Reserved.” No other institutional or departmental name is to be used in the copyright notice,
although the name and address of the department to which readers can direct inquiries may be
listed below the copyright notice. The date in the notice should be the year in which the work is
first published, i.e. distributed to the public or any sizable audience. Additionally, works may be
registered with the United States Copyright Office using its official forms.

21. Patent Ownership
The College’s Patent Policy applies to all patentable inventions conceived or first reduced to
practice by full-time, part-time or visiting faculty, researchers, staff, students, visitors and
consultants (whether paid or not), or any other persons performing research or engaging in work
at the College where such inventions may be created or discovered.

22. Ownership
Ownership on a worldwide basis in any discovery or inventions conceived or reduced to practice
by faculty, staff, students, or any other person performing research or engaging in work,
teaching, study, or mentoring of students at the College, where such inventions are created or
discovered within the course of their employment or with substantial use of College’s resources,
personnel, or facilities beyond the usual office and library provisions, will reside with the
American College of Traditional Chinese Medicine Library. College Inventions or discoveries that are made off College premises and that are unrelated to teaching and professional activities are exempt from this policy.

Any student invention or discovery will be deemed made under College’s auspices and therefore the property of the College pursuant to the patent policy only if it is made in the course of the student’s employment by the College for an assigned work project or if the student worked collaboratively with a covered faculty or staff employee covered under this policy. Royalties from the College’s licensing of any student invention or discovery will be shared with the student on the same basis that royalties are shared with faculty or staff employees.

When a patentable invention is developed through a sponsored grant or contract, the special provision contained in the grant or contract will prevail. In the absence of such special provisions, the College policy will apply. Generally, while the College is assigned the rights to intellectual property generated during the course of federally-sponsored research activities, the government retains the option to claim ownership under certain circumstances. In the event that the government does not exercise its option and regardless of ownership, the government retains a non-exclusive, non-transferable, irrevocable, royalty-free, worldwide license to the invention produced under government sponsorship.

23. Procedures for Reporting an Invention
When any person makes a discovery or invention to which this policy applies, a report of the invention should be made promptly to the President. If ownership of the invention or discovery resides with the College, the inventor(s) shall assign all intellectual property rights to the invention to the College upon the College’s request.

The Board of Directors, shall have the sole right to determine the disposition of inventions in which the College has a proprietary interest. In the President’s discretion, he or she may refer the matter to the Copyright Committee for consideration. In such an event, the Committee shall review the case and offer a recommendation to the Board of Directors regarding the appropriate disposition of the invention. The decision of the Board of Directors is final.

A decision to exercise this right shall be transmitted in writing to the inventor within 60 days of the date of disclosure of the invention. If the College decides to pursue a patent, it may recommend that the College alone, or with the assistance of an external organization such as a technology transfer company, make applications for letters of patent. Title to all such patent applications and resulting patents shall be held by “American College of Traditional Chinese Medicine.”

If the College decides not to patent an invention, or not to commercialize a patented invention, the College will release to the inventor its interest in the invention.

24. Legal Expenses and Distribution of Income
Where it elects to pursue the commercialization of inventions or discoveries subject to this policy, the College will enter into a royalties distribution agreement with the inventor.
Distribution percentages will be negotiated to reflect the relative contributions of the College and the inventor(s). In the event of multiple inventors, the inventors will be expected to agree among themselves on the fractional distribution of each inventor’s share of any royalties. The inventors shall sign a written agreement specifying the fractional distribution of their share of royalties. The inventor’s share will continue even if s/he leaves the College.

References

Open Educational Resources (OERs)

The American College of Traditional Chinese Medicine Library encourages its faculty and students to make use of Open Educational Resources (OERs) whenever possible. Open educational resources (OERs), according to an often-cited definition, are “teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that permits their free use or re-purposing by others” (Atkins, Brown, and Hammond – see below for reference). There are many resources that are freely available on the Web so that faculty members can use and adapt them for their classes.

The T.E.A.C.H. Act

In 2002, Congress passed the T.E.A.C.H. Act (Technology, Education, and Copyright Harmonization Act) in an effort to make explicit how copyright works in online and for distance education. Previously, when U.S. copyright law applied to the classroom, it applied only to face-to-face settings. While the T.E.A.C.H. Act gave educators some rights for online education, distance education environment corresponding to the rights enjoyed in the face-to-face classroom, the amount of material that may be used in online and distance education classrooms is much more restricted. Moreover, there is a significant list of conditions that educators must meet before they can use the T.E.A.C.H. Act as legal protection against copyright infringement claims. When and if ACTCM develops on-line education, the college will provide the faculty with a detailed list of the copyright restrictions for this area.

Web Site and Book References


