

### Summary

- Authors are responsible for obtaining permission from the copyright holder to use copyrighted material in articles published in University of Chicago Press journals and for paying any associated fees.
- Allow at least 4-6 weeks to receive each permission grant.
- All permission grants must be submitted when requested by the editor, usually when your manuscript is accepted for publication.
- Permissions that are not submitted on time or that do not meet the Press standards could delay publication of your article.
- The minimum requirements are:
  - non-exclusive world distribution rights in English.
  - right to publish in both the print and electronic editions.
  - right to deposit in electronic archives.
- The preferred rights, in addition to the minimum rights, are:
  - non-exclusive world distribution rights in all languages, formats, and media.
  - right to reproduce in all reprints, editions, and derivatives, whether print or electronic.
- The Press cannot accept permission grants that:
  - restrict use to a specific period of time.
  - require payment of renewal fees.
  - place restrictions on access to the material, especially in the electronic edition.
- A sample permission request letter is provided below.

## Introduction

Authors who wish to submit an article to a journal published by the University of Chicago Press are responsible for securing permission to reproduce or adapt any material for which they do not hold the copyright, including payment of any fees assessed by the copyright holder for use of the material. Such material may include your own work—even if you have revised it—if you have previously assigned the copyright to a publisher or if you created it originally as a work made for hire.

Authors are encouraged to begin obtaining permissions as soon as possible. Although you may submit an article for consideration without all the necessary permissions in hand, the editor will require you to submit all the paperwork upon acceptance. Your article will not be published until all permissions have been received and accepted as sufficient by the Press. Late submission of permissions may mean your article cannot be published in the issue to which it was first assigned. Permissions that do not meet the standards outlined in these guidelines may require last-minute revisions of the article, which could also delay publication.

These guidelines cover both when you must ask for permission and when permission may not be required.

If you have questions about the guidelines, please contact the Press's Permissions Coordinator at [journalpermissions@press.uchicago.edu](mailto:journalpermissions@press.uchicago.edu).

## When is permission required?

Permission is required to use previously created, copyrightable material, except in the specific cases described later in these guidelines. Examples of material which may require permission include (but are not limited to):

- Quotes, extracts from, or reproductions of textual works
- Poetry or song lyrics
- Drawings, photographs, or fine art
- Figures, tables, and charts
- Audio or video recordings
- Computer programs

“Use” covers any of the rights protected by copyright, namely, the rights to reproduce, distribute, perform, display, and prepare derivatives of the work.

Copyright is secured automatically when the work is fixed in a tangible form. Unpublished and/or unregistered works are protected by copyright law and may also require permission for use.

## Other types of permissions

These guidelines cover copyright and related permissions. You may also need to obtain permissions or releases for uses that may affect other rights, particularly the rights of

individuals to privacy, publicity, and informed consent. Consult the instructions to contributors for the journal or contact the editor for more information.

### **Whom to ask for permission**

In general, you need to seek permission from the copyright holder of the work. The copyright holder is the creator of the work, unless:

- The creator has assigned the copyright to a third party
- The work was created as a work made for hire, in which case copyright is owned by the employer, not the employee.

When a work is created by more than one author, the joint authors are treated as “tenants in common” of the work. Each author holds an equal share in the copyright and may grant permission for its use, with or without the agreement of the other author(s). For most published works, the publisher will require assignment of copyright from all authors of a joint work, so the publisher becomes the sole copyright holder. (But see note on works of the U.S. government, below.)

Copyright law does not require that permission to use a work be sought from the creator if the creator has assigned the copyright to another party. Many publishers, however, will require author approval as a condition of granting the permission.

### **Published texts**

The copyright holder will be indicated on most published works and, in most cases, will be the publisher. The usual form of the copyright notice is: copyright symbol ©, year of publication, copyright holder. Notice is no longer required by U.S. copyright law, however, and you should not assume that lack of the copyright notice means the work is not copyrighted.

Copyright in a collective work or periodical, treated as a whole, is distinct from the copyright in each of its component parts. If you wish to use material from a journal article, for example, you must request permission from the copyright holder of the article rather than the journal itself, if the two are different.

