What Materials Are You Legally Allowed to Use in Your Book

by Jane Friedman

Is it permissible to quote directly from a document issued by the U.S. government?
Yes, materials published by the government are in the public domain. There are a few minor exceptions; for instance, you should be alert to copyrighted material inserted in an uncopyrighted public-domain government publication. In addition, some documents connected with the post office are protected. If you have any questions about whether a specific leaflet you want to use is copyrighted, the presence or absence of the copyright notice should be your guideline. Even though you are legally free to use materials from government publications, you should cite the source so that both your publisher and the reader will know where your information came from.

Can I quote from the Bible without being concerned with copyright infringement?
Yes, you can quote anything from the King James Version, which is in the public domain. However, most modern translations, such as the Living Bible and the New International Version, are under copyright and permission is needed. To quote from these later versions, treat them as you would any book: Request permission to use the material beyond fair use guidelines, and give a proper credit line. Some Bible publishers give guidelines on their Web sites on what they consider fair use. For instance, the New International Version allows quotation of up to one thousand verses without written permission. (Proper credit is still required.) Many religious magazine and book publishers have standard arrangements with the Bible copyright owners; check with the editor you hope to sell to before requesting permission on your own.

I’m writing an article in which I quote from a university study. Is it permissible to quote or paraphrase the
general findings of such a study? Quoting or paraphrasing the general findings of the study should pose no problem.

For an article I’m writing, I want to use some statistics I found in a recent issue of Reader’s Digest. If I quote from the article directly, must I obtain permission? You should not need written permission to use brief statistical material from Reader’s Digest or any other publication, as long as you cite the source of your information in the article. Whether you paraphrase or quote the source verbatim, you should always acknowledge the original source of the material. If you intend to use the article extensively when you write your article, then you must obtain written permission.

I have written a poem using characters and themes from a novel that was published a few years ago. Do I need permission from the author or publisher of the original novel to do this? You may feel free to use the themes from the novel, since they can’t be copyrighted. Characters, however, are a different matter. If a character—and especially a character’s name—is associated with a particular work in the public mind, then the question arises of infringement of the author’s right to adapt his own work to other forms. For example, Warner Bros., producers of the Superman movies, sued ABC-TV, claiming that its Greatest American Hero series infringed on the Superman copyright because the series featured a flying hero with a red cape and x-ray vision who used the same arms-extended flying position as the Superman character. In a similar case, a Los Angeles woman sued E.T. director Steven Spielberg for $750 million of the film’s profits, claiming she originated the idea in a copyrighted one-act play. Although a Manhattan federal judge rejected the Warner Bros. claims, the studio appealed the decision. The E.T. case was eventually dismissed. But even if you successfully fought an allegation that you stole a character, the legal fees could be astronomical. It’s always safer to write for permission before you begin a work based on characters from already-published sources.

Can I quote personalities whose statements are included in daily newspaper columns? Where can I obtain permission to quote?
Since news cannot be copyrighted, if you are using quotations that are in news stories about personalities, you would not have to request permission, assuming that the quotations were accurately recorded by reporters and not of a nature that the personality would subsequently sue for inaccuracy. Many newspaper features and columns, however, are covered by copyright, and you would not be able to use very long quotations from these without requesting permission from the newspaper or the syndicate.

Is it okay for me to take a few hundred words from a previous book of mine and use them in a new one?
The same fair use rules that apply to quoting someone else’s work apply to quoting your own work. You may need to request permission from your first publisher. If you’re on good terms with your editor, you’re likely to be granted permission for short excerpts without any fuss, but keep in mind that few editors like authors who recycle their old material in a new book.

In my story, it would help add realism to use the titles of a few currently popular songs, and some snatches of the lyrics. Would it be necessary to get permission or give credit for this use?
If you’re going to quote directly from the lyrics, you will definitely need permission, even if it’s just for one line. Songwriters are very protective of their rights—and permissions can be very expensive. Song titles, however, are not copyrightable and can be mentioned without any permission.

How do I go about obtaining permission to use song lyrics in my novel?
A good place to start is the CD booklet, if you have it, especially if the lyrics are printed inside. You’ll usually see something like “Lyrics reprinted by kind permission of [name of music publisher or label].” There may be contact info right there in the booklet. The record label could also probably steer you in the right direction. Also look for a note stating the musician’s publishing affiliation. If this info is shown, odds are good the person is either an ASCAP- or BMI-affiliated songwriter. ASCAP, BMI, and SESAC are organizations that collect royalties for radio play, licensing for restaurant music services, TV, etc. You can search the online databases at www.bmi.com and www.ascap.com to get addresses and phone numbers for permissions requests.
Another approach is to look up the musician’s management company in the booklet.

