Requesting Permissions to Use and Reproduce Instruments in a Thesis/Dissertation

Alfred R. Neumann Library - library@uhcl.edu

Frequently Asked Questions

Why might I need permission to use an instrument in my thesis/dissertation?

If you want to use surveys, questionnaires, interview questions, tests, measures, or other instruments created by other people, you are required to locate and follow usage permissions. The instrument may be protected by copyright and/or licensing restrictions.

Copyright Protection

Copyright provides authors of original creative work with limited control over the reproduction and distribution of that work. Under United States law, all original expressions that are “fixed in a tangible medium” are automatically protected by copyright at the time of their creation. In other words, it is not necessary to formally state a declaration of copyright, to use the © symbol, or to register with the United States Copyright Office.

Therefore, you must assume that any material you find is copyrighted, unless you have evidence otherwise. This is the case whether you find the instrument openly on the web, in a library database, or reproduced in a journal article. It is your legal and ethical responsibility to obtain permission to use, modify, and/or reproduce the instrument.

If you use and/or reproduce material in your thesis/dissertation beyond the limits outlined by the “fair use” doctrine, which allows for limited use of a work, without first gaining the copyright holder’s permission, you may be infringing copyright.

Licensing/Terms of Use

Some instruments are explicitly distributed under a license agreement or terms of use. Unlike copyright, which applies automatically, users must agree to these terms in order to use the instrument. In exchange for abiding by the terms, the copyright holder grants the licensee specific and limited rights, such as the right to use the instrument in scholarly research, or to reproduce the instrument in a publication.

When you ask a copyright holder for permission to use or reproduce an instrument, you are in effect asking for a license to do those things.
How do I know if I need permission to use instruments in my thesis/dissertation research?¹

Follow the four-step process below:

1. Determine whether you need permission

There are different levels of permissions for using an instrument:

   a) No permission required:
      i. The copyright holder has explicitly licensed the use of instrument for any purpose, without requiring you to obtain permission.
      ii. If you are only using a limited portion of the instrument, your use may be covered under the Fair Use Doctrine. See more the University of Minnesota’s Thinking Through Fair Use tool at https://www.lib.umn.edu/copyright/fairthoughts.
      iii. If the instrument was developed by the federal government or under a government grant it may be in the public domain, and permission is therefore not required.
      iv. If the document was created before 1977, it may be in the public domain, and permission is therefore not required. See the Stanford Public Domain Flowchart at https://fairuse.stanford.edu/wp-content/uploads/2014/06/publicdomainflowchart.png.

   b) Non-commercial/educational use: The copyright holder has licensed the instrument only for non-commercial research or educational purposes, without requiring you to obtain the permission of the copyright holder. Any other usage requires permission.

Sample permission for educational use²

Test content may be reproduced and used for non-commercial research and educational purposes without seeking written permission. Distribution must be controlled, meaning only to the participants engaged in the research or enrolled in the educational activity. Any other type of reproduction or distribution of test content is not authorized without written permission from the author and publisher. Always include a credit line that contains the source citation and copyright owner when writing about or using any test.

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Even if you are not required to obtain permission to use the instrument, consider contacting the author for ideas on how to administer and analyze the test. Authors often welcome further use of their work, and may request you send them a copy of your final work.

c) Permission required: Instruments that require you to obtain the permission of the copyright holder, regardless of whether the use is for educational or commercial purposes. This may be because the copyright holder
- has important directions for how the test must be administered and analyzed
- wants to make sure the most current version is being used
- charges users a fee in order to administer the test

If you cannot locate the permissions, you are required to identify the copyright holder and contact them to ask about permission to use the instrument.

2. Identify the copyright holder

The next step is to identify who owns the copyright. The copyright holder is usually the creator of the work. If the copyright owner is an individual, you will need to do the usual Internet and telephone searches to find the person. Be ready to introduce yourself and to explain carefully what you are seeking.

