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Questions & Answers -- Copyright Column

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**QUESTION:** When does the estate of the author come into the picture for the expiration of copyrights?

**ANSWER:** The term of copyright is completely tied to the death date of the author and is life of the author plus 70 years. Copyrights are property, and after the death of the author, copyrights pass through the author’s will to whomever she designates as the beneficiary. Should the author die intestate (without a will) then copyright passes to the heirs of the author. The 1976 Act intended that the copyright exist not only of the life of the author but also for two generations of her heirs. Whether the author, a beneficiary of the will or an heir owns the copyright, the term remains the same and is measured by the life of the author, not the owner of the copyright.

**QUESTION:** If an academic librarian is preparing a presentation for students and for colleagues, may he incorporate content from a blog without infringing copyright?

**ANSWER:** Blog content is copyrighted just as are other literary works. So, there are no special rules for blog content. A fair use portion of blog content can be used, just as a fair use portion of anything may be used. No permission is required to use a fair use portion, but for more than that, the librarian should contact the blog author, explain the use he wants to make of the blog content and ask permission to use the material.

**QUESTION:** May a library bookclub show a commercial motion picture and still comply with copyright?

**ANSWER:** Certainly it is possible for a library bookclub to view a movie, but the viewing is a public performance. Therefore, the library must seek permission and pay performance royalties, if required. If the library acquired the public performance rights when it purchased the copy of the movie, then no further permission is required. But simply purchasing the movie on DVD does not typically include the public performance rights.

**QUESTION:** Many academic institutions now have Copyright or Scholarly Communications Officers. What do these people do?

**ANSWER:** Colleges and universities have begun to recognize how important copyright is to its faculty, staff and students. While university attorneys are there to advise the institution on all legal issues, including, copyright, they typically are not able to provide the services and help that a Copyright Officer can. Typically, these positions require a law degree, and often a law degree. The duties of a Copyright Officer may include: (1) developing educational materials, online instruction and Websites about copyright for the institution; (2) offering copyright education and training programs for faculty, students and staff; (3) assisting the library by reviewing licenses for copyrighted materials; (4) answering questions for individual faculty members about the use of copyrighted works in their teaching and scholarship; (5) advising faculty about copyright transfers for their publications; (6) coordinating activities with the campus Office of Legal Counsel and (7) serving as an ex officio member of the campus Copyright Committee.

Additionally, campus Copyright Officers often develop relationships with other copyright experts around the country to share information and materials. Some officers also have responsibility for developing testimony in various hearings, etc.

**QUESTION:** Are libraries considered to be an educational institution?

**ANSWER:** For copyright purposes, the question is not whether an institution is educational in nature but whether it is organized under the U.S. tax code as a nonprofit educational institution. Nonprofit educational institutions have certain privileges and exceptions that apply to them in copyright which are not available to for-profit educational institutions or to non-educational organizations.

So, to answer the question, libraries are not necessarily educational institutions. To some extent, the answer depends on the type of library. A library in a school or college or university is a part of an educational institution, and therefore it is educational. A corporate library, even a nonprofit corporation library, is not an educational institution. A public library, while it definitely has an educational mission is a nonprofit library but not a nonprofit educational institution.