

Opinion No. 54-6051

December 6, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Richard C. Grandi Business Manager New Mexico Western College Silver City, New Mexico

{*523} Sometime ago, you requested the opinion of this office as to whether or not the library of your institution had the right to copy, by microphotography, copyrighted periodicals for its own exclusive use.

On November 4, 1954, we wrote to you, advising you that it was our tentative conclusion that such microfilming of copyrighted periodicals, without first obtaining permission from the publishers thereof, would constitute a violation of the Federal Copyrights Act, but we pointed out to you at that time that we would do additional research upon the matter, which appeared to be a novel one, and that we would submit an official opinion to you at a later time.

Our research has not changed our previous opinion. The Federal Copyrights Act provides in Title 17, Section 1, United States Code Annotated, that:

"Any person entitled thereto, upon complying with the provisions of this title, shall have the exclusive right;

"(a) To print, reprint, copy and vend the copyrighted work . . ."

While the Act was probably not directed at preventing educational institutions from making use of copyrighted materials by microphotography, nevertheless the conclusion that such use, when unauthorized, would be at least a technical violation of the foregoing statute seems unavoidable.

By: Henry A. Kiker, Jr.

Assist. Attorney General