

GUIDELINES FOR REVIEWING MANUSCRIPT TO ASSIST WITH PERMISSIONS LOG

The Permissions Log is an indispensable tool for organizing your permissions in a way that will be easily transferable to SAGE when you submit your manuscript. You are required to submit a Permissions Log with your manuscript, and you should begin the Log as soon as you begin identifying the third-party material you want to include in your work. The Log template that was provided to you is the required form for this use and was developed by SAGE for efficiently organizing and tracking the permissions for your manuscript. The Log provides important information for each item of third-party material, such as the attribution requested by the rights holder.

In addition to third-party material for which permission is required, please also include in the Log any material created by you that is separate from the main text and material. If any of your material was previously published, please note this so that proper attribution can be included. Although listing your own work may seem redundant, it will reduce uncertainty during the later stages of production and provide assurance to us that all material is accounted for.

I. PUBLIC DOMAIN AND FAIR USE

Before you start working on your Log, it will be beneficial to have an understanding of the concepts of Public Domain and Fair Use. *The concepts of Public Domain and Fair Use apply to all third-party materials, including text excerpts, tables/figures, and photographs.*

A. PUBLIC DOMAIN

An item may be in the Public Domain for either of the following two (2) reasons:

1. The copyright term of the work has expired. This includes all published works created before January 1, 1923.
2. The work was created by the U.S. federal government or by one of its employees acting within the course and scope of his/her employment.

Notes: Some copyright owners may place their work with The Creative Commons (or with another similar shared license group) which allows others to use their work for certain purposes such as to build upon and share information. Please review their specific terms of use to determine whether you may use their work or if you need to obtain permission.

Material obtained from the Internet is no more likely in the Public Domain than any other source. Please review the specific terms of use located on the website to determine whether you may use the work or if you need to obtain permission.

For those items used in the manuscript that you feel are in the Public Domain, add a comment explaining why in the “Comments” column of the Log.

B. FAIR USE

An item may be used under the Fair Use doctrine if you are using the original work for criticism, comments, teaching, scholarship, or research purposes. To determine whether Fair Use applies, consider these four (4) factors:

1. Is the purpose and character of your use to transform the original work?
 - Does your work add something new to the copyrighted material? If yes, then it may transform the work. Examples include:
 - Adding commentary or analysis to the original work.
 - Providing new insight to the original work.
 - Building upon or extending to the original work.
 - Adding new meaning to the original work.
 - Providing a different purpose or manner to the original work.
 - Is the copyrighted material reproduced verbatim? If yes, then it does not transform the work.
2. What is the nature of the original work?
 - Does the original work contain factual information? Fair use is more frequently found if the original work is factual rather than creative or artistic.
 - Has the original work been published? Fair use is more frequently found if the original work is published work rather than unpublished work because legislative policy supports that an author has the right to control the first publication of his/her work.
3. What amount and substantiality of the original work is being used?
 - Does your work only use the portion of the original work that is necessary to make your point? Fair use is more frequently found if you do not take more than you need.
 - Is the portion of the original work that you are using the “heart” of the original work? Even if you use only a small portion of the original work, that portion cannot be the most important feature of the work.

There is no set amount or percentage of the original work that may be used to determine fair use. Comparing the word counts between the

original work and your work may be used as a guide, but the amount of the original work that may be used as fair use varies depending on the *context* of your use – look at how you add something new or otherwise transform the original work.

4. Would your work serve as a substitute for the original work? Fair use is more frequently found if your work will not compete with the original work in the marketplace.

Meeting factor #1 above is necessary for a determination of fair use. After determining #1 has been satisfied, the next step is to weigh the other three (3) factors. If your use leans toward fair use in at least two (2) of the remaining factors, fair use should apply. Many times, your analysis will fall in the gray area. If this is the case, contact SAGE Editorial for assistance.

For those items used in the manuscript that you feel are Fair Use, add a comment explaining why in the “Comments” column of the Log.

Reminder: Don’t forget that even if fair use appears to apply, your work must still include attribution to the copyright holder.

For those items on the Permissions Log that are not noted as “Public Domain” or as “Fair Use”, it is **extremely important** to request permission from the copyright holder(s) as soon as possible.

II. REQUESTING PERMISSION FOR THIRD-PARTY MATERIAL

The following are guidelines for analyzing items that need to be listed on the Permissions Log, addressed separately as 1) Text Excerpts, 2) Tables & Figures, and 3) Photographs.

