

# Author's Rights, Tout de Suite

Charles W. Bailey, Jr.

Digital Scholarship

[www.digital-scholarship.org/](http://www.digital-scholarship.org/)

Houston, Texas

Copyright © 2008 by Charles W. Bailey, Jr. This work is licensed under the Creative Commons Attribution-Noncommercial 3.0 United States License. To view a copy of this license, visit

<http://creativecommons.org/licenses/by-nc/3.0/us/> or send a letter to Creative Commons, 171 Second Street, Suite 300, San Francisco, California, 94105, USA.

## Introduction

*Author's Rights Tout de Suite* is designed to give journal article authors a quick introduction to key aspects of author's rights and to foster further exploration of this topic through liberal use of relevant references to online documents and links to pertinent Web sites.

## Copyright, Self-Archiving, and Open Access Journals

Under current U.S. law, any work that you create in a "fixed medium," such as a journal article, is under copyright and you are the copyright owner (this is also true in many other countries under international copyright agreements). As such, you can control how your article is used. Copyright is actually a [bundle of related rights](#); however, unless you want to write your own copyright agreements or licenses, you do not need to concern yourself with the details of these various rights. What is important is this: many journal publishers will want you to give them your article copyright so that they can control it for their business purposes (this is typically called a "[copyright assignment](#)").

Once you have done so, your ability to control your work is gone. What you will be able to do with your article is determined by the copyright agreement between you and the publisher and by your rights under "[fair use](#)" provisions in copyright law.

Primarily as a result of the [open access movement](#), many publishers now allow you to put copies of your article on your personal Web page and/or deposit it in a digital archive so that it is freely available on the Internet. The two main types of digital archives are: (1) [institutional repositories](#), which typically contain digital works by authors from a single institution; and (2) disciplinary archives, which contain works about one or more disciplines by authors from many institutions across the globe. When you make a digital copy of an article available on the Internet by one of these methods, it is said that you are "[self-archiving](#)" the article.

There are several different versions of an article that can be self-archived: (1) a preprint that has not been peer-reviewed or edited, (2) a postprint (the article after it has been peer-reviewed), and (3) either the journal's published version of the article or a postprint that the author has updated to mirror the published version of the article.

Although you may meet resistance from the publisher, it is possible to modify the publisher's copyright agreement with an "addendum" that describes the rights you want to retain. It is also possible to retain your copyright and grant the publisher the right to publish the article.

While the publisher may offer you different copyright agreements to choose from or even automatically allow you to retain your copyright, most publishers will want you to accept their single standard copyright agreement without modification. If the terms and conditions contained in this agreement are not satisfactory, you will need to negotiate with the publisher or publish your work elsewhere.

Some publishers make the contents of their journals available without charge on the Internet, and they may allow authors to retain their copyrights. These journals are called "[open access journals](#)." A subset of these publishers also permit the reuse of articles with minimal restrictions (e.g., articles could be translated without requiring further permission). Publishing your article in an open access journal ensures that it will be freely available.

When articles are made freely available by publishers or through self-archiving, this is called "gratis" open access. When they are also made available with minimal use restrictions, this is called "libre" open access. See "Gratis and Libre Open Access" (<http://www.earlham.edu/~peters/fos/newsletter/08-02-08.htm#gratis-libre>) for further details.

## Conventional Publisher Agreements

One way to ensure that you can self-archive your article is to screen publishers' copyright agreements to determine if they permit the kinds of self-archiving rights that you want. Unfortunately, such agreements are not standardized and they can be difficult to quickly find in journal or publisher Web sites. Most typically, you need to look for them in an "author guidelines" page.

A much faster way of screening publishers is to use the SHERPA/RoMEO Publisher Copyright Policies & Self-Archiving Web site (<http://www.sherpa.ac.uk/romeo.php>). This Web site lets you search for publishers by journal titles or names. It also allows you to browse publishers by an assigned color code. The codes are:

- **Green:** You can archive both the preprint and postprint.
- **Blue:** You can archive the postprint (draft after peer review).
- **Yellow:** You can archive the preprint.
- **White:** You cannot archive either the preprint or postprint.

While these color codes are very helpful, it is important to carefully read the entry for the desired journal looking for any conditions that the publisher requires (such as a link to the published version of the article) or any special restrictions the publisher is imposing. If you believe that you have found the right journal for your article, it is advisable to follow the link to the publisher's actual agreement and read it carefully.

It is especially important to note any restrictions on *where* you can self-archive your work. For example, the publisher may allow you to archive a preprint on your personal Web page and your institution's repository, but not in a disciplinary repository. Depending on your discipline, your article may have greater visibility to your peers in a disciplinary archive than elsewhere.

