**Manuscript Preparation Guide**

**Permissions**

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**370 Seventh Avenue, Suite 1200, New York, NY 10001**

**(212) 431-9800**

**www.guilford.com**

**info@guilford.com**

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Version: April 2023

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GENERAL GUIDELINES. The following should help you to determine whether formal permission is required for material you intend to use in your book/chapter.

***Fair Use***

It is legal to use copyrighted material without permission if it is considered “fair use.” However, “fair use” is decided by balancing many factors, and it is a defense that has to be established to the satisfaction of a judge. It can be difficult and expensive to litigate an issue of fair use. As few people are qualified to guess at what a judge, or an appeals court, will say, the safest course is to seek permission in any close case. A permission fee is, in that sense, like an insurance policy.

Here are the principal factors that U.S. Copyright Law considers in determining “fair use”. Keep in mind that other jurisdictions in which your work might be marketed are less permissive than the U.S.

1. **What is the nature or purpose of your use?** Is your use “transformative”? Have you presented another’s material for purposes of commenting upon or explaining it, as opposed to using it for the same purpose as the original author? For example, an excerpt from a song lyric or poem reproduced to introduce a chapter is being used differently than the same matter being quoted for purposes of critiquing it. Scholarly material being quoted for purposes of a critique or assessment of its value is more likely to be found fair use than is simple quotation.

**2. What is the length of the material to be reprinted relative to the length of the entire work from which it is taken?** *To clear up a popular misconception:* *there is no specific quantity rule*. While quotation of 200 words from a 2,000-word article might not work in favor of fair use, 500 words from a 500-page book might conceivably be. The judgment is made case by case. Note in addition that quantity is cumulative. If you quote from the same source in different parts of your chapter/book, consider the *total amount used* in assessing this fair use.

3. **What is the importance or substantiality of the portion used relative to the entire work from which it is taken?**

4. **Can the material you are reprinting substitute for the original?** In other words, might your use take away from sales or other exploitation (such as the right to license the quotation for a fee) of the original work?

5. **Was the original published?** Unpublished materials have had more protection against use than published works. Although the Copyright Law now rejects such a distinction as a flat rule, it may enter the subjective evaluation of a judge.

6**. Have you quoted or closely paraphrased another’s work only to the extent necessary to make a point?** If you exceed what is necessary, what might otherwise have been fair use can lose that protection.

***WHAT COMMONLY GIVES RISE TO PERMISSION QUESTIONS***

*Forms, lists, tables, figures, illustrations, photographs*, or anything that is a unit in itself (no matter how many words) are among the elements most likely to require reprint permission. This also applies to unpublished materials such as forms from agencies or institutions.

Patient, client or student materials require two kinds of permissions. Because copyright exists from the moment of “fixation” (embodiment in a perceptible form) as opposed to registration, the presumption is that all such materials require a copyright permission. The second issue is what permission (generally in the form of a “release”) s required to waive the privacy rights that arise in the clinician-patient or teacher-student relationship.

*Even if you received permission to use something in a previous edition, you may need to reobtain it.* This depends on the specific wording of the permission grant itself.Wording such as “one-time use” or “this edition only” means that permissionmust be requested for any new editions. This also applies to permissionsfrom individuals to use their unpublished forms or form letters.

You may have to seek out permission to quote your own work if you have previously granted rights to another publisher.

Material created within the scope of your employment may be the property of your employer as a “work made for hire.” If you have any questions, the best course is to consult the appropriate supervisor at your employer of institution. Another important exception is that material created while doing work paid for under a grant may be subject to rights limitations specified in the grant.

You should assume that permission is required for such things as *artwork,* *poetry, song lyrics, or music* still under copyright, no matter how small the selection used. As noted above fees to use such material are frequently very expensive. We suggest you use them only as necessary.

Reprinting or closely paraphrasing the diagnostic criteria from the American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders* (DSM—a registered trademark of the American Psychiatric Association) requires explicit (and sometimes very costly) permission from the American Psychiatric Press. *Note: It is important that you consult with your editor before requesting* *permission from American Psychiatric Press.*

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***A Special Note about Clip Art***

Many authors embed “clip art” in materials that they use with clients or students. If you want to use clip art in your book, bear in mind that it has the same requirements as all other art: it should be supplied in high-resolution or vector format; be supplied as a separate file (not pasted into a Word document); and be accompanied by permission documentation (or documentation confirming that no permission is needed). Because this is often hard to achieve, we recommend that you avoid clip art where possible, and instead consider commissioning illustrative images. Commissioning original art ensures that your book will feature high-quality, unique, coherent images, and can be less expensive than some commercial clip art licenses. Guilford has release forms for such artists that you should use to make sure you have all the rights in the artwork you need.

While some creators provide that their clip art can be used freely, *many* kinds need permission—and payment of an additional fee or require you have purchased a specific license in them—before they can be used for commercial purposes, even if you have acquired the clip art as part of a program or have bought a disk of images. Generally, clip art comes in two forms: “public domain” and “royalty free.” If it is in the public domain, it will be noted on the disk or in the collection in which it was purchased. Individual pieces of public-domain clip art can be used freely (but not the entire collection). Royalty-free clip art is *not* in the public domain, but if you buy the disk, you can use it *according to the specific terms of the license*.

The rules governing the use of clip art found in many Microsoft products or on their website are ambiguous. In some cases, commercial uses are expressly prohibited. Microsoft also licenses images from third parties, in which case those images are governed by the rules of the third party. Rules further vary by product and which release of a Microsoft product you have. Microsoft does not grant written permission and will not provide an opinion on the use of materials even if you ask them specifically. Thus, *we recommend that you do not* *use any Microsoft clip art in your book.*

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***Some Tips for Obtaining Permissions***

Start the permission application process as early as possible. Some publishers can take 6–8 weeks or longer to grant permission requests. The more complete the information you give them in your request is, the faster they can process it. Prepare full information about the material you are requesting, including the complete title and author of the work you wish to quote from, page number(s), table/figure numbers, table/figure names, etc. Ask your editor to provide you with estimates of print runs for both the hardcover and paperback editions, publication date, number of pages, and price of the Guilford book. This information is important in determining permission fees. *Permission request letters must always specify that* *permission is for the lifetime of the book (all editions), including electronic rights,* *and worldwide in all languages.*

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If you want to include the third-party material on a form for which reproduction rights are being given to the book’s purchaser, you need to make that part of your request when requesting permission.

For more information on the mechanics of clearing permissions, see our **Guide to Obtaining Permissions for Your Guilford Book or Chapter.**

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