

# CONTENTS

COPYRIGHT AND PERMISSIONS QUICK GUIDE.....	2
WHAT CAN BE COPYRIGHTED?.....	2
WHAT CANNOT BE COPYRIGHTED?.....	2
WHAT ARE THE EXCLUSIVE RIGHTS GRANTED THE COPYRIGHT OWNER?.....	2
HOW CAN YOU DETERMINE WHO OWNS THE COPYRIGHT?.....	2
HOW CAN YOU DETERMINE IF PERMISSION IS NEEDED?.....	2
WHAT IS “FAIR USE”?.....	3
WEB SITES.....	3
WHAT IS THE “PUBLIC DOMAIN”?.....	4
WHEN WORKS PASS INTO THE PUBLIC DOMAIN.....	5
PERMISSIONS.....	6.
WHEN IS PERMISSION NECESSARY?.....	6
IMBEDDED PERMISSIONS.....	7
PUBLISHER LIMITATIONS.....	7
DETERMINING WHO OWNS COPYRIGHT.....	7
THE PERMISSION PROCESS.....	7
SAMPLES.....	9
ALLYN AND BACON PERMISSION LOG.....	9
PERMISSIONS LOG WITH SAMPLE ENTRIES.....	11
SAMPLE PERMISSION LETTER.....	13
ADVERTISEMENT PERMISSION.....	14
SAMPLE LETTER FOR OBTAINING PERMISSION TO REPRODUCE AN ADVERTISEMENT.....	15
SAMPLE ADVERTISEMENT SUBMISSION LABEL.....	16
NEGOTIATING THE PERMISSION FEE.....	16
REASONABLE OR “GOOD FAITH” EFFORT.....	16
PERMISSION FOR REVISIONS.....	17
PARAPHRASING.....	17
LIBEL AND OTHER DANGERS.....	17
COPYRIGHT INFORMATION ON THE WORLD WIDE WEB.....	18
USE OF MATERIAL FOUND ON THE WEB.....	18
USE OF TRADEMARKS.....	18
<i>THE NEW YORK TIMES</i> AGREEMENT.....	19
MODEL RELEASE FORM FOR PHOTOGRAPHS AND VIDEO.....	20
PERMISO DE PUBLICACIÓN DE FOTOS Y VIDEOS.....	21
MINOR MODEL RELEASE FOR PHOTOGRAPHS AND VIDEO.....	22
PERMISO DE PUBLICACIÓN DE FOTOS Y VIDEOS DE ESTUDIANTES MENOR DE DAD.....	23
MINOR STUDENT RELEASE FOR ART/WRITING.....	24
PERMISO DE PUBLICACIÓN DE OBRAS DE ARTE Y ESCRITURA DE ESTUDIANTES MEMORES DE EDAD.....	25

## Copyright and Permissions Quick Guide

### What Can Be Copyrighted?

- Works of fiction and nonfiction
- Musical works, including lyrics
- Web sites
- Dramatic works, including any accompanying music
- Pictorial, graphic, and sculptural works
- Films and other audiovisual works
- Sound recordings
- Architectural works

### What Cannot Be Copyrighted?

- Works consisting solely of information that is common property and containing no original authorship, such as standard calendars, rulers, lists/tables taken from public documents or other common sources
- Works published by the United States government. There are very rare circumstances when this material may be copyrighted. They will show notice of this.
- Titles, names, short phrases, and slogans (though these may be protected by trademark law)
- Ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices
- Familiar symbols or designs, such as “smiley faces” and “STOP” signs

### What Are the Exclusive Rights Granted the Copyright Owner?

- The right to reproduce the work
- The right to prepare derivative works from the work
- The right to distribute copies of the work
- The right to perform or display the work publicly

### How Can You Determine Who Owns the Copyright?

- Carefully read the credit lines. If credit is given to a source other than the publisher of the material, you will have to write to the original owner.
- In many cases, the publisher of the material in which the excerpt is found can supply the name of the original owner.

