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Faculty Copyright Information - Encouraging Retention of Intellectual Property Rights

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Faculty Copyright Information - Encouraging Retention of Intellectual Property Rights

Abstract

This is a handout we provide to our faculty to explain copyright management and encourage them to retain control of their intellectual property. Most of the information is reproduced from the Cornell University Library's website: Transforming Scholarly Communications and Libraries. <http://www.library.cornell.edu/scholarlycomm/copyright/>



Martin P. Catherwood Library

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All submissions must be copyright approved. The Library checks for copyright permission because we have a legal obligation to:

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- c. if the submission contains material for which the author does not hold copyright, we have obtained the unrestricted permission of the copyright owner, and that such third-party owned material is clearly identified and acknowledged within the text or content of the submission.

We strongly encourage all ILR faculty to retain control of their intellectual property. Below we provide information on copyright management taken from the Cornell University Library's website: Transforming Scholarly Communications and Libraries. <http://www.library.cornell.edu/scholarlycomm/copyright/>

For assistance or additional information, please contact Deb Schmidle, 255-5576, djl3@cornell.edu

Copyright Management:

When you publish a book or a paper, many publishers will ask you to transfer all copyrights in the work to them. But that is not always to your advantage.

When you assign copyright to publishers, you lose control over your scholarly output. Assignment of copyright ownership may limit your ability to incorporate elements into future articles and books or to use your own work in teaching at the University. Others at Cornell might be forced to pay to use the material in their teaching.

Unless addressed in the transfer agreement, you may be forbidden by the publisher to do the following:

- Post the work to your own web site or to a disciplinary online archive
- Copy the work for distribution to students
- Use the work as the basis for future articles or other works
- Give permission for the work to be used in a course at Cornell
- Grant permission to faculty and students at other universities to use the material

The American Association for the Advancement of Science (AAAS) has urged that "...scientists, as authors, should strive to use the leverage of their ownership of the bundle of copyright rights, whether or not they transfer copyright, to secure licensing

terms that promote as much as possible ready access to and use of their published work." Below we present some copyright options that can help.

Copyright Management - What Faculty Can Do

A copyright is actually a bundle of rights. Traditionally all of them have been transferred to the publisher as a requirement for publication, but it doesn't have to be this way. There are a number of other options available to you.

Option 1: You retain all rights and license publication

The ideal solution from the author's perspective would be to retain the copyright and all associated rights in their work while licensing to publishers only the rights the publisher needs to conduct its business. You get to determine who can use your scholarship.

You can, for example, grant the publisher an exclusive license for the first formal publication of the work (in print, digital, or some other form). In addition, you might want to grant the publisher non-exclusive rights to authorize (or accomplish themselves) the following:

- Subsequent republication of the work
- Reformatting of the publication (from print to microfilm or digital formats, for example)
- Distribution via document delivery services or in course packs

The key issue with Option 1 is determining what are the minimum bundle of rights that the publisher needs in order to protect its investment in the publication. This will vary from publisher to publisher. We have some sample language that can help.

Option 2: You transfer your copyright, but retain some specified rights.

You can assign your copyright to the publisher, but at the same time reserve some specific rights for yourself. Rights you might want to receive from the publisher include:

- The right to make reproductions for use in teaching, scholarship, and research
- The right to borrow portions of the work for use in other works
- The right to make derivative works
- The right to alter the work, add to the work, or update the content of the work
- The right to be identified as the author of the work
- The right to be informed of any uses, reproductions, or distributions of the work
- The right to perform or display the work
- The right to include all or part of this material in the your thesis or dissertation
- The right to make oral presentation of the material in any forum
- The right to authorize making materials available to underdeveloped nations for humanitarian purposes
- The right to archive and preserve the work as part of either a personal or institutional initiative, e.g. On your web site or in an institutional repository.
- The copyright in every draft and pre-print version of the work.

The weakness of Option 2 is that it is often difficult to anticipate in advance everything that an author may wish to do with a work, especially over time and with changes in information technology.

Option 3: You can transfer all copyrights to the publisher.

Option 3 is the traditional solution, but is the least desirable from the author's perspective.