If you are seeking permission to use a portion of a work, such as a figure, table, or illustration, examine the credit line to see if it was used by permission. The credit line may appear with the material, or in a separate credit or acknowledgements section. If the material was used by permission, you too must obtain permission from the copyright holder – not the publisher or rightsholder of the work in which it appeared, even if that was the first instance of its publication.

If you obtained permission to use copyrighted material in a previous article or other scholarly work, that permission does not automatically extend to further republication; unless otherwise stated in the permissions grant, you must obtain permission for each subsequent re-use.

## Visual art

Obtaining permission to use a work of visual art can be particularly complex. You may need to request (separately) permission from the copyright holder of the artwork, the copyright holder of the image, and the owner of the artwork.

For works of art, the copyright holder is usually the artist or the artist's estate. Typically, however, the artist is represented by a gallery or agency who can grant reproduction rights. The Artists Rights Society ([www.arsny.com](http://www.arsny.com)) can help you locate the artist or agency, even if the artist is not a Society member.

In addition to permission to reproduce the artwork itself, you may also require permission to use the image (photograph) of the artwork. Typically, the photographer or the photographer's employer holds the copyright to the image. You will not need to obtain permission if you are the photographer; if you and the photographer agree to treat the photograph as a work made for hire (or the photographer agrees to transfer the copyright to you); or if the photograph lacks sufficient originality to be considered copyrightable. The latter instance occurs only in certain very limited cases—photographs of three-dimensional objects are copyrightable, but a photographic reproduction of a two-dimensional artwork is not. Most photographers will assume, correctly or not, that they hold copyright to all of their photographs unless they have agreed otherwise, so it is wise to decide on the terms of use beforehand. Please keep in mind that non-professional photographs of art objects are generally not publication quality.

Finally, you may require permission from the artwork's owner to access the work. Museums, archives, and other owners of artwork often place restrictions upon access to or use of the objects in their collection, in order to protect the works and to ensure that published images meet their quality standards. It is important to underscore this distinction between an access or use permission and a copyright permission. The owner of a work cannot grant copyright permission unless authorized to do so by the copyright holder (unless copyright was assigned to the owner or the work was created as a work made for hire). Nor does copyright law allow an owner to grant (or withhold) permission to reproduce a work that is in the public domain. If you wish to use a pre-existing image of an artwork that is in the public domain, for example, you may require permission only from the copyright holder of the image.

In most cases, however, you will need to work with the museums, gallery, or archive in which the artwork is housed. Sometimes they will be willing to waive or reduce their fees and other conditions for scholarly use of their artworks, particularly if approached in a diplomatic way and if efforts are made to minimize any commercial impact the use may have on the work. The journal office staff or the Press's Permissions staff may be able to help you obtain favorable terms for use of the artwork, if you are unable to do so on your own.

Please read each permission grant carefully, keeping in mind that the Press requires permission to reproduce the artwork in both the print and electronic edition of the journal. Standard permission grants for artwork are very often restricted to print publication only. The editorial office can help you answer questions about how the material will be reproduced in both the print and electronic editions.

## **Music and film**

For musical works – that is, the written composition or lyrics – the copyright holder is usually the publisher or composer. The copyright holder of a particular recording, however, is likely to be the artist who performed the work or the company who produced the recording. To include an audio file of a copyrighted recording in your article, therefore, you must obtain permission from both rightsholders. If you choose to create your own recording, you must still obtain permission for the use of the musical work from the copyright holder. To locate a music publisher or composer, contact the performing rights societies: ASCAP ([www.ascap.com](http://www.ascap.com)), BMI ([www.bmi.com](http://www.bmi.com)), and SESAC ([www.sesac.com](http://www.sesac.com)). For permission to use a particular recording, contact the recording company.

Film or television recordings display the copyright holder during the beginning or (more typically) the end credits, or on the product package if the work is sold as a videocassette or DVD.

Please note that the Press cannot accept permissions which restrict use to a specified period of time or require renewal fees, both of which are common practices by major rightsholders of recorded music and film. In our experience, few such rightsholders are willing to grant exceptions to their usual licensing procedures for the purposes of scholarly use. If you are unable to obtain an exception, you will be asked by the editor to restrict your use of the recording to that which can be defended as fair use (see below).