### How Can You Determine If Permission Is Needed?

- If the material falls into any one of the categories listed in “What can be copyrighted?” permission is required for its reproduction.

Note the following:

- That a particular arrangement, selection, or compilation of facts may be considered in copyright.
- That a work may be in the public domain in one country but still under copyright protection in others.

### What Is “Fair Use”?

- The Copyright Act of 1976 took effect on January 1, 1978. Section 107 sets some limitations on the exclusive rights granted the copyright owner by allowing fair use of copyrighted material for such purposes as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research.
- The law states that the following four factors must be considered in determining whether the particular use made of a particular work in a particular case may be considered fair:
  - 1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational uses;
  - 2) the nature of the copyrighted work;
  - 3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
  - 4) the effect of the use upon the potential market for or value of the copyrighted work.

### Some common parameters for determining fair use

- No more than 500 words from any one source may be quoted in a work (text or supplement) without permission. **NOTE:** This does not apply to poetry, song lyrics, or young children’s books. If more than 8% of a work—including newspaper, magazine, and journal articles—is quoted, then permission is required.
- Permission is necessary for unpublished theses, speeches, and letters. The content of a letter belongs to the writer, not the recipient. **NOTE:** This does not apply to the speeches or writings of U.S. federal and state officials while they are in office. See “Public Domain” below.
- Permission is necessary for use of student/children’s art or writing. If the student/child is a minor, you must have written permission from the parent or guardian.
- Even a single figure, table, or piece of artwork from another source requires permission.

It is important to note that only the courts can make the final determination of whether a particular use is “fair use.”

### Web Sites

Both the content and design of a web site can be copyrighted. Government web sites are the only exception to this.

You must:

- Contact the web site owner to request permission to use material from the site. Look for contact information on the Home Page. You can use the sample permission letter for this.
- Include full information, including the URL(s), about the material you want to use and how it will be used.
- Enclose copies of the web page(s) with your letter.

### **What Is the “Public Domain”?**

Public Domain is the term used to refer to works not protected by copyright.

These include:

- Works with expired copyrights (see chart).
- Works consisting solely of facts or ideas.
- Works created by United States government officials, as part of their duties.
- When assessing copyright status of a work, be especially careful of translations and retellings. While an original fairy tale, for example, may not be in copyright, a particular translation or retelling might be.
- In England, the term of copyright was recently extended to “life of the author + 70 years.” Some works by authors such as James Joyce and Rudyard Kipling have thus regained copyright protection.

NOTE: If the work you are quoting from is out-of-print, it does not mean that it is no longer under copyright. Permission must be requested.

Use the table on the next page to help you determine whether a work is still in copyright.

## WHEN WORKS PASS INTO THE PUBLIC DOMAIN

By Laura Gasaway, Professor of Law  
University of North Carolina

DATE OF WORK	PROTECTED FROM	TERM
Created 1-1-78 or after	When work is fixed in tangible medium of expression	Life + 70 years <sup>1</sup> (or if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation) <sup>2</sup>
Published before 1923	In public domain	None
Published from 1923 - 63	When published with notice <sup>3</sup>	28 years + could be renewed for 47 years, now extended by 20 years for a total renewal of 67 years. If not so renewed, now in public domain
Published from 1964 - 77	When published with notice	28 years for first term; now automatic extension of 67 years for second term
Created before 1-1-78 but not published	1-1-78, the effective date of the 1976 Act which eliminated common law copyright	Life + 70 years or 12-31-2002, whichever is greater
Created before 1-1-78 but published between then and 12-31-2002	1-1-78, the effective date of the 1976 Act which eliminated common law copyright	Life + 70 years or 12-31-2002, whichever is greater

1. Term of joint works is measured by life of the longest-lived author.
2. Works for hire, anonymous, and pseudonymous works also have this term. 17 U.S.C. § 302(c).
3. Under the 1909 Act, works published without notice went into the public domain upon publication. Works published without notice between 1-1-78 and 3-1-89, effective date of the Berne Convention Implementation Act, retained copyright only if, e.g., registration was made within five years. 17 U.S.C. § 405.

