

2046 NE Waldo Road, Suite 2100 ° Gainesville, FL 32609 ° 352-392-1351 ° http://upress.ufl.edu

# Permissions Guidelines

As stipulated by the publishing agreement, you, as the author, are legally responsible for obtaining permissions to reprint copyrighted materials, paying any required permissions fees, and providing required complimentary copies of the book to the rights holders. The University Press of Florida cannot offer legal advice. This document provides an overview of information on obtaining permissions. If you have questions on these materials, please contact your acquisitions editor. If you are not sure whether a particular course of action might result in copyright infringement, you should consult an attorney.

Your book will not be permitted to move into production until all permissions have been cleared. The potential repercussions for printing material for which you do not have permission are significant and can include paying penalties to the rights holder and removing a book from sale and destroying all inventory.

# Defining Copyright, Fair Use, Public Domain, and Open Access

## **Copyright**

Copyright is the right to control how a work is reproduced and distributed and how the rights comprised in copyright are used. Copyright exists from the moment a work is created and belongs to the person creating the work. As a rule, you need permission to reproduce any work created by another person unless the material you are using falls under the "fair use" provisions of copyright law, is in the public domain, or was created for you under a work-for-hire agreement.

#### <u>Fair Use</u>

Fair use is a legal doctrine that promotes freedom of expression. It permits unlicensed use of copyrightprotected works in certain circumstances. The fair use doctrine, as codified in 17 U.S.C. 107, outlines four factors to be considered when evaluating whether a proposed use of a copyrighted work is a fair use and, thus, does not require permission from the copyright holder:

- 1. What is the purpose of the proposed use?
- 2. What is the nature of the copyright work to be used?
- 3. How much of the copyrighted work will be used?
- 4. What is the effect on the market or potential market for the copyrighted work?

In scholarly writing, the use of excerpts of text for criticism, review, or evaluation can be considered fair use. However, there are exceptions to this, such as when the source is itself quite short. In general, reproduction of all or almost all of a single work is not fair use. For example, reproducing a piece of

UNIVERSITY PRESS OF FLORIDA | The publishing arm of the State University System of Florida: Florida A&M University • Florida Atlantic University • Florida Gulf Coast University • Florida International University Florida State University • New College of Florida • University of Central Florida • University of Florida University of North Florida • University of South Florida • University of West Florida artwork or an excerpt included in an anthology would not be considered fair use. Quoting a portion of a poem, letter, or other short piece of text is often not considered fair use. If you have questions, consult your acquisitions editor.

There is no single rule or formula for determining fair use; courts evaluate fair use claims on a case-bycase basis. To determine whether your use of a copyrighted work is considered fair use, consult Columbia University Library's Fair Use Checklist and other materials in Additional Resources.

# **Public Domain**

A work is in the public domain if it is no longer under copyright law or if it has failed to meet the requirements for copyright protection. Works in the public domain may be used freely, without permission. Public domain status is determined by a complex set of laws. The following works are among those in the public domain:

- Works never held under copyright
- Materials released by rights holders
- Works prepared by the United States government or its employees
- Works first published in the United States before January 1, 1923
- Works first published in the United States before January 1, 1964 for which copyright has not been renewed
- Many materials owned by the Library of Congress as well as federal and/or state archives

To determine whether a work is in the public domain, consult the AUP Permissions FAQ or contact the US Copyright Office, both included in Additional Resources below.

# **Open Access**

A work published as "open access" is available to readers online for free. No subscription or fee is required to view the material. Although the content is freely available online, it may still be under copyright and permission may be required for use of the work. If you use material from an open access source, review any stated releases or restrictions to determine whether you need to seek permission from the publisher and/or author. The material must be properly acknowledged and cited in your work.

# **Contacts for Requesting Permission**

Once you have determined that a work requires permission, contact the rights holder in writing to request permission (see provided templates). Some works may have multiple rights holders, such as a photographer and a publisher. For a published work, begin by contacting the publisher. Even if the work is copyrighted in the author's name, the publisher usually manages reproduction rights. To reproduce photographs, diagrams, charts, maps, or images included in a published work, begin by contacting the person or institution named in the credit line. To reproduce all or part of an unpublished work, contact the creator of the work for permission. If the creator is deceased, you should contact their heirs or estates. Some artwork and photography may be managed by stock houses, such as Getty and Shutterstock, which you may find in an Internet search.

Each type of work will have its own permissions requirements. See Common Items for Reproduction below for more information about the specific type of work you would like to reproduce.

