

Hands-on Activity 11: Legal and Policy Issues

Associated DataONE Lecture: Lesson 11: *Legal and Policy Issues*

Objectives: Students will explore legal issues related to data management and sharing.

Outcome: Students should be able to identify potential ethical, legal, and policy issues associated with the management of a research project and research data, including properly assigning responsibility for data ownership and stewardship. Students will also have a good understanding of legal and ethical restrictions for sharing their data.

Time Needed: 45 minutes in class. 15 outside of class for Key Reading.

URLs: None

Additional Files Needed: None

Key Readings:

- Office of Research Integrity. Guidelines for Responsible Data Management in Scientific Research. 2006. <http://ori.hhs.gov/education/products/clinicaltools/data.pdf>. Pages 5-7.
- Wall Street Journal. Alzheimer’s Research Effort Is Ensnared in Legal Dispute. 2015. <http://on.wsj.com/1NclktW>.

Notes and Instructions for Instructors:

Instructions: This exercise will engage students in a discussion of data ownership, and give them hands-on practice with identifying who owns the data they work on. Students will also discuss potential restrictions to sharing their data. Instructors may choose to do any or all exercises.

Caveat for instructors

Concise and accurate material on these complex topics is scarce. The readings we selected work well for a classroom exercise, but the answers to the “Who Owns Research Data” case study contain some confusing information. The response to the question “[Who owns research data?](#)” includes the following statement:

When data are published, the copyright is retained by the PI, who then assigns it to the publisher of the journal. Had the faculty member undertaken a research project on behalf of the university, the university would have the copyright to the data. But since faculty members generally perform research on their own, the copyright belongs to them.

The answer almost certainly was meant to address publication and copyright of articles or papers based on the research data, and not the data themselves, as articles can be copyrighted while the data on which they’re based cannot. In addition, authors may elect not to assign all copyrights to a paper to the publisher, or to publish in an open access journal.

Discussion activities:

- 1 Who owns research data? (15 min)
 - a) Read the second scenario described in “Who owns research data?” from http://ori.hhs.gov/education/products/columbia_wbt/rcr_data/case/index.html#2. In groups of 2-3 students, discuss the questions posed in the following [section](#) for this case.
 - b) Think about the research you are conducting. Identify the people and organizations with an interest in the data resulting from your research, and describe what rights each have with respect to the data. Discuss this in your group and pick one example to share with the class.
 - c) Consider the Wall Street Journal Alzheimer’s research story. Who are the stakeholders in this story? What legal and ethical claims can each make with respect to data ownership and access?

2. Identify at least 3 issues which may limit your ability to share data. Then, as a class, create a list of all potential data sharing restrictions. (15 min)

Solutions:

1.
 - a) Because research grants are contracts between the funder and a researcher’s institution, data resulting from federally funded research is typically owned by the institution, although PIs are responsible for the stewardship and management of the data. Staff, students, and postdoctoral fellows also generally do not have ownership of the data. Depending on the source of the funding, funders may also claim data ownership, while PIs/researchers may claim copyright in the publications resulting from sponsored research. Researchers should always review the intellectual property and copyright policies of their institutions in order to better understand their rights and responsibilities.
 - b) Students’ research roles will determine the correct answer to the second part of this question. See above response.
 - c) Stakeholders identified in the article include the researcher/PI (Aisen), his former institution (UCSD) and his new institution (USC). Based on what we’ve learned in this module, barring institutional (UCSD in this case) policies to the contrary, data ownership legally rests with UCSD unless they choose another arrangement. Aisen might make an ethical claim for continued access to the data, or for taking a copy with him, but without a legal basis for this, and unless there is a UCSD policy that supports this claim, he has no apparent recourse if UCSD chooses to terminate his access. USC, unless the grant is transferred, has no legal or ethical claims to data access or ownership.

2. There are many things that may restrict how data is shared. Restrictions may apply if data pertains to:
 - Threatened and endangered species
 - National security and classified research

- Export controls
- Use of Human Subjects (with personally identifiable information)
- Proprietary data and licensing restrictions.

Student Instructions:

Instructions: This exercise will engage you in a discussion of data ownership, and give you hands-on practice with identifying who owns the data you work with. You will also discuss potential restrictions to sharing your data.

Read the key readings before class.

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