Notes courtesy of Professor Tom Field, Franklin Pierce Law Center.

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## Permissions

One of your prime responsibilities as an author is to ensure that all the material in your manuscript is your own, or, if it is taken from another source (even if the other source was written by you and has been published), that it is clear from legal difficulties for reprinting. A manuscript with outstanding permissions cannot be considered ready for publication and will not be accepted in production. Once you have determined what items require permission, organize your materials, create a Permission Log, and apply for permission as soon as possible. To be most effective, follow the procedures outlined below.

### When Is Permission Necessary?

- When more than 500 words from any one source are quoted in a work (text or supplement). This number is the maximum allowable under “fair use.” If you use material from a source throughout your work, all of the quotations contribute to the 500 word limit. For more information on Fair Use, see the Permissions Quick Guide on page 3.
- When more than 8% of a work – including newspaper, magazine, and journal articles – is quoted. If 500 words represent more than 8% of the material then permission is required.
- When you are quoting your own work, whether published by Allyn and Bacon or any other entity.
- When quoting from an Allyn and Bacon book written by another author. Apply to the Copyright and Permissions Department, Allyn and Bacon, 75 Arlington Street, Suite 300, Boston, MA 02116. You may also fax a request to 617-848-7320.
- When using any artwork from another source. If the art appears in a secondary source, with a printed credit line to the primary source, request permission from the primary source. However, if the secondary source adapted the art, and that design is wanted, request permission from both sources.
- When using even one line from a poem, song, or illustrated children’s book.
- When quoting from unpublished theses, speeches, and letters. The content of a letter belongs to the writer, not the recipient. The writings and speeches of U.S. public officials, while they are in office, are in the public domain and do not require permission.
- When using student art or writing. The use of work by a minor requires the written permission of a parent or guardian. Use the release form on page 24.
- When supplying your own photographs you must include model releases from anyone in the pictures. Model release letters appear on pages 20 and 22.

While federal government publications and websites are usually “public domain” (available for public use), they may include material such as studies done by private organizations for the government. This may be copyrighted and require permission. Look for a credit line.

When in doubt, ask your editor or the Allyn and Bacon Copyright and Permissions Manager ([robert.tonner@ablongman.com](mailto:robert.tonner@ablongman.com), 617-848-7290). They will be glad to assist you.

### **Imbedded Permissions**

It may happen that the work you are quoting contains quotations or tables and figures from another source. If it is under copyright, separate permission must be obtained for its use. This applies even to public domain material that contains copyrighted information.

### **Publisher Limitations**

Some publishers limit the amount of material they will allow to be used in any one book. For example, W. H. Freeman limits the number of figures that can be used and the Harvard Business School Publishing restricts the number of cases. If you want to use multiple items from a single source, it is advisable to check with the source before making your request. This will avoid having to make last minute substitutions that may jeopardize your publication schedule.

### **Determining Who Owns Copyright**

At times it is difficult to determine who owns copyright. Carefully read any credit lines that are supplied. These may not appear with the quoted material and may, instead, be placed on the copyright page or in a separate section at the back of the book.

If credit is given to a source other than the publisher of the material in which it appears, you must apply to the original owner. When in doubt, apply to the publisher and they will notify you if the selection is under separate copyright and who the holder is.

### **The Permission Process**

Once you have determined what items require permission, organize your material, create a Permissions Log (see pages 9-12), and apply for permission as soon as possible, using the procedures below. You cannot submit your manuscript until all permissions have been cleared.