Rights are transferable, so you may need to make several inquiries to find the party that can grant permission to use the material. You are legally obligated to make reasonable efforts to contact all persons or organizations with an interest in the work you wish to use. If you have made multiple attempts to contact a rights holder but have not received a response, you <u>may</u> be able to use the work by claiming you made a "good faith effort" to acquire permission. Document all attempts to acquire permission to reduce liability for copyright infringement. We do not encourage the inclusion of materials for which you do not have express written permission and recommend replacing or removing materials for which you are not able to obtain permission, unless it is in the public domain or falls under fair use.

# What to Ask For

We have provided templates on our website for requesting permission. The production and marketing plan for each book will vary, so ask your acquisitions editor if you have questions about the terms you should be requesting. Some permission grantors have their own forms or restrictions on the use of the material. If you encounter any restrictions, notify your acquisitions editor.

When requesting permission, we recommend you provide the following information to the permission grantor:

- $\circ$  Your name as author
- Title of the work
- o Publisher
- Approximate date of publication
- Information about the work for which you are requesting permission, such as title of piece, date, source, photograph, and/or description

In nearly all circumstances, we recommend you request permission for the following:

- **Print and digital format**: Many of our books come out in a variety of formats, including cloth, paperback, and digital editions. Request permission for both print (including cloth and paperback) and digital.
- <u>**Print run</u>**: This is the number of copies of your book we anticipate making available. If you must provide a specific quantity to the rights holder, contact your acquisitions editor for the correct information.</u>
- **Worldwide distribution**: Our sales team is worldwide, and we'd like to make your book as widely available as possible. Requesting worldwide distribution means we do not need to limit the sale of your book to a specific region.
- <u>All languages</u>: While all our books are initially printed in English, sometimes other presses contact us for rights to publish a book in another language. Any language restrictions will make it more difficult for us to sell foreign translation rights. If you agree to "English only," another publisher interested in publishing a translation of your work will have to clear the permission for that language, which can be a deterrent.

- <u>No term or expiration date</u>: With current printing technology, we print many of our books as they are purchased, in a "print-on-demand" model. This approach helps us keep your book in print for as long as it has a readership. To prolong the life of your book and to avoid the need to reacquire permission at a future date, request no expiration date for the grant or an extended term limit. "Life of edition" is also acceptable.
- <u>Cover use</u>: Using an image on the cover of a book requires special permission, as this is considered promotional use. If you and your acquisitions editor have discussed using a specific image on the cover, you may need to request explicit permission to use the image on the cover of your book.
- **<u>Required credit lines</u>**: Permission grantors often require specific language to acknowledge use of the material. You should ask how the permission grantor would like to be acknowledged and incorporate this specific wording in your credit lines.

Be sure to read the paperwork that accompanies the permission very carefully for any restrictions. **Permission grants are legal documents between you, as the author, and the permission grantors.** Keep a copy of all documents granting permission and send a hard or digital copy to your acquisitions editor. If a permission grantor is restricting any of the above uses, notify your editor. If you have questions or concerns, consult the Additional Resources, your acquisitions editor, or an attorney.

# Permission Fees and Negotiating

When the rights holder requests a fee for the permission grant, make a counteroffer with a lower fee or no fee. Indicate that you, not the publisher, are responsible for the permission fees, the project is for a limited academic audience, and you are working with a university press that is not a for-profit publisher. Many rights holders will drop fees if requested; others will not. Keep in mind that you may have to replace or eliminate a piece if you opt not to pay the required permission fee.

# **Requesting Permission from International Rights Holders**

When using material from non-US publishers or rights holders, the request process is the same. Each country has its own copyright law, so the language in permission grants from other countries may be different than what you receive in US-based rights holders. Keep in mind that you will be requesting nonexclusive world rights, in all languages, for the life of the edition/no expiration date. If you receive a license and you are not certain whether it is sufficient for our needs, send it to your acquisitions editor to confirm that it allows us to publish the material.

On occasion you may receive a rights grant in a language that is not English. You must provide an English translation of this document for our records.

# **Credit for the Rights Holder**

Whether or not permission is required to reproduce an item, provide the appropriate credit material in your work. If permission is required, the permission grantor may have specific language or requirements for the credit line. It is the author's responsibility to check that these requirements have been met in the text and captions.

