

COPYRIGHT

Copyright law affects all editors. Using copyrighted material without prior permission is a serious matter. While there is a chance that you won't get caught, why take that chance? If you get caught, the results could be costly.

Let's take a look at what copyright is, the penalties for copyright infringement and the proper way to request permission to use copyrighted material.

Copyright protection in the United States is based on a provision of the U.S. Constitution. It gives Congress the power to "Promote the progress of science and the useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

Based on this section of the U.S. Constitution, Congress has passed laws that provide a system of copyright protection. These laws give the owner of a copyrighted work the right to control any copies of his or her work and to prevent any unauthorized use of their work. Anyone who violates the rights of a copyright owner can be sued for copyright infringement and possibly subjected to criminal prosecution and penalties.

Usually, copyrighted material will contain a notice that it is copyrighted. The copyright notice can read "copyright" or ©, followed by the name of the copyright owner and the year of publication. However, absence of a copyright notice does not mean that the work is unprotected!

Anything published after March 1, 1989 does not require a copyright notice. Therefore, when you desire to reprint material from a commercial source, assume that it is copyrighted. Even some government publications (including USPS publications) are copyrighted.

The length of copyright protection varies. For example, for works copyrighted prior to January 1, 1978, the work

was given an initial copyright term of 28 years. Once that term expired, these works were eligible for another renewal term of 47 years. Therefore, if the proper copyright renewals were filed, they would be eligible for a total of 75 years of copyright protection.

For works copyrighted after January 1, 1978, the copyright term for an individual author is the author's life plus 50 years. For a jointly authored work it is 50 years after the last surviving co-author's death.

Works that are not copyrighted or are no longer protected by copyright are "in the public domain" and can be reprinted without seeking and receiving permission. The only works that you can assume to be in the public domain are those published more than 75 years ago. Also, publications of the U.S. Government published before March 1, 1989 fall under the public domain category. You do not need permission to reprint material if it falls under these categories.

The penalties for copyright infringement vary. They range from an injunction to prevent further use or distribution of the copyrighted material, to monetary damages. Under federal law, monetary damages may take two forms: The actual damages or losses due to the copyright infringement or statutory damages.

Furthermore, an infringer who loses a lawsuit may also be liable for the legal costs and attorney's fees of the successful claimant. The penalties would of course depend upon the facts and circumstances in each case. Even if successful in defending against a copyright infringement suit, it could prove costly because of the need to hire an attorney. **The best advice: Never use material from a copyrighted publication without obtaining permission from the copyright owner first.**

The use of verbatim portions of commercial newspaper or magazine articles generally requires the written consent

of the owner of the copyright. Usually, the publication owns the copyright if the article was prepared by a staff writer or reporter. Permission must also be obtained for use of any material from syndicated columns, individually copyrighted articles and articles which are published under the "byline" of the author. Copyright protection extends to pictures, cartoons and comic strips as well.

Also, labor cartoons, graphics, and news or feature articles originating from various entities and sold on a subscription basis are copyrighted by their owners as a means of protecting the monetary value of the material. It is a violation of copyright law to use this material (such as reprinting it from another paper) without a subscription and payment of the required fee.

Obtaining Permission to Reprint

Based on our experience, most commercial newspapers and other commercial sources require that a request for permission to reprint be in writing. Based on the information they require, we prepared a form letter to be used to request permission to reprint. (See reprint permission letter that accompanies this discussion on copyright.)

Some commercial sources may grant oral permission to reprint. To speed up the process, before requesting permission in writing, call to find out if they will grant oral permission. **If oral permission is granted, you should send a letter to the editor/publisher confirming what you agreed upon to protect you if any questions arise later.**

Commercial sources take copyright very seriously, despite the fact that as a labor organization we are non-profit. Some require that a "permission" or "royalty" fee be paid for use of material.

One other area concerning copyright to be aware of is reprinting articles from commercial sources that have been reprinted in union publications. For example, occasionally *The American Postal Worker* will reprint a newspaper article from, let's say *The Washington Post*. Permission to reprint this material was granted to *The American Postal Worker* only. This permission does not extend to your publication. In order to obtain permission for your publication, you must contact them yourself and request it. The same applies to commercial newspaper articles that are reprinted in APWU local and state publications. **In order to legally reprint these articles in your publication, you must obtain permission from the source.**

This information on reprinting from commercial publications should not be confused with reprinting original material from national, state, local publications or the AFL-CIO. It is perfectly acceptable and prior permission is not required. (See **PPA Reprint Policy** elsewhere in this guide.)

The purpose of presenting this information to you about copyright is intended to make you aware of the copyright law. It is not meant to frighten anyone or restrict the sources of material for your publication. At the same time, we do not want to see any editor become the defendant in a copyright infringement suit that could prove to be very disturbing and costly.

REQUEST FOR REPRINT PERMISSION

Note: Use this letter to request reprint permission from a commercial source. All that you have to do is fill in the blanks.

I am the editor of (name of paper) a publication of the (name of local or state organization), American Postal Workers Union, AFL-CIO.

We are a non-profit organization and publish the above named paper for the (number of members) members of our organization.

I am hereby requesting permission to reprint the following from (name of newspaper, magazine or book) for the information of the members of (name of local or state organization).

(Title of article, description of photograph or cartoon) published on (date or month and year) by (name of author or photographer).

(In the case of a newspaper article, magazine or book)

Material from page ____, line ____, through page ____ line ____, beginning with the words "____" and ending with the words "____".

(In case of a photograph or cartoon)

Material from page(s) ____, consisting of a total of ____ photograph(s) or cartoon(s).

If permission is granted, the credit line and copyright notice that you desire will accompany the use of this material.

Your immediate response to this request would be appreciated. Thank you.

Sincerely,

(name, title, address, phone #)