A. TEXT EXCERPTS INCLUDING QUOTATIONS

Any third party material excerpt should be listed on the Permissions Log per the following guidelines:

1. If you discuss or analyze the excerpt, list the excerpt on the Log if it is longer than five (5) sentences.
2. If you add no discussion or analysis for the excerpt, and use it just to supplement the text (i.e. as “window dressing”), list the excerpt on the Log if it is longer than two (2) sentences. This guideline will apply to many chapter-opening quotes.

Sensitive Issues of Concern to Look Out For:

Make sure that any statement made about a person or business that *could* be embarrassing or harmful to their reputation, is (1) in fact true, AND that (2) the statement is about a newsworthy event.

If the embarrassing or harmful statement may not be directly relevant to the newsworthy event or a lapse of time has occurred since the time of the newsworthy event, **make sure you flag this item for the Permission Editor's review by adding a note in the "Comments" column of the Log.**

B. TABLES AND FIGURES

All tables and figures should be listed on the Permissions Log.

If you created the table or figure, this should be indicated as so in the Author's Own Material section of the Permissions Log.

A special note on Fair Use and tables/figures: the selection and arrangement of factual data is copyrightable, but NOT the data itself.

A table/figure may be used under Fair Use if:

1. The author uses the table/figure without making any changes to it, AND (1) text has been added to discuss the table/figure, AND (2) the author uses only the portion of the table/figure that is necessary to make his/her point. OR
2. The author substantially changes the table/figure (50% or more new content). Adaptation includes adding information or changing the look (manner or method) of how the information is presented.

Note: Fair use is favored for tables/figures that contain factual information that can only be expressed or displayed in a limited number of ways.

Reminder: Don't forget that even if fair use appears to apply, your work should still include attribution to the copyright holder. However, attribution may not be necessary when the table or figure contains only facts or commonly known information. (see sample Permissions Log for example)

C. PHOTOS

All photos should be listed with full information on the Permissions Log.

If you are the copyright holder of the photo, this should be indicated in the Author's Own Material section of the Permissions Log.

Important: **Public Domain and Fair Use do not extend to the privacy rights of a person in the photo. Even if you don't need permission from the copyright holder, you still need to consider the privacy rights of the person in the photo and possibly obtain a Visual Likeness Release Form for that person (see below).**

There are two issues of concern with photographs: 1) copyright (to the photo itself, and potentially to the item being photographed, if it is covered by copyright), and 2) if the photo includes an identifiable person, the privacy rights of that person.

Copyright:

1. Obtain permission from the copyright holder of the photo.
2. If the subject matter of the photo is copyright protected, then obtain permission from the copyright holder. For example, for a photo of a painting, obtain permission from the copyright holder of the photo and from the copyright holder of the painting.

Note: Most commercial photographers or image banks such as Getty and Corbis, obtain permission for any item in their photo that is copyright protected. For smaller image banks, make sure they have the permission – especially if the photo depicts any creative or art works.

Privacy Rights:

If the subject matter of the photo includes an identifiable person, obtain a signed Visual Likeness Release Form from the subject, unless any of the following apply:

1. Releases are not needed from public figures (government heads or famous people) unless the photo is taken in a place where they would believe to have a reasonable expectation of privacy.

Note: Releases are not usually needed when the photo is acquired from a commercial photographer or an image bank such as Getty and Corbis, because they obtained the release when the photo was taken. For smaller image banks, make sure they have the release – especially if the photo could be embarrassing or harmful to the reputation of the person photographed.

2. Photos concerning newsworthy events usually do not require releases. For example, for a photo of a public demonstration in a city park, there is no need to secure rights releases from the people identifiable at the demonstration.

Sensitive Issues of Concern to Look Out For:

For photos of a person or business that *could* be embarrassing or harmful to their reputation, make sure we have a signed release from that person or business.

Example: If there is a photo of a prostitute, we need a release because the person's lifestyle may have changed since the time the photo was taken.

If the photo is of a famous person or well known business that could be embarrassed or harmed by the photo, **make sure you flag this item for the Permission Editor's review by adding a note in the "Comments" column of the Log.**

III. ADDITIONAL RESOURCES AVAILABLE FROM SAGE LEGAL:

See Copyright and Permissions Guidelines which includes these specific resources:

- Permissions Procedures
- Sample Permissions Log Templates
- Sample Permissions Request Letter
- Visual Likeness Release Form
- Fair Use Quick Guide

Most documents can also be found on the SAGE website at <http://www.sagepub.com/bookAuthEdit.nav>