## **Common Items for Reproduction**

- <u>Photographs</u>: Photographs not taken by you will likely need the permission of the photographer. In some cases, the subject of the photograph may also need to grant permission, particularly if the person is identifiable, due to privacy or publicity rights.
- <u>Artwork</u>: The use of paintings, sculptures, murals, drawings, and other types of artwork may be controlled by both its copyright owner and the owner of the piece of artwork. Publishing a photograph of a piece of art may also require permission from the photographer. If a piece of art is still protected by copyright, you may need permission from the artist, the artist's heirs or estate, or the rights holder (which can be a museum, library, individual, or archive).
- <u>Film stills</u>: Many scholars use frame enlargements and publicity stills from film and television under the fair use guidelines outlined above, particularly if they are used to illustrate a scholarly argument. If you determine that your use of film stills is fair use, we recommend you limit the number of frames reprinted from one film or show and that you not use film stills for purely decorative purposes. For more information on film stills, see the Society for Film and Media Studies website listed in Additional Resources.
- <u>Tables, charts, and graphs</u>: Data found in a graph, chart, or table is not copyrightable, but use of that particular arrangement will require permission. For instance, if you reproduce a chart from another source, that would require permission. If you create a chart using published data from several sources, you likely do not need to request permission.
- <u>Text</u>: In scholarly writing, the use of short excerpts of text for criticism, review, or evaluation is considered fair use. However, there are exceptions to this, such as when the source is itself quite short. In general, reproduction of all or almost all of a single unit is not fair use. A quotation for purposes other than evaluation or criticism—"decorative" epigraphs are the most notable example of this—may not be considered fair use no matter how short the quotation, unless from a public domain work.
- <u>Poems and song lyrics</u>: You will likely need permission to reprint more than a very small portion of a poem or song. See the fair use guidelines above and consult your acquisitions editor with questions.
- <u>Interviews</u>: If you are quoting from or relying on interviews or personal information about an individual, you will need permission from the individual to publish the material. We have included an interview release template on our website.
- <u>Previously published text written by you</u>: If you have previously published your own work in a journal or another book, the publisher of that journal or book likely manages the rights for reproduction of that work. You should review your publication agreement and, if necessary, contact the publisher to request permission to reprint any work that has been previously published.
- <u>Works for hire</u>: If you pay someone to create a work for you (an illustration, a translation, or a map, for example), you become the copyright owner of that work. A work is also a "work for hire" if it is produced by an employee within their position of employment.
- <u>Unpublished materials</u>: Unpublished material is controlled by the creator, their heirs, or their estate. To find the estate of a copyright holder, consult the WATCH File or Authors Registry included in the Additional Resources.

## **Rights Log**

All authors must complete a rights log identifying rights holders, tracking permission requests, and noting any restrictions. A rights log template is available on our website along with instructions and an example of a completed rights logs. The rights log is critical in helping UPF determine whether your book can be made available in additional formats, translated into other languages, or reprinted. Your careful attention to completing the rights log is greatly appreciated.

The rights log should list every item, including photographs, drawings, song lyrics, poetry excerpts, and interviews. Each item should have its own line, even if you are the copyright owner. You will note the permissions terms on this spreadsheet, including the source of the material, the rights holder, the required credit line, formats (cloth, paperback, digital), language and territory, term, print run quantity, and promotional use. Be sure to list any restrictions that a permissions grantor may have set. You should also note any restrictions on use (such as restrictions on cropping or altering an image) as stipulated by the rights grant.

For each item requiring permission, you should send your acquisitions editor digital or hard copies of all documents and correspondence granting permission.

## **Additional Resources**

These resources provide more information about requesting permissions. If you have questions, you should consult an attorney.

- Association of University Presses Permission FAQs <u>https://aupresses.org/permissions-faq/</u>
- Copyright Clearance Center <a href="http://www.copyright.com/learn/about-copyright/">http://www.copyright.com/learn/about-copyright/</a>
- Stanford Public Domain Overview http://fairuse.stanford.edu/overview/public-domain/welcome/
- Cornell Public Domain Overview <u>http://copyright.cornell.edu/resources/publicdomain.cfm</u>
- Columbia Fair Use Checklist <u>https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html</u>
- AUPresses Social Media Reproductions, Best Practices for Academic Book <u>https://aupresses.org/wp-</u> content/uploade/2022/06/Social Media Reproduction Guidelines 20220610
  - content/uploads/2022/06/Social\_Media\_Reproduction\_Guidelines\_20220610.pdf
- Society for Film and Media Studies Resources <u>https://www.cmstudies.org/page/resources</u>
- WATCH (Writers, Artists, and Their Copyright Holders) File: database of copyright holders whose archives are in North America or the United Kingdom http://norman.hrc.utexas.edu/watch/
- Author's Registry <u>www.authorsregistry.org/</u>
- US Copyright Office <u>www.copyright.gov/</u>
- The Chicago Manual of Style: The Essential Guide for Writers, Editors, and Publishers, latest edition (University of Chicago Press)
- The Copyright Book: A Practical Guide, by William S. Strong (MIT Press, 6th edition, 2014)
- *The Copyright Handbook: What Every Writer Needs to Know*, by Stephen Fishman (NOLO, 11th edition, 2011)