- **Begin requesting permission at least six months before your manuscript is due.**
- Log all permissionable items in order by chapter. Be thorough and complete. The information you include in the log will be useful to you for future editions and will be needed by the Copyright and Permissions Department when they pay permission fees on your behalf.
- Contact the copyright holder, or the person who has the right to grant permission, with a written request. Use the sample letters on pages 13 and 15. Include all of the items from the same source in a single letter.
- Include a photocopy of the material for which you are requesting permission and a duplicate letter for the copyright owner's file.
- If you are editing or adapting the material, you must show that clearly on the copy you send and say that in the letter.
- Always keep a copy of the permission letter and the material for your file. These letters are your record that you requested permission and will be useful

if follow-up requests are needed. Keep them in a “pending” folder until you receive a reply. If you are requesting a lot of material, you may want to organize it in chapter files.

- Key the correspondence to the manuscript, i.e., “permission for Chapter 1 – Item 1”, and keep the correspondence in the same order as the items in the text.
- Record all requests sent in the Permissions Log with the date sent.
- Wait a month for the replies. Permission departments are usually very busy and can take several months to respond. “The squeaky wheel gets the grease” definitely applies here, so follow up with a phone call after a month when you have not received a response. Call more frequently as your manuscript turnover date approaches.
- Contact your editor if the copyright holder requests specific publication data, such as the tentative book price, format (hardcover or paperback), and print run. Publishers often use this information to determine their permission fee.
- Record the responses in your log. If permission was denied, decide whether you want to paraphrase it significantly. Consult the guidelines for paraphrasing on page 17.
- Carefully read any restrictions in the permission grant to be certain that you fulfill the specified conditions. Note them in the log. If you do not comply with the restrictions, the permission is not valid. In many cases you may have to sign the permission letter, return it, and wait for the final approval before the grant is valid.
- If asked, respond to any copyright holder requests. For example, as a courtesy, a publisher may ask you to get the author’s permission in addition to their own.
- As you receive responses, place them in a “completed” file, attaching copies of your letter and the material requested.
- When all permissions have been cleared, send the original agreements and Permissions Log to your editor when you submit your final manuscript. Always keep a copy of the permission agreements and the log for your files.





## Permissions Log with Sample Entries

Title	Edition	Author						Copyright Year	
Item No.	Ms. Page	Author and Selection	Source/Publisher	Date Sent	Date Rec'd	Fee Comp Copy	Rights US/Canada World - English World - All Languages	Restriction One Edition Future Editions	Status
1	22	Fig. 1.1 Reuse Fig. From p. 50, Experimental Influences and Sensitive Periods in Perceptual Development, by R. Aslin (1981). <i>Psychobiological Perspectives, Vol. 2, The Visual System</i> , pp. 45-93	Academic Press Dr. Richard Aslin	10/13/01 12/2/01 12/8/01	1/14/02	\$25 pre-pub  Yes	World-English	This edition only	OK from author for future editions
2	67	Fig. 3.4, Very Low Birth Weight Outcomes of the Ntnl. Inst. Of Child Health. <i>Pediatrics</i> , 96, 2000	American Academy of Pediatrics	10/13/01	12/20/01	\$50  No	North America	Future Editions	

Item No.	Ms. Page	Author and Selection	Source/Publisher	Date Sent	Date Rec'd	Fee Comp Copy	Rights US/Canada World – English World – All Languages	Restriction One Edition Future Editions	Status
3	105	Pp. 19-23, Typical Sleep Requirements in Childhood from Solve Your Child's Sleeping Problems by Richard Ferber	Simon & Schuster	10/2/01 11/6/01	12/15/01	\$250 Yes	North America	This edition only	
4	154	Data from Table 737, p. 475, U. S. Bureau of the Census, Statistical Abstract of the U.S. 1997, 117 <sup>th</sup> Edition.	Public Domain						

## Sample Permission Letter

Use the following format for writing your letter on your own letterhead:

(Date)

I am writing a book tentatively titled **(title of the book)**, which is scheduled for publication by Allyn & Bacon, a Pearson Education imprint, in **(year of publication)**. I would like to include the following:

**(Give a description and the complete citation for the material you would like to use, including figure, table, and page numbers. Attach a photocopy of the material to your letter.)**

May I have your permission to include this material in my forthcoming book and in all future editions, versions, and revisions of it, as well as in derivative works and all ancillaries, as needed? This includes non-exclusive world rights in all languages, and in all formats and media. These rights will in no way restrict republication of your material in any other form by you or others authorized by you. Should you not control these rights in their entirety, would you please tell me who does?