## **Foreign works, translations**

Permission to use material from foreign works must be obtained from the copyright holder, just as with U.S. works. In the U.K., other European countries, and many other countries duration of copyright for most works is measured from the death of its last surviving author plus an additional 70 years. Because different countries have different systems of measurement, it is possible for a work to still be in copyright in its country of origin but not in the U.S. (or even vice versa). Do not assume that the work is in the public domain based solely upon U.S. law.

The U.S. publisher of a particular work may not hold distribution rights outside of the U.S., so in order to meet the Press's requirement for worldwide distribution rights, you will need to seek additional permission from the holder(s) of those rights. Your permission request should ask the U.S. publisher to provide you with the necessary contact information.

Similarly, if you wish to translate material from a foreign work and include the translation in your article, you will need to identify who holds the translation rights. This may not be the publisher, although the publisher should be able to help you locate the rightsholder.

If you wish to use previously translated material, please note that the translation may be protected by copyright even if the work that was translated is in the public domain.

## **U.S. Copyright Office**

If you are unable to identify or locate the copyright holder from the material itself, the U.S. Copyright Office maintains records of copyright registration and other documents related to copyright ownership or transfer, which can be searched in person at the Copyright Office

premises, on the Copyright Office web site ([www.copyright.gov](http://www.copyright.gov)), or by the Copyright Office staff for a fee. For details, consult Copyright Office Circular 22 (available online).

### **Cover art, promotional use**

Permission to use material in your article should not be assumed to encompass its use on the cover of the journal, on the journal's website other than in the context of the article, or for any other promotional purposes. The editorial office will advise you if you need to obtain such additional permissions yourself, or if the editorial office or the Press will assume the responsibility. In the latter case, you may be asked to assist by providing information about the material and the copyright holder.

## **When may permission not be required?**

### **Non-copyrightable material**

In order for a work to be copyrighted, it must meet a minimal standard of original authorship and it must be fixed in a tangible form. The U.S. Copyright Office lists several categories of material that are generally not eligible for copyright protection, including titles, names, slogans, lists of common information, and ideas. Conversation and improvisational speech are not copyrighted, unless they are fixed—for example, by an audio or video recording, in which case the copyright holder is the creator of the recording, not the performer.

### **Public domain**

Copyright does not endure indefinitely. Once copyright has expired, the work enters the public domain and no permission is required for its use. In general, it is safe to assume that works published before 1923 are in the public domain in the U.S., and works created after 1977 are not. Under current U.S. law, copyright lasts for the life of the author plus 70 years. (For joint works, copyright lasts for 70 years after death of the last surviving author.) Copyright in works made for hire or published anonymously lasts for 95 years after first publication or 120 years after creation, whichever comes first.

The copyright status of works created between 1923 and 1978 will depend on a number of factors related to the copyright law in effect at the time the work was created and laws subsequently enacted. For a detailed discussion of copyright duration, see [www.press.uchicago.edu/Misc/Chicago/copyright.html](http://www.press.uchicago.edu/Misc/Chicago/copyright.html). Please remember that it is your responsibility to determine if a work is still under copyright protection.

Works by the U.S. government, including works written by government employees within the scope of their duties, are not eligible for copyright protection. However, copyright in a work created jointly by a government employee and an author who is not a government employee may be claimed by the non-governmental author or assigned to a publisher. In such cases, it is prudent to seek permission for use of the work from the non-governmental copyright holder.

## **Your own work**

In general, you are the copyright holder in your own work from the moment it is fixed in a tangible form, and you may modify, adapt, or subsequently publish it as you wish. If the work was previously published, however, you may need to seek permission to use it, depending on the policies of the publisher. The University of Chicago Press Journals Division allows authors “to reprint the Contribution, in whole or in part, in any book, article, or other scholarly work of which you are the author or editor” without seeking permission from the Press, provided that proper credit is given to the original publication of the article in the journal. To determine if permission is required from the publisher of your work, review your publication agreement (copyright transfer form) to see what rights you transferred to the publisher and what rights were granted back to you as the author.

Copyright law does not exclude works by scholars employed by an academic institution from being considered as works made for hire, and copyright in such works may be claimed by the institution (although most U.S. academic institutions have intellectual property policies affirming faculty ownership of works made in the course of their research and teaching). Some funding organizations may require that works created as an outcome of a grant from them be treated as works made for hire, in which case they may claim copyright ownership of your work. The University of Chicago Press does not extend the author’s right of republication to works made for hire.