Can I use titles of television shows, books, and movies in a general way? How about brand names?
Since titles are not copyrightable, you are free to refer to them in your writing. Brand names may also be used, as long as they are not used in a derogatory manner. Some companies, such as Coca-Cola and Xerox, object to their brand names being used generically—to refer to cola or photocopying in general, for example—since such use jeopardizes their trademark.

I’ve seen poets use lines from famous poems in their own poetry without footnotes or other citation. What is the rule with this? When is it assumed that a line is so famous that it doesn’t require citation?
In poetry, a quote usually appears as an epigraph (a note or quotation that precedes the body of the new poem). Using lines quoted from someone else’s poetry in your own poem without footnotes is okay as long as you follow a few guidelines. First of all, is the quoted poem in the public domain? If it is, you’re safe to quote as much as you want (within reason—excess can be regarded as plagiarism), and you should credit the poet. If the poem is not in the public domain, current fair use standards dictate you can quote only one or two lines of the poem. (Advice seems to differ depending on who you ask; and, obviously, if the poem is only two lines long, you can’t quote it in its entirety.) Again, you must credit the poet who wrote those lines. For longer quotes, you would need to get permission from the poet and/or the poet’s publisher. In addition, there may be strict guidelines the poet or publisher requires you to follow in crediting the quoted poem (i.e., a full credit line at the end of the poem, maybe even a copyright date and publisher name).
Quoting from another’s work can be a touchy situation, unless you’re quoting from Shakespeare or similar classic poets whose work is in the public domain. To quote from a copyrighted poem and remain in safe territory, don’t quote more than one line of the poem, and if you have any doubts at all, contact the poet or publisher and get permission to quote from the poem.

How can I investigate whether a work has fallen into public domain?
The Library of Congress has an online search for copyrighted works. It is fairly limited, though—it allows you to search only for registrations from 1978 to the present. To look for earlier registrations, follow the directions given on the Copyright Office Web site (www.copyright.gov).

I’ve based my book on extensive research of government information from government publications and files. Can I copyright my book when most of the information is in the public domain?

While government material is not in itself copyrightable, your particular rewritten presentation of it is. However, any work that consists in any large part of verbatim government material must carry in the copyright notice a statement that identifies those parts of the work that are yours and those parts that are government-produced.

Since ideas can’t be copyrighted, is it necessary to obtain permission from the author of a short story before expanding the material to book length?

You are not at liberty to base a book on another author’s short story without the consent of that author, since he has the exclusive right of adaptation of his own work. If you’re only using the theme (the point the author makes in the story, such as that perseverance pays off or crime does not) and not the actual characters and other aspects of the story, then you’re only using the idea and you can proceed without permission.

Are facts, such as those found in medical journals and reports, in the public domain? Scientific literature, the way I understand it, is in the public domain and can be used by other writers. Is this true?

Most medical journals are copyrighted, so material in them would not be in the public domain. Facts as such cannot be copyrighted, however, so if there are well-established findings quoted in a number of medical journals that could therefore be called facts, you could work them into your articles without the original writers’ or researchers’ consent. You can’t lift written copy verbatim, but the information—the facts—can be included in your writing.

I’ve obtained a book of photographs taken and copyrighted in 1905. Can I use them as illustrations in my
book without infringing on copyright?
Under the new copyright law, any work registered for renewal of copy- right or already in the renewal term before January 1, 1978, has had its copyright duration extended to a total of seventy-five years from the date of original copyright. Copyright protection for your photographs would have expired in December of 1980. They are now in the public domain and you are free to use them.

I am writing a how-to book. Do I need permission to use names and addresses of sources of equipment and supplies necessary to execute the projects I explain in the book?
No.

I am writing a book that, though not an authoritative document, uses material from about twenty references. In all except one or two instances, I have taken no quotations from these sources. I don’t wish to clutter up the book with a lot of reference symbols to indicate where I have drawn from sources. I would like to acknowledge all such unquoted references in an appendix. Can you advise me?
Prepare a bibliography to accompany your manuscript and precede it with a statement such as, “The author acknowledges the following references used in preparation of this text.” If your publisher prefers a different method, work that out with your publisher. Where you have quoted directly, you should note within the text the sources quoted.

I haven’t written nonfiction articles because I don’t know where research ends and plagiarism begins. Where should I draw the line?
If long passages are lifted verbatim, you must get permission from the copyright owner. Ideas can’t be copyrighted, so after you’ve researched the facts, simply relate them in your own words. Make certain you use only facts from a work, rather than the author’s conclusions or observations. Facts belong to everybody, but an author’s conclusions and opinions are his alone.