A release form is provided below and a copy of this letter is enclosed for your files. Your prompt consideration of this request will be appreciated.

Sincerely,

Name/Title

---

I (we) grant the permission requested on the terms stated in this letter.

The undersigned hereby represents that they have the right to grant the permission requested above, and that the material does not infringe upon the copyright or other rights of third parties. The undersigned is the owner/author of such materials.

CREDIT LINE TO BE USED:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Fee: \_\_\_\_\_  
Social Security Number or Federal Identification Number (FID): \_\_\_\_\_

Revised: 5/02

## **Advertisement Permission**

When you are including an advertisement in your book you must request permission from the copyright holder. Remember that you are requesting permission to reproduce the ad and for reproducible copy so that we can print it.

- If you have not been able to identify where specifically to send the request, the corporate legal or public affairs office is a good place to start. However, it is better to make an advance phone call to determine where to address your letter because our experience has been that blind letters receive no response.
- Corporations and public service agencies do not have rights and permissions departments the way publishers do and granting permission is not a high priority for them. Use the sample letter on page 15 and allow extra time for their response. Follow up with a phone call a month after sending your letter.
- With your letter include a copy of the advertisement, your intended caption, and the text copy. Corporations and agencies are protective of their image and do not want to be disparaged. They will want to know the context in which you are using their material.
- For reproducible copy the company may refer you to their advertising agency. Be sure to get the name of the account manager and explain to that person that the client has granted you permission and referred you to the agency.

When submitting advertisements with your manuscript

- Type the identification or figure number, proposed caption, and source, on a separate sheet of paper.
- Do not write on it or tape/staple anything to it. Use a paper clip to attach the identification page to the ad.
- Place it (either the copy you have obtained from the copyright holder or what you cut out of the source) in a large envelope. Minimize folding the ad.

**Sample Letter for Obtaining Permission to Reproduce an Advertisement**

(Date)

I am writing a book tentatively titled \_\_\_\_\_ that is scheduled for publication by Allyn and Bacon in **(year of publication)**. I would like to include the following advertisement(s):

**(Describe the ad(s) here, including the headline. Provide the title, issue number, date, and page number of the magazine, or other periodical, in which the ad appeared. Insert your proposed caption in parentheses after the periodical reference. Attach a photocopy of the material to your letter.)**

May I have your permission to include this material in my forthcoming book and in all future editions, versions, and revisions of it, as well as in derivative works and all ancillaries, as needed? This includes non-exclusive world rights in all languages, and in all formats and media. These rights will in no way restrict republication of your material in any other form by you or others authorized by you. Should you not control these rights in their entirety, would you please tell me who does?

A release form is provided below and a copy of this letter is enclosed for your files. Your prompt consideration of this request will be appreciated.

Sincerely,

Name/Title

\_\_\_\_\_

I (we) grant the permission requested on the terms stated in this letter.

The undersigned hereby represents that they have the right to grant the permission requested above, and that the material does not infringe upon the copyright or other rights of third parties. The undersigned is the owner/author of such materials.

CREDIT LINE TO BE USED:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Fee: \_\_\_\_\_

Social Security Number or Federal Identification Number (FID): \_\_\_\_\_

Revised: 6/02

### **Sample Advertisement Submission Label**

Identification Number: Figure 2.6

Headline: "Got Milk?"