In the age of Internet search engines, your article will likely be indexed by Google and other search engines no matter where it is archived. However, there are two things to keep in mind. First, your personal Web page is transitory, whereas a disciplinary or institutional repository is not. Second, disciplinary or institutional repositories contain descriptive information (called "metadata") about your article that can be aggregated by specialized search engines. This descriptive information allows repository or aggregated search engines, such as [OAster](#), to do more precise searching by article record fields, such as author or title, than general Internet search engines now perform.

## Copyright Addenda

Journals are often highly specialized and they have varying levels of prestige and authority. Naturally, you want to publish your article in the "best" journal possible.

You may find that your most desired journal doesn't permit the kinds of self-archiving that you want. What to do? There are two strategies.

First, you can reconsider less desirable journals that have more liberal policies. Why? There is growing evidence, your article will be more widely known and more frequently cited if it is self-archived or published in an open access journal.

You can find out more about how open access may increase articles' "citation impact" at "The Effect of Open Access and Downloads ('Hits') on Citation Impact: A Bibliography of Studies" (<http://opcit.eprints.org/oacitation-biblio.html>).

Second, you can ask the publisher to accept a modification of the copyright agreement that gives you the rights that you want. In the past, a key problem with this approach is that you were unlikely to be a copyright lawyer and, consequently, you were in no position to create a legally binding addendum.

Fortunately, there are now a variety of copyright addenda that you can choose from. The rights that authors retain in these addenda are "nonexclusive," meaning that other parties may also have these rights. The addenda typically recognize that the author may have previously granted rights to his or her institution or a funding agency. Below is a discussion of the main addenda.

### Scholar's Copyright Addendum Engine,

(<http://scholars.sciencecommons.org/>: This online tool generates four different types of addenda (see Author's Addendum, <http://sciencecommons.org/resources/faq/authorsaddendum>, for further information):

- (1) *Delayed Access*: This addendum supports self-archiving in all types of noncommercial digital repositories; however, while the author may immediately self-archive the final version of the article that includes changes from the peer-review process, the author cannot self-archive the published version of the article until six months after that version is available to journal subscribers (proper attribution is required for the published version). The author may make use of and make "derivative works" from the article (e.g., translate it into another language) for typical scholarly purposes. The addendum acknowledges prior copyright grants to the author's institution or funding agency.
- (2) *Access-Reuse*: This is the SPARC Author Addendum to Publication Agreement (see below).
- (3) *Immediate Access*: With proper attribution, the author can immediately self-archive any version of the article, including the published version, in all types of noncommercial digital repositories. The author may use the article for typical scholarly purposes and make derivative works from it. The addendum acknowledges prior copyright grants to the author's institution or funding agency.
- (4) *MIT Amendment*: This addendum supports self-archiving of the published article in all types of noncommercial digital repositories. The author may use the article for typical scholarly purposes and make derivative works from it. The author may authorize his or her institution to use the article in print or digital formats for typical scholarly purposes.

### **SPARC Author Addendum to Publication Agreement,**

([http://www.arl.org/sparc/bm%7Edoc/Access-Reuse\\_addendum.doc](http://www.arl.org/sparc/bm%7Edoc/Access-Reuse_addendum.doc)):

This addendum supports self-archiving in all types of noncommercial digital repositories. The author may use the article for noncommercial purposes and make derivative works from it. The publisher must give the author a free, unprotected digital copy of the article within 14 days of publication. Given proper attribution, the author can authorize others to use the article for noncommercial purposes. If you live in Canada, use the SPARC Canadian Author Addendum instead

(<http://www.carl-abrc.ca/projects/author/EngPubAgree.pdf>).

Two other agreements may be useful for some non-U.S. authors:

- Canadian Model Publication Agreement,  
<http://www.openaccesslawcanada.ca/model.php>
- JISC/SURF Foundation Copyright Toolbox: Authors,  
<http://copyrighttoolbox.surf.nl/copyrighttoolbox/authors/>

## Retaining Full Copyright

Another strategy is to retain the copyright to your article and then grant to the publisher only the rights needed to publish the article. Many publishers will resist copyright retention. It can be done, but the author has to be willing to walk away from an article publication offer if the publisher will not yield, and the author will need to find another journal that is willing to accept the article under the proposed copyright terms. Consequently, this strategy may be best suited for senior authors or those who have strong feeling about open access.

