

**Copyright Law and Dissertation Preparation**  
**Prepared by Rina Elster Pantalony, Director Copyright Advisory Services**  
**Columbia University Libraries**  
**Revised September 2019**

The purpose 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 and 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 can allow us to clip, quote, scan, share, and make many other common uses of protected works. But not every scholarly activity falls 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, archives and for other purposes. The Copyright Act, however, is highly complex, and the right to use works is usually subject to certain 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. For what purposes are you using the existing copyright protected work? 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 these four factors. They 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. You do not have to find that each factor favors fair use but on the preponderance of facts, and in taking into account your analysis of the four factors, you may find that the use intended is likely fair. 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 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 approach to fair use is critical in order for the law to adapt to changing technologies and to meet innovative needs of higher education.

For a more detailed discussion of fair use, refer to the Columbia University's Copyright Quick Guide at <https://copyright.columbia.edu/basics/copyright-quick-guide.html>

If you still have questions, come to Office Hours at Copyright Advisory Services or contact Copyright Advisory Services to make an appointment. Office hours are held weekly on Tuesdays from 10am to noon but consult the [copyright website](#), the [Columbia University Libraries website](#) or follow the Library's Twitter feed 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. For more information, please consult the Copyright Advisory Services website at <https://copyright.columbia.edu/basics/permissions-and-licensing.html>

### **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 does not, in and of itself, qualify for copyright protection. On the other hand, a data set may be proprietary and warrant copyright protection depending on the sophistication of its selection and arrangement.

For more information about the public domain, please consult Columbia University's Copyright Quick Guide at <https://copyright.columbia.edu/basics/copyright-quick-guide.html>

### **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 the case that students at Columbia University will be solicited to publish by academic commercial publishers. It is also often the case that students will want to integrate their previously published material into their dissertations. Prior to signing any publishing agreement, it is recommended that students review their agreements and ensure that, if at all possible, they retain some if not all of their rights, including the right to reproduce and integrate their previously published materials into their dissertations, including the right of deposit into Columbia University's institutional repository, [Academic Commons](#) and the right of distribution of the dissertations by distributors normally used for this process, such as ProQuest. Please keep in mind that deposit of your PhD dissertation into Academic Commons may be mandatory, depending on your program. Therefore, it is essential that you reserve your rights accordingly.

In the event that the publisher requires an assignment of copyright to an article that may later become part of a dissertation, a student should ensure that the publisher provides written permission, known as a license back, in the publishing agreement. The purpose of the license back is to allow the student to re-use their own scholarship as part of their dissertation, to deposit it into Academic Commons and distribute it through a distributor, such as ProQuest. This means that copyright planning and management is essential. For more detailed strategic copyright management suggestions, consult Copyright Advisory Services at <https://copyright.columbia.edu/students.html>

## **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 or no 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 in publishing agreements that may conflict with their grants.

For more information on publishing agreement riders that make them subject to open access funder policies, see <https://copyright.columbia.edu/faculty/copyright-management-strategies.html>

For more information about open access and related policies at the University, please refer to information provided by Columbia University Libraries' Scholarly Communications team at <http://scholcomm.columbia.edu/open-access/>

## **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 research, writing 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 considerations during both the research and writing process.

### **1. Integrating the Work of Others**

Consider whether you are integrating work written or created by others in your dissertation. If so, is the work integrated into your own copyright protected? Can you justify your use as a fair one? Do you have permission? Do you need to seek permission? What about images and graphs? Will you require permission to use them in your dissertation? Would their use be considered a fair use?

## **2. 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? Do you need to request permission from your publisher to re-use your work in your dissertation and deposit and distribute it as required by Columbia University?

## **3. 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 to distribution terms and conditions upon the deposit of your dissertation?

## **4. Linking**

Generally speaking, linking is not considered an activity that requires permission since the act of linking does not include the making of a copy. Recently, established copyright principles, however, have evolved, given the evolution in linking technologies. Embedded links may be more problematic and could give rise to an infringement of the display right in the event that an image, even by way of link, is displayed on a website without the copyright owners permission. Therefore, if you are embedding images into your work, even by way of link, consider whether your use can be justified as a fair use or whether you will require permission to embed the link to display an image.

## **5. A Basic Strategy**

At a minimum, it is best to ensure that you tackle copyright questions the way you would manage 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 Copyright Advisory Services for more advice. See <http://copyright.columbia.edu>