Proposed Caption: This has been one of the most successful and longest running ad campaigns in the United States.

Source: The National Milk Processor Promotion Board

Attach label at the base of the advertisement when submitting your permission request.

### **Negotiating the Permission Fee**

The copyright holder has the right to request payment of a fee as a condition of using the work quoted. If the amount is higher than you expected, or exceeds the amount budgeted, the fee can often be negotiated. Contact the source, explain your situation, and ask if they are willing to negotiate for a lesser amount. Grantors usually have a great deal of flexibility and are willing to listen to a reasonable point of view.

### **Reasonable or "Good Faith" Effort**

There will be times when it is not possible to obtain permission for the use of certain material. It may be that the publisher has gone out of business, the rights have reverted to an author who cannot be located, the author has died and the estate cannot be found, or the request has been returned with no forwarding address.

The material can be used if you have made a documented "reasonable effort" to contact the copyright holder. This includes various forms of research, mailings, and telephone calls. (One of these must be a certified letter with a return receipt.) Each attempt should be noted in the Permissions Log. When you have exhausted all options, you should record that you have been unable to make contact. Provided that you supply the best attribution possible, the material can then be included in your manuscript.

In the event that a copyright holder appears after publication, Allyn and Bacon will reach an arrangement with them. However, your documentation of multiple attempts to make contact is essential to coming to such an understanding. A single letter without a response is not a reasonable effort.

### **Permission for Revisions**

If you are revising your work, consult the earlier edition permission file for carry-over permissions. If your original letter requested permission for all future editions and revisions, and if the copyright holder made no restrictions, you do not need to re-apply. Note in your log that permission carries over and include a copy of the letter and grant in the new file.

### **Paraphrasing**

If you choose not to apply for permission or have been denied the use of material, you have the option of paraphrasing the information. If you choose to paraphrase, remember that the text must be substantially rewritten in your own words so as not to require permission. Merely changing the order of words, dropping articles or pronouns, or adding or deleting numbers from a list does not constitute acceptable paraphrasing. Adding additional material from another source, or sources, and rewriting the piece is another way to avoid requesting permission.

Remember that some sources do not allow adaptations and require complete, exact reprints of their material.

### **Libel and Other Dangers**

Where is the line drawn between fair criticism and libel or a slur? Libel is anything in writing that accuses someone of doing something unlawful, disgraceful, or ridiculous. Verbal remarks to the same effect are considered a slur. Regardless of truthfulness, the plaintiff can sue the author, the publisher, or both. As author, it is your job to prevent people from thinking they have grounds for a suit.

Allyn and Bacon retains the right to require you to make changes or to decline publishing a manuscript if we feel that it contains libelous or slurring content.

The common points considered in determining libel or a slur are:

- Anything that touches on professional competence.
- Anything that reflects on a person's morals or ethics, whether or not a crime is involved.
- Creating a person in fiction who can be identified as real by means of location, occupation, name, or any other evidence that gives the suggestion. It does not matter whether or not damage was intended.
- Holding anyone up to public ridicule or scorn.
- Insults on credit standing.
- Disparaging remarks about a particular race, religion, gender, or sexual preference.

Broad accusations and blanket attacks on individuals, groups, associations, businesses, and industries should be avoided.

### **Copyright Information on the World Wide Web**

If you wish to learn more about copyright, there are a number of good web sites available.

The first is that of the U.S. Copyright Office at the Library of Congress: <http://www.loc.gov/copyright/>. Although it may contain more information than you need, it is authoritative.

For information on Fair Use, consult <http://fairuse.stanford.edu> provided by the Stanford University Libraries. For the law on Fair Use, visit <http://www4.law.cornell.edu/uscode/17/107.notes.html>. And for Media Fair Use, go to <http://www.libraries.psu.edu/mtss/fairuse/default.html>.

