

Copyright Law and Dissertation Preparation
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The purpose of this unit of this Guide is to provide graduate students with guidance for the reproduction and distribution of their work and the work of others in the course of completing their graduate studies at Columbia University. It focuses on two issues: dissertation preparation and completion, and dissertation and journal article publication.

Whether you are a graduate or undergraduate student, your program may have provided you with some guidance on the re-use of existing materials and in many circumstances this issue is characterized, by the various departments and schools at Columbia University, as plagiarism. Notwithstanding plagiarism, however, copyright law plays a big part in how you can use and re-use materials in preparation of your scholarly work undertaken to complete your course of study. Many students work collaboratively and publish their work jointly during the course of their graduate studies. Many students wish to include the articles that they have published during the course of their graduate work into their final dissertations. Copyright law affects and has an impact on the students' abilities to carry out these activities. If not managed on an ongoing basis, copyright law can prevent a student from being able to complete their scholarly work in the way that they might have envisioned at the outset.

Finally, graduate students are required to deposit a final copy electronically through the GSAS gateway. ProQuest, the distributor of choice for Columbia University dissertations, requires a student to have a degree of knowledge and understanding of the copyright status of their work and any materials that they may have integrated into their work.

I. Fair Use

Fair Use is the copyright principle that applies to circumstances where you undertake scholarly work in the course of completing your studies and you integrate the work of others into your own. Fair use is not an infringement of copyright. It allows under certain conditions a person to use copyright protected material without permission. Fair use is an important right to use copyrighted works at the university. Fair use can allow us to clip, quote, scan, share, and make many other common uses of protected works. But not everything is within fair use. Fair use depends on a reasoned and balanced application of four factors: the purpose of the use; the nature of the work used; the amount used; and the effect of the use on the market for the original.

Fair use is encoded in the U.S. Copyright Act, which also includes many other provisions allowing uses of works in the classroom, in libraries, and for many other

purposes. These statutes, however, are highly detailed, and the right to use works is usually subject to many conditions and limitations.

Fair use may not be what you expect. Whether or not you are within the boundaries of fair use depends on the facts of your particular situation. What exactly are you using? How widely are you sharing the materials? To determine whether you are within fair use, the law calls for a balanced application of four factors. These four factors come directly from the fair use provision, [Section 107](#) of the U.S. Copyright Act and they have been examined and developed in judicial decisions.

To determine whether a use is or is not a fair use, always keep in mind that you need to apply all four factors. For example, do not jump to a conclusion based simply on whether your use is educational or commercial. You still need to evaluate, apply, and weigh in the balance the nature of the copyrighted work, the amount or substantiality of the portion used, and the potential impact of the use on the market or value of the work. This flexible approach to fair use is critical in order for the law to adapt to changing technologies and to meet innovative needs of higher education. Not all factors need to weigh either for or against fair use, but overall the factors will usually lean one direction or the other. Also, the relative importance of the factors is not always the same. Your analysis should guide you to a conclusion.

For a more detailed discussion of fair use, refer to the Copyright Advisory Office website at Columbia University, at the Copyright Basics tab which can be found at <http://copyright.columbia.edu> If you still have questions, contact the Copyright Advisory Office for guidance. Office hours are held weekly but consult the website for any updates about office hour availability.

II. Other Permitted Uses and Public Domain Material

Uses allowed with permission

If your use of a copyrighted work is not a fair use, you may need to secure permission from the copyright owner to include the work into your own. A non-exclusive permission does not need to be in writing, but signed permission is almost always good practice. The permission may come directly from the copyright owner, or through its representative agent or copyright agency.

Work that falls into the public domain

Not all material is copyright protected. Circumstances, such as by whom the material was created, its age or the nature of the material may classify the material as having fallen into the public domain. Public domain material can be reproduced without obtaining permission from the copyright owner. As an example, data is considered factual information and may not, in and of itself, warrant copyright protection.

For more information on permissions or public domain material, consult the Copyright Advisory Office website under the Copyright Basics tab at <http://copyright.columbia.edu>

III. Copyright Considerations When Publishing Scholarly Material

This unit addresses some of the copyright and contractual issues students face in publishing their scholarly work. It is often that students at Columbia University will be solicited to publish by commercial publishers. It is often the case that students will want to integrate their previously published material into their dissertations. Prior to publication, it is recommended that students review their publishing agreements and ensure that if possible they retain their copyrights. In the event that the publisher requires an assignment of copyright, then students should ensure that the publisher provides written assurance as part of the publishing agreement that the student can re-use their own scholarship as part of their dissertation, be able to deposit it with the University and distribute it as required by ProQuest. For more detailed strategic suggestions, consult the Copyright Advisory Office website under the Students tab at <http://copyright.columbia.edu>

A Note on Open Access

The Open Access movement is based on the premise that sharing research results and scholarly work leads to an increase in knowledge, scholarly output, innovation and invention. Open Access is generally defined as the free and immediate availability of research results with few or no restrictions on re-use. Open Access can also include material that becomes freely available after an embargo period to allow for publication with few restrictions on re-use. Federal granting agencies and now several private foundations require research results and findings to be publicly distributed with little restriction. This requirement may conflict with the terms and conditions of a publishing agreement. Graduate students should be aware of these requirements and ensure that they do not agree to terms and conditions that may conflict with their grants. For more information about Open Access and related policies at the University, see <http://scholcomm.columbia.edu/open-access/>

Columbia University's dedicated Open Access institutional repository is called Academic Commons and it is managed by Center for Digital Research and Scholarship at Columbia University Libraries. Students can deposit their work into the repository for public distribution subject to certain embargo periods. At the same time, students, if wishing to deposit their work into Academic Commons should ensure that they have not signed their rights away to do so in their publishing agreements. For more information about Academic Commons and its enormous benefits, consult the Academic Commons website at <http://academiccommons.columbia.edu/>

IV. Copyright Related Questions When Writing Your Dissertation

Apart from fair use and its application to students' scholarly work, there are copyright issues specific to dissertation development and deposit. Students often become aware of latent copyright issues at the end of their dissertation process, sometimes as late as just prior to deposit. This unit attempts to address these issues and provide some guidelines in managing them.

Managing rights information is similar to managing attribution or footnotes during the research process. Here are some questions to answer along the way to ask yourself as you undertake your research and possibly publish your findings:

Integrating the Work of Others

Consider whether you are integrating work written or created by others in your dissertation. If so, is it copyright protected? Can you justify your use as a fair one? Do you have permission? Do you need to seek permission?

Work Already Published

Consider whether you are integrating work written or created by you as part of your dissertation but having already been published or distributed by a third party? If so, is it copyright protected? Did you sign a publishing agreement and did you assign all or part of your rights to the publisher? Can you agree ProQuest's terms and conditions of distribution as provided for in their submission interface?

Works of Joint Authorship

Consider whether you are integrating work that you created previously with a group of authors so that copyright in the work is owned by you but jointly with others. Do you need the other authors in your group to permit you to re-use and integrate your work as part of your dissertation? Is this a fair use? Did you work out a group solution when creating the jointly copyright protected work? Can you agree ProQuest's terms and conditions of distribution as provided for in their submission interface?

A Basic Strategy

At a minimum, it's best to ensure that you tackle copyright questions the way you would citations and footnotes. Do them as you go. If you are unable to obtain permission for the re-use of existing work, at least you will be aware with the time to repair the damage and determine an alternative course of action. Do not wait until the last minute! If you are unsure of the answers to these questions or require further guidance, consult the Copyright Advisory Office for more advice. See <http://copyright.columbia.edu>