## **Orphan works**

Orphan works are works protected by copyright, but whose copyright owner is unknown or impossible to locate. Current copyright law has no provision allowing for use of such works without permission. Under legislation now being considered by the House of Representatives, orphan works could be used without permission provided that a good faith, reasonably diligent effort was made to locate the copyright owner and appropriate credit was given to the author or copyright owner, if known. Remedies for relief, if the copyright owner reappeared and claimed infringement, would be limited to “reasonable compensation” and the infringer would not be prevented from further dissemination of the work. The Press will amend these guidelines for authors seeking to use orphan works if the proposed legislation is enacted; in the meantime, you should restrict your use of such works to the extent that can be defended as fair use.

## **Fair use**

U.S. copyright law allows for the fair use of copyrighted material for the purposes of criticism, comment, and scholarship. Determination of whether a particular use is fair use is based on consideration of four factors, set out in Section 107 of the Copyright Act:

- the purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes;
- the nature of the copyrighted work;
- amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- the effect of the use upon the potential market for or value of the copyrighted work.

The Copyright Act does not further define fair use or set limits on the extent of use which may fall under fair use. Such limits as exist have been established by case law, which is often unclear and even contradictory. The University of Chicago Press defines fair use of its own publications according to the following guidelines:

[www.press.uchicago.edu/Misc/Chicago/permissions.html](http://www.press.uchicago.edu/Misc/Chicago/permissions.html). Please be aware, however, that other rightsholders may hold more restrictive views.

A claim of fair use will be more defensible if:

- you use only small amounts of the total work, considered as a proportion of the whole rather than an absolute amount, and cumulatively rather than per instance of use. In defining fair use for its own publications, the University of Chicago Press considers 5% of a work (in the aggregate) to be a reasonable measure of “small.”
- the material which is used constitutes only a small amount of your article; again, the Press guidelines recommend 5% as a rule of thumb.
- your use of the material is strictly germane to your argument and not merely for illustrative purposes, and is integrated into your article rather than set apart. A claim of fair use will be weaker if the material is to be included in an appendix or supplement to your article. Fair use should not be claimed if the material is to be submitted for use as a cover image or for promotional purposes.
- you take steps to minimize the potential commercial impact on the original work. For artworks, this may mean reproducing a portion of the work rather than the whole or reproducing a color original in black and white instead. (Unless authorized otherwise, the Press restricts images of copyrighted images in its online journals to a resolution of 72 dpi.) For films, consider using a short series of stills rather than a clip.

Fair use generally applies only to straightforward reproduction of copyrighted material. Adaptation of the work or creation of a derivative work nearly always requires permission.

Material for which fair use is claimed must still bear an appropriate attribution in your article.

The Press reserves the right to determine whether or not a particular use is defensible as fair use, and if it is not, to refuse to publish your article unless permission has been obtained or the material has been removed. If you are uncertain about whether or not your use of copyrighted material will be accepted by the Press as fair use, we encourage you to contact the Permissions Coordinator at [journalpermissions@press.uchicago.edu](mailto:journalpermissions@press.uchicago.edu).

## **Obtaining and submitting permissions**

Once you determine which works require permission, it is your responsibility to obtain the permission from the copyright holder. As the author, you are expected to make a reasonable effort to track down the copyright holder, but failing that, consult the Permissions Coordinator for assistance. You should allow 4-6 weeks for each permission to arrive.

### **Rights to request**

In addition to requesting the rights described below, your permission request should:

- identify the full copyrighted work (the original publication, not a subsequent reprint) and the specific portion or portions of the work you wish to use.
- describe how the material will be used, being sure to explain that the use is scholarly. If you are requesting permission to alter or adapt the material in any way, provide details to the copyright holder and append to your requests a copy of how the material will appear, if possible.
- provide as much information as you can about your article and the journal in which you wish to include the requested material. You may need to provide additional details, such as the issue in which the article will appear, as they become available.
- request the form of acknowledgement that should be used.
- ask for confirmation that the person granting permission is the copyright holder or is otherwise authorized to grant the permissions requested.

