

## **Coaching and Copyrights - Do I need permission before I share? Coaching and Copyrights - When do I need permission?**

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Coaches place a high value on sharing - sharing self, resources and information.

Sharing takes the form of authoring books, making presentations such as workshops, speeches, and keynotes, as well as copying articles from journals and magazines and books. Additionally, coach's websites often have quotes that are inspiring or promote success, well-being and productivity. This is inherently such a natural process for coaches that it is easy to forget to consider whether permission is needed or even required.

The purpose of this article is to continue to heighten awareness of the considerations for coaches who wish to share printed material authored by others. This article follows the article written by Liora Rosen and Tina Elliott, *Ethically Speaking - Can You Copy and Paste and Stay in Integrity*, written for *Coaching World*.

The following information and answers to our questions were provided by ICF legal counsel.

Some distinctions may be helpful.

### Distribution:

1. Referencing an article verbally
2. Duplicating it and giving it in person
3. Forwarding it by e-mail or downloading PDF's

### Intention:

1. Offering an article for educational purposes, such as in a coach training setting, without monetary benefit or interest in profit
2. Offering an article for personal growth purposes to a client without monetary benefit or interest in profit
3. Making articles available during a presentation
4. Forwarding an article to a colleague

### Other:

1. Number of copies
2. Substantive versus minimal
3. Passing on reference to a URL or a webpage

## FAQs:

### 1. Can coaches give published (not their own) articles/material to their clients?

All coaches should secure consent from copyright owners before duplicating and distributing written materials, there are some "fact specific" cases that the Courts may considered "fair use", however, it is advisable to obtain written permission prior to use.

The Courts look to the following four factors in determining "fair use":

- 1) the purpose and character of the use, including whether such use is of a 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.

#### *Reproduction, Use & Distribution*

If the use or distribution has commercial elements (e.g. tuition based training or certification programs, coaches getting paid), a court, looking to the above-mentioned factors, could find infringement when reproducing, using or distributing copyrighted material. In a non-profit education setting, providing an article for the purpose of educating members, e.g., ICF virtual education (a member benefit), may fall under the "fair use" factor but not necessarily. Although coaches may use articles for education purposes, their use would most likely be for profit and not fall under fair use.

In the USA, acknowledging an author (as in stating who wrote the article), citing a publication, or crediting the source, is NOT sufficient within copyright law; if you copy a work that is currently protected, naming it will not shield you from the liability of copying the work itself. (An exception to this is work that is currently in the public domain, such as Shakespeare or Tennyson - you may copy that work because it is completely within the public domain).

Overseas, copyright rules are slightly different because authors have "a right of attribution", also known as a moral right. The author has a right to publish a work anonymously or pseudo-anonymously and has the right to the integrity of that work (barring it from being altered, changed, distorted in any way), thereby keeping the connection between the original author and his/her work intact.

In the US it is incorrect to think that you are within copyright law when you acknowledge the author and perhaps even cite the publication, thinking that you this is sufficient because you gave credit to the source. In the US, you may not copy someone else's work and that is that. However, overseas, most authors have a right of attribution (known as a moral right).

2. What permission, if any, is required if sharing material is for personal/professional growth and development?

As usual with the law (in this instance copyright law) it is best to obtain written consent from the copyright owner to avoid copyright infringement. In sharing the material, invoking the "fair use" exception is unlikely since coaches ultimately get paid for their services.

3. Is there a number when it becomes mass distribution, i.e., is sharing with 1 client different than sharing with a group?

Copying and sharing an article with numerous clients for educational purposes is no different than sharing the article with one person.

Numerous copies of an article would suggest that the purpose and character of the use was commercial as opposed to educational, and would have a significant effect on the potential market for the work. As a result, a court might find that copying the article would be an infringement.

As to damages, generally the more copies, the higher the level of damages. Some damages are based on the number of works infringed rather than the number of copies. The choice of remedy is up to the copyright owner, not ICF.

4. May I download pdfs and share with a client or with coaching students?

Downloading a PDF is no different than making a photocopy of an article.

5. Is there a legal distinction between clients and students in a coaching school?

Yes, distribution to clients constitutes commercial use whereas use for educational purposes (non-profit or for profit) in a teaching school is a

type of use that the fair use exception considers. So students are most likely off the hook as long as they are in a non-profit classroom context.

Regarding coaching schools and students:

- a. What is the legal distinction between referencing an article verbally and using it?

Since referencing an article verbally does not replicate the actual text, it does not invoke copyright laws. Making a photocopy of an article, however, does. Also, borrowing heavily (e.g. quotes) even with a proper reference is no guarantee that the quote is not also an infringement.

- b. How about forwarding it by email and /or sharing it with colleagues

If an article appears on a website, sending a link to the article does not invoke copyright since nothing is actually copied. Copying the text of the article into an email or creating an electronic copy of the article falls under copyright laws and could constitute infringement unless the owner explicitly allows this kind of sharing. An evaluation of the factors above, would determine whether the fair use exception applies.

6. Is there a length of written material that is acceptable to use out of context of an entire article without obtaining permission from an author?

Some have argued that less than six words raises a de minimus defense (under a certain number of words it is no longer a significant enough amount to constitute infringement), but suppose those were six key words to a short slogan?. The length is context dependent and therefore that concept is unreliable.

We hope this article provides further clarification regarding copyrighted material. We welcome your questions and comments.