Sample Copyright Agreement

I. Amending Publisher Agreement

Sometimes changing a few words (exclusive to non-exclusive, for example) or substituting language for a particular section may be all that is needed. In many instances, publishers will accept the changes.

For a license to the Publisher (Option 1):

The original contract may read:

The author transfers exclusively to the publisher copyright (including all rights thereunder) in the work for the duration of copyright and all extensions and renewals thereof, in all languages, throughout the world, and in any form or medium now known or hereafter developed.

Cross out the above and substitute the following language:

The author grants to the Publisher exclusive first publication rights in the Work, and further grants a non-exclusive license for other uses of the Work for the duration of its copyright in all languages, throughout the world, in all media. The Publisher shall include a notice in the Work saying "© [Author's Name]. Readers of this article may copy it without the copyright owner's permission, if the author and publisher are acknowledged in the copy and copy is used for educational, not-for-profit purposes."

Source: [Create Change](http://www.createchange.org) -

http://www.createchange.org/librarians/issues/manage_ex2.html

You might want to include other elements important to you, such as a deadline by which the publication must appear.

To transfer copyright but reserve some rights (Option 2)

If you decide you are willing to transfer your copyright but wish to retain certain rights for yourself, strikeout or modify any language that grants exclusive rights to the publisher. Alternatively, you might wish to add the following addendum to the agreement, as found on the [Scholarly Communication](http://osc.universityofcalifornia.edu) website of the University of California:

(http://osc.universityofcalifornia.edu/manage/transfer_copyrights.html)

Addendum to Publishing Agreement
Publisher
Author:
Work:

This addendum modifies the terms of the publishing agreement referenced above. Notwithstanding any term in that agreement to contrary, the parties hereby agree that with respect to the work that:

The Author shall, without limitation, have the right to use, reproduce, distribute, update, create derivatives, and make copies of the work (electronically or in print) in connection with the Author's teaching, conference presentations, lectures, other scholarly works, and professional activities.

The Author's home institution shall, without limitation, have the right to use, reproduce, distribute, and make copies of the work (electronically or in print) in connection with teaching, digital repositories, conference presentations, lectures, other scholarly works, and professional activities conducted at the Author's home institution with the Author's written permission.

(Developed by the [Copyright Management Center, Indiana University-Purdue University Indianapolis](http://www.copyright.iupui.edu/). <http://www.copyright.iupui.edu/> Used with permission.)

University of Kansas has [additional samples](http://www.ku.edu/~vcinfo/Copyright/manuscript_contract_lang.htm) of contract language modifications. http://www.ku.edu/~vcinfo/Copyright/manuscript_contract_lang.htm

II. Substituting Your Own Agreement

Rather than modifying the publisher's contract, you can also try substituting your own. Here is a sample proposed Create Change:

The following is an agreement between [the author(s)] and [the publisher/journal] concerning [title], a Work written by the Author(s).

Author's Grant of Rights

The author grants to the Publisher exclusive first publication rights in the Work, and further grants a non-exclusive license for other uses of the Work for the duration of its copyright in all languages, throughout the world, in all media.

The Publisher agrees to publish the Article in [journal title or edited volume title].

The Publisher shall include a notice in the Work saying "Copyright [Author's Name].

Readers of this article may copy it without the copyright owner's permission, if the author and publisher are acknowledged in the copy and copy is used for educational, not-for-profit purposes."

Author's Ownership of Copyright

Copyright in the work remains with the author.

Warranty of Authorship

The Author warrants to the Publisher that the Article is original and that he/she is the sole author and has the full power to make this agreement. The Author indemnifies the Publisher against any losses and other expenses, including reasonable attorney's fees, after final judgment of any claim or action against any of all of these warranties

Source: [Create Change](http://www.createchange.org/librarians/issues/manage_ex1.html)

http://www.createchange.org/librarians/issues/manage_ex1.html

Other Sample Contracts:

From [Association of Learned and Professional Society Publishers](http://www.alpsp.org/htp_grantli.htm) (ALPSP).

http://www.alpsp.org/htp_grantli.htm

The American Association of Law Schools (AALS) [Model Author/Journal Agreement](http://www.aals.org/98-24.html).

<http://www.aals.org/98-24.html>