Manuscript Preparation Guide

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The following are general guidelines to help you 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. As few people are qualified to guess at what a judge will say, the safest course is to seek permission in any close case.

Here are some of the factors that U.S. Copyright Law considers in determining “fair use”:

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1. 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 be fair use, 500 words from a 500-page book might be. The judgment is made case by case. Note, however, that quotation is cumulative. If you quote from the same source in different parts of your chapter/book, consider the total amount used in deciding if something is fair use.

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

3. 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?

4. 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 Unpublished materials have had more protection against use than published works.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.

5. 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.

6. 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? An excerpt from a poem reproduced to introduce a chapter is being used differently than the same poem being quoted for purposes of critiquing it.

**What Usually Requires Permission**

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.

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