Another academic site offering a “Crash Course in Copyright” belongs to the University of Texas system: <http://www.utsystem.edu/ogc/IntellectualProperty/cprtindx.htm>.

The Cyberspace and New Media Law Center offers legal information oriented toward non-lawyers at [www.laderapress.com](http://www.laderapress.com). It also offers resource books for purchase.

Bit Law “A Resource on Technology Law” provides technology-related and general copyright information at <http://www.bitlaw.com/copyright/>.

The Permissions Group, a business that clears permission on behalf of authors, offers useful information at their website,

### **Use of Material Found on the Web**

As noted earlier, the content and design of material on the Web can be copyrighted. Use of Web-based content and screens in textbooks has become increasingly popular and corporations have developed related policies. While the following contains information current as of June 2002, Allyn and Bacon strongly recommends that you visit each corporate website because information is subject to change and new restrictions.

### **Use of Trademarks**

If you are using trademarked names or words in your text, you should indicate them by the use of initial caps or all caps, for example, Microsoft Word or UNIX. It is not necessary to use the ® or ™ symbols.

Permission is not needed to use a trademark in the text of a book that discusses or describes the product sold under the mark.

When you submit your manuscript to your editor, please indicate that it contains trademarks and ask that the Production Department be notified of this. They will make certain that a trademark statement is placed on the copyright page.

### ***The New York Times Agreement***

Pearson Education has entered an agreement with *The New York Times* whereby Pearson authors who opt in may use articles, tables, figures, and staff photographer photos at a 20% discount from their normal rates. The permission grant is automatic assuming the Times owns the rights. (Usage exceptions are material contained in their Magazine, work by photographers not employed by the *Times*, and a cap of 15% of NYT text in your book.)

This agreement covers books for copyright years 2004 and 2005. It is anticipated that the agreement will be renewed for subsequent years if its success meets the expectations of the parties.

While you are not obligated to participate in this program, if you are using *New York Times* material, it would be to your financial advantage if permission fees are being deducted from your royalty payments.

To participate, you must follow this process:

- Sign the related addendum to your author contract. This will make your participation valid for the life of the *Times* agreement. You can request it from your Editor or Editorial Assistant.
- Send your permission request(s) to the Permissions Department of *The New York Times*, 229 West 43rd Street, 9th Floor, New York, NY 10036, Fax: 212-445- 5764. (For photos, direct your request to Photo Sales on the 11<sup>th</sup> floor.) NOTE: If you are not using the standard letter supplied in our guidelines, it is important that you include “an imprint of Pearson Education” in your own request, following the publisher’s name. You must also state the copyright year of your book.
- The Times will send you an invoice at the discounted amount.
- Record the grant and amount in your Permissions Log.
- When all of your permissions have cleared, and you are ready to turn your manuscript over to your Editor, include all of your permission grants and the log. Remember to keep copies for your files.





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Boston, MA 02116

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Entiendo que la(s) fotografía(s) podrán publicarse en cualquier forma o formato que la casa publicadora desee.

Este acuerdo constituye el completo acuerdo entre las partes con respecto a este asunto y es completamente irrevocable.

\_\_\_\_\_  
Firma

\_\_\_\_\_  
Fecha

\_\_\_\_\_  
Nombre (en letra de molde)

\_\_\_\_\_  
Dirección

INFORMACIÓN SOBRE LA FOTO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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MINOR MODEL RELEASE FOR PHOTOGRAPHS AND VIDEO

I hereby grant permission to reproduce and publish the photograph(s) and/or video materials of my child/children \_\_\_\_\_ (name[s]) in educational publications and any promotional materials published or copyrighted by Allyn and Bacon/Pearson Education, its successors and assigns.

I understand that the photograph(s)/video may be published in any form or format that the publisher may desire.

This agreement constitutes the entire understanding of the parties relating to its subject matter and is irrevocable.

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

Photo/Video Info:  
\_\_\_\_\_  
\_\_\_\_\_  
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Menores de Edad

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