The University of California Office of Scholarly Communication suggests the following wording for authors wanting to retain their copyright

([http://osc.universityofcalifornia.edu/manage/keep\\_copyrights.html](http://osc.universityofcalifornia.edu/manage/keep_copyrights.html)):

The author grants to the Publisher exclusive first publication rights in the Work, and further grants a non-exclusive license for other uses of the Work for the duration of its copyright in all languages, throughout the world, in all media. The Publisher shall include a notice in the Work saying "© [Author's Name]". Readers of this article may copy it without the copyright owner's permission, if the author and publisher are acknowledged in the copy and copy is used for educational, not-for-profit purposes.

While having a written copyright agreement with the publisher is desirable, keep in mind that if you do not sign your publisher's copyright assignment agreement and your article is published anyway, you remain the copyright owner (see "Works Made for Hire," <http://keepyourcopyrights.org/copyright/rights/work-for-hire>, for additional information that may apply in some situations).

## Creative Commons Licenses

As the copyright owner, you can grant rights to any user of your article, not just publishers; however, to do so you must retain the copyright to your work. Creative Commons licenses allow you to easily do this in a legally binding way without having to hire a lawyer to draft a license for you.

There are a variety of Creative Commons licenses. The Creative Commons Licenses page provides a brief description of them (<http://creativecommons.org/about/licenses/meet-the-licenses>).

Two licenses are especially noteworthy:

**Attribution License:** The Attribution License (<http://creativecommons.org/licenses/by/3.0/>) allows any use of your article, including commercial use and the creation of derivative works, if there is proper attribution. If you use this license, you have granted to your publisher all the rights it needs to publish your article. Use of this license (or similar wording) is typically required by major open access journal publishers.

**Attribution-Noncommercial License:** The Attribution-Noncommercial License (<http://creativecommons.org/licenses/by-nc/3.0/>) allows any use of your article, including the creation of derivative works, if this use is noncommercial and if there is proper attribution. This license is often used by academics who want to prohibit commercial use without explicit permission.

To use a Creative Commons license in the word processing file for your article, pick a license from the Creative Commons Licenses page using the link under the appropriate icon on the right. You will be taken to a new page that has cut-and-paste HTML code on the left, and a list of suggested actions if you have no Web site on the right.

From the list on the right, choose "Mark a document not on the web, add text to your work," and cut and paste the displayed text into the end of your article file, preceding it with a statement that says "Copyright © [year] [your name]." (The word "Copyright" is optional in the U.S. as long as the copyright symbol is present.)

For example:

Copyright © 2008 Charles W. Bailey, Jr. This work is licensed under the Creative Commons Attribution-Noncommercial 3.0 Unported License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nc/3.0/> or send a letter to Creative Commons, 171 Second Street, Suite 300, San Francisco, California, 94105, USA.

## Self-Archiving Your Article

It is recommended that you self-archive your article in your organization's institutional repository even if you also self-archive it in a disciplinary repository. If you are uncertain about whether your organization has one or how to deposit an article in it, contact your organization's library or computer center for assistance.

If your organization does not have an institutional repository or your scholarly community uses a particular disciplinary archive, consider self-archiving your article in a disciplinary archive.

To find disciplinary archives, use one of the below search tools:

- Disciplinary Repositories, [http://oad.simmons.edu/oadwiki/Disciplinary\\_repositories](http://oad.simmons.edu/oadwiki/Disciplinary_repositories)
- Directory of Open Access Repositories, <http://www.openoar.org/find.php> (Choose "Disciplinary" in "Any Repository Type" box.)
- Registry of Open Access Repositories, <http://roar.eprints.org/> (Choose "Research Cross-Institutional" in "Any Content Type" box.)

## Publishing in Open Access Journals

As noted previously, when you publish in an open access journal your article is available without charge to anyone on the Internet. Moreover, depending on the journal's use of Creative Commons or similar licenses, other scholars may be able to reuse your article for teaching and other scholarly purposes without seeking permission as long as they abide by the terms of the license in question.

To publish in an open access journal, you must first identify it. Since many open access journals are relatively new, you may not be as familiar with the ones in your field as you are with conventional journals.

The primary finding tool for open access journals is the *Directory of Open Access Journals* (<http://www.doaj.org/>). This up-to-date directory lists currently published scholarly journals that are freely available without delay upon publication (some journals may require free registration for access). See the selection criteria (<http://www.doaj.org/doaj?func=loadTempl&templ=about#criteria>) for more information on how journals are screened.

Some conventional journals now have an option whereby, if the author pays a fee for making a specific article open access, it will be published on that basis. These journals are called "hybrid journals." There is a special *DOAJ* section for authors that includes hybrid journals (<http://www.doaj.org/doaj?func=forAuthors>).