Some authors transfer copyright to another entity, such as a journal publisher or an organization. In these cases, you must obtain permission from that entity to use or reproduce the instrument. You can often identify the owner by locating a © copyright notice, but as mentioned above, not all copyrighted works have a notice.

Check the following sources to locate instruments, their copyright holders, and their permission statements:

- Directory of Unpublished Experimental Measures (print):
  https://library.uh.edu/record=b3544481
- Mental Measurements Yearbook:
- PsycTESTS:
- Neumann Library Tests & Measures help: https://uhcl.libguides.com/PSYC/tests
- Library assistance e-mail: library@uhcl.edu

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3 Adapted from Kenneth Crews at https://copyright.columbia.edu/basics/permissions-and-licensing.html
You may need to contact the author or publisher directly to find out who owns the copyright. Publishers often have websites that prescribe a method for contacting the copyright owner, so search the publisher website for a permissions department or contact person. Be sure to confirm the exact name and address of the addressee, and call/e-mail the person or publishing house to confirm the copyright ownership.

Tips:

- The copyright owner may prefer or require that permission requests be made using a certain medium (i.e. fax, mail, web form, etc.). If you do not follow instructions, you may not get a reply.
- Telephone calls may be the quickest method for getting a response from the owner, but they should be followed up with a letter or e-mail in order to document the exact scope of the permission. E-mail permissions are legally acceptable in most cases, but getting a genuine signature is usually best.
- The request should be sent to the individual copyright holder (when applicable) or permissions department of the publisher in question. Be sure to include your return address, telephone and fax numbers, e-mail address, and the date at the top of your letter or message. If you send the permission request by mail, include a self-addressed, stamped return envelope.
- Make the process easy for the copyright owner. The less effort the owner has to put forth, the more likely you will get the permission you need. If you are using conventional mail, include a second copy of your request for the owner’s records.
- State clearly who you are, your institutional affiliation (e.g., University of Houston-Clear Lake), and the general nature of your thesis/dissertation research.

Do not send permissions letters to all possible rightsholders simultaneously. Taking the time to find the person who most likely holds the copyright will better yield success. If you do not have much information about who actually owns the copyright, be honest with your contacts, and they may be able to help you find the right person.

3. Ask for permission

Once you have identified the copyright holder, you must determine the scope of your permission request. Some copyright owners furnish their own permission form that you may download from their website.

If the copyright owner does not provide a permission agreement form, you may use the template at the end of this FAQ. Requests should be made in writing; e-mail is fine for this purpose. A most effective letter will include detailed information concerning your request for permission to use the work. Include the following information:

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4 Adapted from Kenneth Crews at https://copyright.columbia.edu/basics/permissions-and-licensing.html
• Who: Introduce yourself. Tell who you are, your degree program, and a brief overview of your research.
• Why: Tell why you are contacting that person or entity for permission.
• What: Be as specific as possible when you cite and describe the instrument you wish to use. Include whether you plan to use the entire instrument, or if you plan on modifying or adapting any of the questions.
• How: Tell how you plan to use the instrument. Specify the parameters of your research study, and include any important information about the way you will administer the instrument and/or analyze the results.
• When: Expected length of the project and time to complete the thesis/dissertation.

Important: Obtaining permission to use an instrument is not the same as obtaining permission to reproduce the instrument in your appendix. If you intend on providing a copy of the instrument in an appendix, ask for separate permissions to do that.

See the Permission Template below for an example. Feel free to modify and adapt that template for your purposes.

4. Keep a record

After securing permission to use and/or reproduce the instrument, save a copy of the correspondence and the agreement. Documentation allows you to demonstrate to others that you have the legal right to use the owner’s work. In the unlikely event that your use of the work is ever challenged, you will need to demonstrate your good faith efforts. That challenge could arise far in the future, so keep a permanent file of the records. Moreover, you might need to contact that same copyright owner again for a later use of the work, and your notes from the past will make the task easier.

Upload a copy of your permission letter in Vireo with your thesis/dissertation, or include it as an appendix in the document itself.

What if I can’t locate the copyright holder?\(^5\)

In some cases, you may never get a response from the copyright holder or you may never even be able to identify who they are or how to contact them. It can be difficult to know how to proceed when you reach a dead end. Unfortunately, no matter how diligently you have tried to get permission, these efforts cannot completely eliminate the risk of infringement should you proceed to use the work.

Assuming you have diligently investigated your alternatives, do not want to change your project, and remain in need of the elusive copyright permission, the remaining

\(^5\) Adapted from April Hathcock at [https://guides.nyu.edu/c.php?g=276785&p=1845972](https://guides.nyu.edu/c.php?g=276785&p=1845972) and Dr. Kenneth D. Crews and Rina Elster Pantalony [https://copyright.columbia.edu/basics/special-cases.html](https://copyright.columbia.edu/basics/special-cases.html)
alternative is to explore a risk-benefit analysis. You need to balance the benefits of using that particular material in your given project against the risks that a copyright owner may see your project, identify the materials, and assert the owner’s legal claims against you. Numerous factual circumstances may be important in this evaluation. The “benefit” may depend upon the importance of your project and the importance of using that particular material. The “risks” may depend upon whether your project will be published or available on the Internet for widespread access—as theses and dissertations will. You ought to investigate whether the work is registered with the U.S. Copyright Office and weigh the thoroughness of your search for the copyright owner and your quest for appropriate permission.

Undertaking this analysis can be sensitive and must be advanced with caution and with careful documentation. You may be acting to reduce the risk of liability, but you have not eliminated liability. A copyright owner may still hold rights to the material. Members of the University of Houston-Clear Lake community should consult with their chair or the Neumann Library to discuss their options.

Portions of this FAQ are used and adapted from:

Crews, Kenneth and Rina Elster Pantalony. “Special Cases.” Columbia University Copyright Advisory Services. https://copyright.columbia.edu/basics/special-cases.html. Licensed under Creative Commons Attribution 4.0 International (CC BY 4.0).


Questions? Contact a librarian:


Sample Permission Letter Text

I am a <master's/doctoral> student at the University of Houston-Clear Lake completing a <thesis/dissertation> in <program name>. I am writing to ask written permission to use the <instrument name> in my research study. <Insert details about the nature of your research.> My research is being supervised by my professor, <professor name and title>.

<Include any details that will influence the decision, such as whether you plan to use the entire instrument or if you plan on modifying or adapting any of the questions. Describe how you plan to use the instrument. Specify the parameters of your research study and include any important information about the way you will administer the instrument and/or analyze the results>.

[optional]: I would also appreciate receiving copies of <supplemental material that will help you administer the test and analyze the results; for example, (1) the test questionnaire, (2) the standard instructions for administering the test, and (3) scoring procedures>.

[optional]: In addition to using the instrument, I also ask your permission to reproduce it in my <thesis/dissertation> appendix. The <thesis/dissertation> will be published in the UHCL Institutional Repository at https://uhcl-ir.tdl.org/uhcl-ir/ and deposited in the ProQuest Dissertations & Theses database.

I would like to use [and reproduce] your <instrument> under the following conditions:

- I will use the <instrument> only for my research study and will not sell or use it for any other purposes
- I will include a statement of attribution and copyright on all copies of the instrument. If you have a specific statement of attribution that you would like for me to include, please provide it in your response.
- At your request, I will send a copy of my completed research study to you upon completion of the study and/or provide a hyperlink to the final manuscript

If you do not control the copyright for these materials, I would appreciate any information you can provide concerning the proper person or organization I should contact.

If these are acceptable terms and conditions, please indicate so by replying to me through e-mail at <your e-mail address>.

Sincerely,

<Your name>
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