In your initial request, you should ask for the following rights:

- non-exclusive world rights in perpetuity, in all languages, in all formats and media, and in all editions, reprints, and derivatives of the journal, whether print or electronic.
- the right to deposit the work, as published in the journal and only as an integral part of the journal issue, in electronic archives selected by the Press for the purpose of preserving the scholarly record or to fulfill deposit requirements as may be mandated by laws now in place or hereinafter enacted.

Be aware that copyright holders may be reluctant to grant such broad-ranging rights. At an absolute minimum, the Press requires the following rights:

- non-exclusive world distribution rights in English.
- right to publish in both the print and electronic editions.
- archival rights as described above.

The Press cannot accept rights that must be renewed after a certain length of time, even if the renewal is free of charge, or that place restrictions on access to the material, especially in the electronic edition (i.e., to the USA only, by subscriber only, etc).

Please review each permission carefully to ensure that you have the necessary rights. Without the rights described above, we may not be able to publish your article, even if it has been accepted for publication, unless the material in question is removed.

A sample request letter is attached to the end of these guidelines. Be aware, however, that you may be required to use the copyright holder's own print or online form to submit your request. If you use another form, be sure that the elements identified above are included in your request.

### **Submitting permissions**

Ideally, you should know whether or not you have permission to include copyrighted material in your article before you submit the article to the editor for consideration, particularly if the material is central to your argument. You will be required to return all

permissions forms to the editor when you receive notice that your article has been accepted for publication in the journal.

The Press will review the permissions you submit for completeness and adherence to the Press's requirements, and notify you of any problems. Please note that work on your article cannot continue until all permissions issues have been resolved.

### **Further information**

Questions about these guidelines can be directed to:

Permissions Coordinator  
The University of Chicago Press, Journals Division  
1427 E. 60<sup>th</sup> St.  
Chicago, IL 60637  
Tel: (773) 834-1884  
Fax: (773) 834-3489  
E-mail: [journalpermissions@press.uchicago.edu](mailto:journalpermissions@press.uchicago.edu)

#### **The University of Chicago Press**

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Guidelines for Journal Authors' Rights After Acceptance  
<http://www.journals.uchicago.edu/rights.html>

The Chicago Manual of Style Online  
<http://www.chicagomanualofstyle.org/home.html>

#### **The Association of American University Presses**

Copyright Resources  
<http://aaupnet.org/aboutup/issues/copyright/index.html>

#### **U.S. Copyright Office**

<http://www.copyright.gov/>

## Sample permission request letter

To Whom It May Concern:

I am writing to request permission to use the following material:

Identification of original work (e.g. Author/Title/Copyright Date/Pages)  
Other identifying information and remarks  
Specific portion or portions of the work to be used

in the following article that the University of Chicago Press, a not-for-profit scholarly publisher, is presently preparing for publication in its scholarly journal,

\_\_\_\_\_:

Author(s)/Title of article  
Proposed date of publication/Volume/Issue number  
Remarks:

The material is to appear as originally published **OR** I wish to modify the material as described below:

\_\_\_\_\_

We request non-exclusive world rights in perpetuity, to use the material as described above, in all languages, in all formats and media, and in all editions, reprints, and derivatives of the journal, whether print or electronic. We further request the right to deposit the work, as published in the journal and only as an integral part of the journal issue, in electronic archives selected by the Press for the purpose of preserving the scholarly record or to fulfill deposit requirements as may be mandated by laws now in place or hereinafter enacted.

If you are willing to grant this permission, please indicate how you would like the material to be acknowledged. If you do not indicate otherwise, we will use the usual scholarly form of acknowledgment, including publisher, author, title, etc:

\_\_\_\_\_

Please indicate your agreement by signing and returning this letter. In signing you warrant that you are the copyright holder or otherwise authorized to grant the requested rights. If you are not the copyright holder, or if additional permission is needed for world rights from another source, please indicate so.

Thank you for consideration of this request.

Sincerely,

\_\_\_\_\_

The above request is hereby approved on the conditions specified below, and on the understanding that full credit will be given to the source.

Approved by:

Date: \_\_\_\_\_

Print name: \_\_\_\_\_

Conditions: