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Scholarly Communication: Copyright

Most likely, the copyright for your published articles is owned by journal publishers, not you. It is usually after your article is reviewed and accepted for publication that you are kindly asked to sign a standard agreement that gives all of your rights to the publisher. What it means is that you have to ask for permission to use your own work, as you would do with any other copyrighted material. If you don't have permission, your attempts to share your own work with colleagues and students, in print or electronic formats, may be infringing, depending on your contract with the publisher.

The "exclusive right to copy" refers to the right to reproduce your work (in any format), to distribute it (to colleagues via e-mail), to create derivative works based on it (publish another version in an edited volume), to display it publicly (on your website) or to perform it (as a play would be performed). These are only some examples of prohibited uses of your work, if you signed away all your rights to the publisher and you are not the copyright owner.

However, the law specifies exemptions to copyright that limit the exclusive control of the copyright owner under certain circumstances, so as not to stifle creativity. That is also why copyright is granted for a limited time only, and all works are free to use once they are in the public domain. Under conditions described in the TEACH Act, including classroom display of images or performance of works, copyrighted works can be used without asking for the copyright holder's permission. In other cases, the law permits certain types of infringements because of their positive value to society, such as use for criticism, comment, education and news reporting. The Fair Use Doctrine provides a defense to infringement in these cases, because seeking permission for such uses that promote culture and social life are unreasonable. As a teaching faculty, you are probably using your own or others' work in ways that either the Fair Use defense or the TEACH Act exemptions may apply.

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[Copyright @ Case](#)

Retain More of Your Copyrights When You Publish

For many years, it has been common practice in academe for authors to sign away all their [exclusive rights](#) to book and journal publishers. While Copyright Law has not changed, new negotiating styles with your publisher can help to bring about change and flexibility so you can retain some of your rights—yet still benefit both you and your publisher. Several documents here can help you prepare to negotiate your rights.

Author's Copyright Contract Addendum

Academic institutions have already begun to adopt an authors' addendum documents which can be attached to a publisher contract. This addendum is an agreement between you and your publisher that allows you to retain non-exclusive, specific rights for professional use—yet also allows the publisher to continue to publish and exercise similar rights for distribution and copies.

The addendum is an agreement with multiple benefits: for you, the institution, the publisher, and for print as well as digital uses. It gives the original author more flexibility in scholarly & related professional activities, including digital retention at the institutional level. In the spirit of agreement and practical rights for authors, if the publisher's contract and the author's addendum are in conflict, the addendum agreements will prevail.

Case has an [Author's Addendum](#) that can be used in negotiations with your publisher. Using the addendum can give you increased post-publication usage rights for your teaching, and also provide for inclusion of your work in [Digital Case](#), the university institutional repository. There are other examples of addendum agreements now appearing. One is the CIC Provosts (Committee on Institutional Cooperation) [Scholarly Communication Introduction](#) with an Author Contract Addendum supporting new copyright agreements. Also, Case is a member of [SPARC](#) (Scholarly Publishing & Academic Resources Coalition), developed in recent years by [ARL](#) (Association of Research Libraries) as a catalyst for change in scholarly communication and publication. SPARC has publishing news, author's [resources](#) and a helpful [brochure on Author's Rights](#), as well as an Author Addendum.

Other Initiatives for Alternative Copyrights

The [Creative Commons](#) has gained momentum in recent years, creating a way for creators to decide which rights they wish to retain and to make it easier to share and build upon the work of others—a key premise of federal copyright law. Creative Commons, founded in 2001, allows creators to assign varied copyright licenses to their works, and provides sample license agreements. In 2008, Creative Commons estimated that 130 million CC licenses were assigned to new works.

Check with your publishers, too. Publishers are also liberalizing their prior contracts, as noted in the Elsevier [announcement](#) that now allows web posting.



Transforming Scholarly Communication

Scholars taking control of the scholarly communication and publication system to maximize dissemination of research

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Retaining Rights To Your Work

Information for University of Iowa Authors

Why retain rights?

- Often publishers create significant barriers for authors who want to reuse their work, or allow others to use it. Negotiating changes to these standard agreements can help authors avoid unfortunate barriers to reuse and sharing.
- Some research funders request or require that work created with their funds be made available openly on the web (example: the NIH requires grant receivers to deposit articles into [PubMed Central](#)). Funder policies can be reviewed in the University of Nottingham's [SHERPA/JULIET](#) web site. [Other institutions also have open access policies](#) or mandates.
- Making research and scholarship as widely available as possible supports the [University of Iowa's mission](#) "to advance scholarly and creative endeavor through leading-edge research and artistic production; to use this research and creativity to enhance undergraduate, graduate, and professional education, health care, and other services provided to the people of Iowa, the nation, and the world."

What are your rights?

- Know your rights as an author. As the author of a work, you are the copyright holder unless or until you transfer your rights (view [sample publication agreements](#))
- Copyright law gives the creator of copyrighted works exclusive rights, including:

To reproduce the work in copies (e.g., through photocopying)
To distribute copies of the work
To prepare transitional or other derivative works
To perform or display the work publicly
To authorize others to exercise any of these rights

- UI authors are often most interested in retaining rights to:
Reuse their work in teaching, future publications, and in all scholarly and professional activities.

Post their work on the web page (sometimes referred to as "self-archiving"), in a discipline archive (such as [PubMed Central](#) or [arXiv](#)), or in an institutional repository ([Iowa Research Online](#) is UI's institutional repository)

- Know your rights under [Fair Use](#), the [TEACH Act](#), "public domain," and permissions to use copyrighted work. Copyright protection exists from the time the work is created in a fixed, tangible form of expression. However, registering a work for copyright affords the owner additional legal rights. You can register a work through the [Copyright Clearance Center](#) or directly with the [U.S. Copyright Office](#).

The author of the original works owns the copyright unless the work was for hire and then the employer owns the copyright. The [University Operations Manual](#) section 31 addresses when copyright belongs to the University.

Which rights to retain?

- **At a minimum: Transfer copyrights but reserve some rights:** Use techniques and language to modify the language of the publishing contract to transfer non-exclusive rights to the publisher.
- **Ideally: Keep copyrights and transfer limited rights to the publisher:** Use techniques and [sample publishing agreements](#) to transfer limited rights to the publisher.

How to retain rights?

- Check the [SHERPA/RoMEQ](#) web site to view the self-archiving and copyright policies of your publisher.
- Publisher policies and agreements are usually linked from the author information or article submission section of a journal's website.
- If the policy for the publisher you want to use isn't listed in the [SHERPA](#) database, or isn't what you desire, [you can retain rights](#) by specifying to the publisher of your article which rights you would like to keep (view [sample agreements](#) for help)
- The [UI Author's Addendum \(pdf\)](#) enables authors to continue using their publications in their academic work and to deposit them into any discipline-based research repository (including [PubMed Central](#), the National Library of Medicine's database for NIH-funded manuscripts).
- Use a [Creative Commons license](#) in place of the license provided by the publisher.

Which publishers are likely to be flexible about these rights?

- Publisher policies and agreements vary considerably. The [SHERPA/RoMEQ](#) database offers a summary of publisher copyright policies & self-archiving.
- While some publishers will not accept an addendum outright, they might respond by sending back a second, more author friendly publishing contract.
- Publisher policies change over time, and the terms stated on their websites often vary from the terms of their actual agreements, so it is important to read the agreement itself.

UNIVERSITY OF IOWA

Retaining Rights to Your Work – Information for University of Iowa Authors

http://www.lib.uiowa.edu/scholarly/authors_rights.html

Where do I go with questions about these issues?

[Edward Shreeves](#), Associate University Librarian & Director, Collections and Scholarly Communication, 335-5867

[Karen Fischer](#), Collections Analysis & Planning Librarian, 335-8781

[Your Librarian](#) (deparmental liaisons)

[University of Iowa Office of the General Counsel](#), Deputy General Counsel [Grainne Martin](#), 319-335-2742.

Washington University in St. Louis

Scholarly Communications

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Authors and Copyright

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Authors and Copyright provides information on author rights and related resources to assist authors with management of their rights.

Background

The copyright law gives an author of a work a bundle of exclusive rights to do and authorize others to do the following with the work:

- To reproduce the work
- To distribute copies of the work to the public
- To prepare derivative works based on the work
- To display the work publicly
- To perform the work publicly

Under the traditional academic publication model an author typically transfers all copyright interests to a publisher. If authors relinquish all their copyright interests to the publisher, the author loses the ability to use his or her own work without permission from the publisher.

Because of advances in digital technology, many publishers offer authors options for management of their copyright with flexible use conditions that meet the needs of both parties. Authors no longer have to transfer all their rights in a single bundle in exchange for publication.

This document only addresses copyright, and not other rights the author might possess. For example, an article in the natural or physical sciences may disclose a patentable “invention.” If the author does not file a patent application within one year of publishing the article that discloses the invention, the author will not be able to obtain a patent on the invention. If you think an article you are writing might disclose a patentable invention, consult Cathy Sarli.

What Should Authors Do?

- Anticipate the ways you wish to reuse and disseminate your work
- Use a publisher that allows authors to retain certain rights or is willing to negotiate
- Review the publisher’s copyright agreement form before signing to confirm that the anticipated uses and rights are noted on the form
- Attach an addendum if necessary, in order to retain rights
- Keep a record of all signed documents
- Comply with any publisher restrictions on use

What Rights Should Authors Retain?

Authors are encouraged to anticipate their future use of the work and retain any or all of the rights they may need to achieve their academic and professional goals. Authors may want to retain rights to do the following:

Over 8,000 journals allow authors to self-archive their work. Use the Romeo/eprints directory to locate a self-archiving policy by journal title.

- Make copies of the work for educational use, including class notes, study guides or electronic reserves
- Use part of the work as a basis for a future publication
- Send copies of the work to colleagues
- Present the work at conference or meeting and give copies of the work to attendees
- Use a different or extended version of the work for a future publication
- Deposit the work in an institutional or funding agency repository
- Post the work on a laboratory or institutional web site on a restricted network or publicly available network
- Include the work in future derivative works, including a dissertation or thesis
- Use the work in a compilation of works or collected works
- Expand the work into a book form or book chapter

Note: Authors who receive funding from agencies that have public access mandate policies must retain the right to comply with these policies. Examples of public access mandates are the NIH Public Access Policy and the Howard Hughes Medical Institute Policy on Public Access to Publications.

"Author's Rights," a 2-minute video produced by the Institute on Scholarly Communication, ARL, ACRL, and SPARC

Further Resources:

- Jonathan Band – "Publish and Perish? Protecting Your Copyrights from Your Publisher" (used with permission)

How To Negotiate and Retain Rights

First, it is important to determine what rights you want to retain to accomplish your academic and professional goals.

Second, review the publishing agreement presented by the publisher to determine the rights the publisher is seeking from the author. Since any transfer of copyright interests must be in writing, publishers often use very broad and expansive language to accomplish a transfer of copyright interests. You may need to negotiate with the publisher to assure that

"Be a responsible steward of your intellectual property. Retain vital rights for you and your readers while authorizing publishing activities that benefit everyone by making scholarship more widely available."

—Scholarly Publishing and Academic Resources Coalition (SPARC)

your intended future use of the work is permissible under the publishing agreement. Publishers often post copyright policies on the internet; however, be sure that the agreement expressly contemplates the rights you seek to retain. A policy is not a binding agreement and can be changed at the discretion of the publisher.

In many cases the publisher or the Editor in Chief support the author's future intended use and are willing to negotiate author's rights. There are several methods to negotiate the terms of a

publishing agreement.

1. Because publishers use form agreements and resist changes to its forms, it may be necessary to attach an addendum to the publishing agreement which expressly sets forth the rights retained by the author. See Addenda for Authors.
2. Some publishers allow authors to insert in the text of the agreement the rights they wish to retain. The following is an example:

"If there are any elements in this manuscript for which the author(s) hold and want to retain copyright, please specify:

_____"
[Physical Therapy, Journal of the American Physical
Therapy Association]

3. Some authors amend the publisher agreement form by crossing out the specific clauses that they do not agree with and inserting by hand the rights they wish to retain. Before doing so, review the publisher's agreement form to make sure that there is no clause like the following that would create a conflict within the agreement:

"SIGN HERE FOR COPYRIGHT TRANSFER: I hereby certify that I am authorized to sign this document either in my own right or as an agent for my employer, and have made no changes to the current valid document. . ."
[ACS Journal of Natural Products]

Any changes made directly on the form agreement must include the initials of the author and the initials of an authorized representative of the publisher, which are placed immediately adjacent to the handwritten or typewritten change. Any changes made and initialed by the author will have no legal effect without the approval of the publisher.

Further Resources:

- [Phrases to Look for in Publication Agreements \(PDF\)](#)

How to Locate Publisher Copyright Policies

Publishers' copyright policies are often located on the publishers' web sites under "Instructions for Authors" or "Copyright Information." Many publishers provide detailed information for

authors as to what uses are permitted under the publisher's copyright policy for a given journal. Keep in mind that some publishers have not updated their copyright agreement forms to correspond with the information posted on its web site. Authors are encouraged to carefully review the publisher copyright agreement before signing to confirm that the anticipated uses and rights or the rights retained by the author are expressly stated on the agreement form. If not, authors should seek clarification from the publisher before signing and seek a revision of the agreement. Publishers may send a new copyright agreement form or send an addendum.

If there is no information available on the publisher copyright agreement form or on the publisher's web site, contact the publisher or Editor in Chief of the journal to seek clarification. In many instances, publishers have not updated their web site content or the publisher copyright agreement form but are amenable to changes to the agreement to clarify the relative rights of each party. If the publisher is unwilling to work with you, consider locating an alternative publisher that would be willing to negotiate the terms of the copyright.

Definitions

- **Pre-print:** Manuscript as submitted by the author for peer review.
- **Post-print:** Manuscript that includes changes made by the author as a result of the peer review process.
- **Final Publisher Version:** The publishers' final version of the manuscript and is different from the post-print version, due to layout, pagination, location of graphics, etc.

Addenda for Authors

An addendum is an attachment to a contract or form that modifies, clarifies, or adds to the contract. There are a variety of addenda available for authors to use to retain rights that are not explicitly stated on the publisher copyright agreement form. If authors attach an addendum, add the statement "Subject to Attached Addendum" next to your signature on the publisher copyright agreement form.

Sample forms of addenda for authors to use:

Customized Copyright Addendum

The Washington University Copyright Addendum form will generate a customized PDF that authors can attach to a journal publisher's copyright form to retain specific rights that are not expressly stated by the publisher. **WU authors are NOT required to use the WU Addendum.**

Use the online tool to generate an addendum customized with the rights you wish to retain.

- [View Sample Customized Form](#)

Scholar's Copyright Addendum Engine

The Scholar's Copyright Addendum Engine created by Creative Commons allows authors to choose from four addenda which will automatically generate amendments to a publisher's copyright agreement for authors to retain certain rights to their work.

NIH Addendum Language

For authors who are required to comply with the NIH Public Access Policy, NIH provides suggested language to use as a means of retaining the right to comply:

"Journal acknowledges that Author retains the right to provide a copy of the final manuscript to the NIH upon acceptance for Journal publication, for public archiving in PubMed Central as soon as possible but no later than 12 months after publication by Journal."

NIH Addendum Form

- [Ready to use NIH Addendum Form for authors who wish to retain the right to comply with the NIH Public Access Policy.](#)

According to NIH:

"Authors own the original copyrights to materials they write. Consistent with individual arrangements with authors' employing institutions, authors often transfer some or all of these rights to the publisher when the journal agrees to publish their article. Some publishers may ask authors to transfer copyrights for a manuscript when it is first submitted to a journal for review. Authors should work with the publisher before any rights are transferred to ensure that all conditions of the NIH Public Access Policy can be met. Authors should avoid signing any agreements with publishers that do not allow the author to comply with the NIH Public Access Policy."

Authors are strongly encouraged to seek confirmation from publishers before submitting a manuscript for peer review to verify that a publisher will allow authors to retain the right to comply with the NIH Public Access Policy.

Further Resources:

- NIH Public Access Policy
- Washington University NIH Public Access Policy Information

Federal Funding Addendum

Some authors who receive non-NIH federal funding support may want to retain the right to submit their work to a government-sponsored digital repository or a subject-based repository or an institutional repository such as DSpace at Washington University Becker Medical Library.

“Journal acknowledges that Author retains the right to deposit a copy of the final manuscript (peer-reviewed version), upon acceptance of Journal publication, for public archiving in a government-sponsored digital repository or institutional repository as soon as possible but no later than 12 months after publication by Journal.”

Federal Funding Form

- Ready to use Federal Funding Form for authors who receive non-NIH federal funding support.

What Should Authors Do if a Publisher Does Not Accept an Addendum?

There are several options if a publisher does not accept an author’s addendum.

1. Contact the publisher or the Editor in Chief to find out why the addendum was rejected.
2. Find an alternative publisher that allows authors to retain rights as needed. Contact Cathy Sarli or Barbara Rehkop to find alternative publishers.
3. Negotiate with the publisher to resolve your differences.

Becker Library and Danforth Campus Libraries Services in Support of Author Rights

- Assist with author rights issues
- Review a copyright agreement form
- Provide contact information for publishers
- Contact journal publishers to obtain information/permission on your behalf
- Locate publisher copyright policies and stipulations
- Help authors comply with publisher stipulations
- Provide a Digital Object Identified number (DOI) for an article
- Advise authors on strategies to comply with the NIH Public Access Policy
- Provide a listing of peer-reviewed journals specific to your field of study that allow

authors to retain rights

- Submit your NIH-funded research article to PubMed Central on your behalf
- Group presentations on author rights and related issues at a location of your choice or at a WU Library
- Personal consultations on author rights and related issues at a location of your choice or at a WU Library

Have questions about author rights and your options? We can help you.

Contact your copyright liaison:

Becker Library: Cathy Sarli | Danforth Campus Libraries: Barbara Rehkop

The foregoing is provided for informational purposes only and is not intended to serve as legal guidance or advice. Authors are encouraged to consult legal counsel for advice on specific copyright issues or situations.

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A joint project of Washington University Libraries and Bernard Becker Medical Library
Comments or questions? Contact co-chairs Cathy Sarli or Ruth Lewis
Last updated 05/13/2009

Reshaping Scholarly Communication

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Office of Scholarly Communication

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Seven Points to Understand About Copyright

1. U.S. copyright law establishes the exclusive rights of authors and other creators of original works.
2. Copyright is a bundle of rights. They can be transferred in their entirety by the author to a third party, such as a publisher, or the author can transfer only narrowly-tailored (e.g. non-exclusive) rights, or can instead license a third party to make specific uses of the work.
3. You do not have to surrender your copyrights when you publish, though it is traditional in academic publishing that publishers require the transfer of all copyrights as a condition of publication. They sometimes, but not always, then transfer certain rights back, such as the right to use the work in your classroom.
4. The transfer of copyrights to the publisher can lead to unintended consequences. For example, a course instructor may be unable to make copies of her own work to distribute to her students or colleagues without permission of the publisher/copyright owner.
5. The transfer of copyrights to the publisher also confers enormous market power on the publisher, as the exclusive owner of the rights to the scholar's work. This can be problematic when the interests and incentives of the publisher (e.g. profit and market share) diverge from the interests of the scholars and the University (e.g. the widest possible dissemination of the work).
6. By academic tradition and University of California policy, for most works created by faculty in the course of their teaching and research, copyrights belong to the faculty author. See the UC policy on copyright ownership and the policy on ownership of course materials.
7. It therefore falls to the faculty as individuals to manage the copyrights of their scholarly works in ways that foster academic goals.

For more in-depth information:

- [UC copyright](#): A resource for the University of California community
- [Copyright Management Center](#): Serves the Indiana University-Purdue University Indianapolis community for the management of copyright issues.
- [Create Change](#): Web site sponsored by the Association of Research Libraries
- [Copyright Management for Scholarship](#): Web site hosted by the SURF Foundation to support the Zwolle conferences on copyright ownership in higher education.

[Comments?](#) [Feedback?](#)

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