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Every SUNY Press author (or editor of a multi-author volume) is legally responsible for observing the copyright laws and the laws of privacy and libel. These guidelines will help you to meet these responsibilities. **The Press is not able to offer legal advice. Consult an attorney or request permission in doubtful cases.**

Certainly there will be instances when these guidelines are insufficient. For more detail, you should refer to *The Chicago Manual of Style, 16th edition*, chapter 4.

WHAT IS FAIR USE?

The "fair use" exception to the copyright law allows one to quote or paraphrase brief excerpts from copyrighted material without asking for permission (but NOT without giving appropriate credit). Copyright law does not specify the exact number of quoted words that may be used without permission; instead, it bases "fair use" on the following factors:

- The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes
- The nature of the copyrighted work
- The amount and substantiality of the portion used in relation to the copyrighted work as a whole
- The effect of the use upon the potential market for, or value of, the copyrighted work
- **For more detail regarding fair use, you should refer to *The Chicago Manual of Style, 16th edition*, sections 4.75–4.84. If you have further questions you should consult your editor at the Press or seek legal advice as to the limits of the fair use exception.**

Once you have determined that your use of a work falls under the fair use guidelines you should claim and use it. It is not advisable to ask for permission as you would be tacitly admitting that permission is needed, thus undermining your right to exercise the fair use option.

General guidelines regarding fair use:

- Whether permission is needed or not, you should always credit any work by another person, citing the source of the work from which you are borrowing.
- Some material that is considered to have high commercial value is treated by its owners as if it had a special status, to which the fair use exception does not apply. The most common example is a song lyric. We recommend therefore that you secure permission for use of any song lyric or portion thereof. Be aware that the music publishing industry has the will and means to insist that lyrics not be quoted without permission. Poetry is also considered by many to constitute a special case, and we recommend that you carefully consider whether to request permission when quoting or excerpting poetry.

- The reproduction of all or almost all of a complete unit (e.g., a journal article or book chapter, a poem, a chart, table, outline, or map or other illustration) is generally not considered fair use, no matter how short the piece is. In particular, permission is needed to reproduce an illustration that is in copyright, even if it is used for purposes of scholarly discussion. However, if you are using only facts, not the format, of such entities as a table or chart, you need to give the source but permission is not necessary. If there is a significant change in the redrawing of a copyrighted illustration, and no permission is needed, do not give credit unless the idea in the illustration is quite original.
- The inclusion of a piece in an anthology or collection of readings does not fall within the fair use exception and permission must be obtained.
- Fair use applies only narrowly to unpublished work, because the creator has the right to keep the work unpublished. In such instances, you should obtain permission before using such material. Bear in mind that unpublished letters are particularly difficult; the writer of the letter (or the writer's heirs) normally maintain publication rights even if the letter is held by another person or in a library.

REQUESTING PERMISSIONS/RELEASES

- It is important to start requesting permissions early. Anticipate delays.
- Use the **Permissions Request** form letter, retyped on your own letterhead. If you do not use our sample letter, you must enclose a copy of the letter you sent to the publisher or copyright holder.
- To obtain permission, you should begin by writing to the original publisher, even if the copyright is in the author's name. If that publisher does not retain publication rights, it should be able to refer you to the owner of the material. For unpublished material, you should write to the author.
- Please note that a photograph of a work of art often needs permission from both the artist and the person who photographed the work. Other works may also require permission from two or more persons or organizations.
- Copy and enclose with the **Permissions Request** the page(s) of your manuscript on which the quoted matter appears. If you do not get a response within a month, write a follow-up letter or make a telephone call to the publisher's rights and permissions department.
- In order for the Press to be able to distribute your book worldwide in both hardcover and paperback formats, you should ask for **nonexclusive world rights in all languages and editions** (see the **Permissions Request** form letter). Nonexclusive world rights for cloth and paper editions are essential. Many copyright holders will grant only one-time rights (i.e., for one edition of the book), and these are often sufficient. Be sure **to note any restrictions, such as no electronic rights, no UK rights, English-language only rights, etc.** If the copyright-holder does not control all of the world rights (e.g., only U.S., Canadian, and open market rights), or all of the language rights, please inquire as to who holds the rest of the rights (such as a British publisher). If you or your editor think the book might be translated into a foreign language, you will also need to inquire about foreign-language rights from any copyright-holder who grants only English-language rights.
- Be certain to note if any of the permissions specify a particular wording or placement of the credit so that these instructions may be followed.
- Some publishers will ask for additional information, request a copy of the book once published, or levy permission fees. You are responsible for all fees and for listing those requesting a copy of the book on your **Marketing Questionnaire** (we will send the complimentary copies).

- You must obtain a release for any photograph of an identifiable individual that was taken in a private place, such as the person's home. Use the **Picture Release Form** for this purpose. A parent or guardian should sign a release form for a photograph of a minor. Even if the person agreed to have the photograph taken, that does not necessarily imply that he or she agrees to its publication.
- You must also obtain a release for any photo that could harm or embarrass the person in the photo, regardless of whether it was taken in a private or public place.
- If someone gives a release for publication of a photograph or artwork inside your book, this does not necessarily imply that he or she agrees to its publication on the dust jacket or cover or in advertisements and other promotional materials for the book. The release should specify all the intended uses of the photograph. Therefore, be sure to use either the **Interior Artwork Permissions Request** letter **OR** the **Cover Artwork Permissions Request** letter depending on how you wish to use the artwork.
- Contributors to edited volumes, as well as individuals who write forewords or introductions, etc., must sign a letter of consent to publish, or **Contributor Release** letter.
- Send with your final manuscript the original of all permissions, agreements, and releases. At the top of each **Permissions Request**, note in which chapter the material in question appears in your manuscript. Make sure you keep copies of all materials for your files.
- If the restrictions on a particular excerpt seem excessive, we strongly recommend that you reconsider your use of the material. If it is not essential to the discussion (as in the case of an epigraph), or if you may in some way avoid quoting or excerpting the material at length, we recommend that you seriously consider revising the manuscript so as to eliminate the quotation or bring it down to the levels of fair use. You should then write to the copyright holder(s) and inform them that you no longer plan to make use of the material, or that you have reduced it to the level that would be covered under fair use.