If you received funding from the National Institutes of Health for your research, you will want to read the NIH Public Access Policy (<http://publicaccess.nih.gov/>) for instructions on how to proceed with publishing your paper. The Publisher Policies on NIH-Funded Authors ([http://oad.simmons.edu/oadwiki/Publisher\\_policies\\_on\\_NIH-funded\\_authors](http://oad.simmons.edu/oadwiki/Publisher_policies_on_NIH-funded_authors)) Wiki page can be used to determine how specific journals deal with journal articles that must be published under that policy. The Journals That Submit *All* NIH-Funded *Final Published Articles* to PubMed Central Web page ([http://publicaccess.nih.gov/submit\\_process\\_journals.htm](http://publicaccess.nih.gov/submit_process_journals.htm)) lists journals that will submit your published article to NIH for you.

## Digital Media Presentations

These digital media presentations are helpful in understanding author's rights issues.

*Author Rights*, [http://www.learningtimes.net/acrl\\_arrarchive.html](http://www.learningtimes.net/acrl_arrarchive.html) (registration required)

*Author's Rights*, <http://blip.tv/file/743274/>

*Author's Rights*, <https://umconnect.umn.edu/umauthorsrights/>

## Web Pages

These Web pages provide additional useful information about author's rights.

Author Rights, <http://www.arl.org/sc/authors/index.shtml>

Authors' Rights and Copyrights, <http://www.acrl.ala.org/scholcomm/node/8>

Guide For Academics—Know Your Rights as an Author, <http://www.lboro.ac.uk/departments/dis/disresearch/poc/pages/academicguide-rights.html>

Resources for Authors, <http://www.arl.org/sparc/author/index.shtml>

## Further Reading

If you would like to learn more about author rights issues, you may find these freely available articles, e-prints, and reports to be helpful.

Bennett, Scott. "Author's Rights." *The Journal of Electronic Publishing* 5, no. 2 (1999). <http://hdl.handle.net/2027/spo.3336451.0005.203>

Gadd, Elizabeth, Charles Oppenheim, and Steve Proberts. "RoMEO Studies 2: How Academics Want to Protect Their Open-Access Research Papers." *Journal of Information Science* 29, no. 5 (2003): 333-356.  
<http://eprints.rclis.org/archive/00001426/>

— — —. "RoMEO Studies 3: How Academics Expect to Use Open-Access Research Papers." *Journal of Librarianship and Information Science* 35, no. 3 (2003): 171-187. <http://eprints.rclis.org/archive/00001427/>

— — —. "RoMEO Studies 4: An Analysis of Journal Publishers' Copyright Agreements." *Learned Publishing* 16, no. 4 (2003): 293-308.  
<http://www.ingentaconnect.com/content/alpsp/lp/2003/00000016/00000004/art00009>

Hirtle, Peter B. "Author Addenda: An Examination of Five Alternatives." *D-Lib Magazine* 12, no. 11 (2006).  
<http://www.dlib.org/dlib/november06/hirtle/11hirtle.html>

Hoorn, Esther, and Maurits van der Graaf. "Copyright Issues in Open Access Research Journals: The Author's Perspective." *D-Lib Magazine* 12, no. 2 (2006).  
<http://www.dlib.org/dlib/february06/vandergraaf/02vandergraaf.html>

Ober, John. "Facilitating Open Access: Developing Support for Author Control of Copyright." *College & Research Libraries News* 67, no. 4 (April 2006)  
<http://www.ala.org/ala/mgrps/divs/acrl/publications/crlnews/2006/april06/facilitatingopenaccess.cfm>

Pappalardo, Kylie, Brian Fitzgerald, Anne Fitzgerald, Scott Kiel-Chisholm, Jenny Georgiades, and Anthony Austin. *Understanding Open Access in the Academic Environment: A Guide for Authors*. Brisbane, Australia: Open Access to Knowledge Law Project, 2008. <http://eprints.qut.edu.au/archive/00013935/>

Suber, Peter. "Balancing Author and Publisher Rights." *SPARC Open Access Newsletter*, no. 110 (2007).

<http://www.earlham.edu/~peters/fos/newsletter/06-02-07.htm#balancing>

## Mailing List

If you have a serious interest in author's rights, you can apply to become a member of the SPARC Author Rights Discussion Forum

(<http://www.arl.org/sparc/media/08-0205.html>).

## Other Documents in the Tout de Suite Series

*Institutional Repositories, Tout de Suite,*

<http://digital-scholarship.org/ts/irtoutsuite.pdf>