

Copyright Registration of Secure Tests and Test Items

This circular provides general information about registering a discrete secure test or a group of secure test items with the U.S. Copyright Office.¹

For the purposes of copyright registration, a secure test is a nonmarketed test administered under supervision at specified centers where test takers are assembled on scheduled dates, and where all copies of the test are accounted for and either destroyed or returned to restricted locked storage or secure electronic storage following each administration.

NOTE: As discussed below, the Office has established an interim procedure allowing some tests to be considered a secure test even if they are administered online instead of in-person at specified centers.

The Office has established two special accommodations for registering the copyrightable authorship in a secure test: (1) a procedure for registering a discrete *secure test* and (2) a separate procedure for registering a *group of secure test items* (that is, test items prepared for use in a secure test). These procedures provide a means for registering a secure test or a group of secure test items while protecting the confidential nature of these works.

While the administration of any test involves some level of security, only a fraction of tests and test items are eligible for these procedures. The Office reserves discretion to determine whether any particular test or group of test items meets all of the eligibility requirements for these procedures. To register a work that does not satisfy these requirements, applicants must submit one complete, unredacted copy of the work under normal (that is, non-secure test) registration procedures.

NOTE: A claim involving a secure test or a group of secure test items will be reviewed in the order it is received and will not be given priority over other claims with an earlier filing date. If you would like expedited review of your application, you may request special handling. For more information, see *Special Handling (Circular 10)*.

Key Characteristics of a Secure Test

A test is considered “nonmarketed” if the copies are not sold, but instead are distributed and used in such a manner that the test sponsor or publisher retains ownership and control of the copies. A test is administered “under supervision” when test proctors or the equivalent supervise the administration of the test. A “specified center” is a place where test takers are physically assembled at the same time.

Tests taken on a computer may satisfy the definition of a secure test, but only if the test takers are physically assembled at a test center on scheduled dates and the test is administered under supervision.

Examples of secure tests include high school equivalency tests; tests used for admission to an educational institution; tests used to grant advanced credit for undergraduate or graduate coursework; and tests used to determine eligibility for scholarships, entry into state or government-licensed trades or professions, and professional certifications.

NOTE: The Office has issued an interim rule allowing some tests that are administered online to qualify as a secure test. Specifically, a test that was normally administered at specified centers prior to May 8, 2020, that is now being administered online may be eligible for secure test examination, provided the test administrator employs measures to maintain the security and integrity of the test that it reasonably determines to be substantially equivalent to the security and integrity provided by in-person proctors. For more information, see the [Secure Tests Rulemaking webpage](#).

Registration of a Secure Test Compared To Group Registration of Secure Test Items

A secure test consists of a specific set of questions, answers, and other material that has been selected and arranged in a particular manner. Often these items are stored in — or pulled from — a database or test bank. If the specific set of test items is administered under supervision at specified centers on scheduled dates, the set may be registered as a discrete secure test.

While a database or test bank does not qualify as a “secure test,” the Office has created a group registration option allowing registration of individual test items as separate copyright-protected works if certain requirements have been met. For purposes of registration, a “test item” comprises a question (or “stem”), the correct answer to that question, any incorrect answer choices (or “distractors”), and any associated material, such as a narrative passage or diagram. A narrative, diagram, or other prefatory material, followed by multiple sets of related questions and correct and incorrect answers are considered a single test item.

Test items may be stored in a database or test bank, but in all cases, they must be prepared for use in a specified secure test. Specifically, the items may be prepared for use in the same secure test or multiple versions of the same test.

To compare the options for registering a secure test and a group of secure test items, please see the table at the end of this circular.

The Scope of a Registration for a Secure Test or a Group of Secure Test Items

A registration for a discrete secure test generally covers the authorship involved in creating the test as a whole. In other words, it may cover the authorship involved in selecting, coordinating, and/or arranging the individual questions, answers, and other test items that make up the test, if the selection, coordination, and/or arrangement of those items is sufficiently creative.

A registration for a secure test may also cover the individual items within the test, but only if the copyright claimant owns all of the exclusive rights in those items as of the date the claim is received and if they have not been previously published or previously registered.

A group registration of secure test items covers each individual item in the group, but only if the item is determined to be copyrightable in itself. Claims in the selection, coordination, and/or arrangement of the group as a whole are not permitted, because a group registration is merely an administrative classification created solely for the purpose of registering multiple secure test items as separate copyright-protected works with one application and filing fee.

Overview of the Registration Process

There are two stages to the registration process for secure tests and groups of secure test items. To register a secure test or a group of secure test items, applicants must first submit an online application and filing fee and upload a brief questionnaire and a *redacted* copy of the work(s). An examiner will review the entire submission to confirm the work is a secure test or a group of secure test items prepared for use in a secure test and to identify the type of materials you should present to the Office. If the work(s) appear to be eligible for examination, the examiner will contact you to schedule an appointment to present an *unredacted* copy of the actual test or the actual test items (and the other materials discussed below) to the Office.

Online Application and Preliminary Examination

To begin the registration process for a secure test or a group of secure test items, you need to submit a Standard Application, questionnaire, filing fee, and redacted deposit through the Office's **electronic registration system**.

The Application

When completing the application for a secure test, you should include the term "SECURE TEST" in the "Title" field. When completing an application for a group of secure test items, you should provide a title for the group in the "Title of this work" field. The title should include the term "GRSTQ" followed by the name of the secure test that contains or is expected to contain those items. (Upon request, the examiner will remove the terms "SECURE TEST" or "GRSTQ" from the title field before the claim is approved.)

Examples:

Application to register a secure test: "SECURE TEST: February 2017 LSAT," "SECURE TEST: FINRA Series 7 Exam for the 3rd quarter of 2017," or "SECURE TEST: GRE August 2017."

Application to register a group of secure test items: "GRSTQ: Test items for February 2017 LSAT;" "GRSTQ: Test items added to the FINRA Series 7 Exam item bank in the 3rd quarter of 2017," or "GRSTQ: SAT reading comprehension test items."

When examining a discrete secure test, the examiner will review the test as a whole to determine whether the work is eligible for the secure test procedure and whether the test contains a sufficient amount of creative expression. When completing the online application you may assert a claim in

this type of authorship by stating “compilation of test items” in the “Author Created” field. If you also want to assert a claim in the individual test items, you may check the box marked “text” or you may state “test items” in the field marked “Other.” If you want to register a revised version of a preexisting test, you may state “revised compilation of test items” in the “Author Created” and “New Material Included” fields.

When applying to register a group of secure test items using one application, filing fee, questionnaire, and deposit, keep in mind the following requirements:

- The test items must have been prepared for use in a specified secure test. A database or test bank does not qualify as a “secure test” in and of itself.
- The test items in the group must either be all published or all unpublished. The Copyright Office will not accept a claim containing both published and unpublished test items in the same group.
- If the test items are published, they must have been published within a three-calendar-month period as part of the same secure test or multiple versions of the same test. On the application, provide the earliest date of publication for the items in the group.
- The test items must have been created by the same author or coauthors.
- The copyright claimant must be the same for all of the test items.

Under this registration accommodation, each test item constitutes its own copyright-protected work. Currently, there is no limit to the number of test items that may be included in each group registration, as long as each work meets the relevant requirements for this procedure.

The Questionnaire

You must complete and upload a brief questionnaire about the work(s), which is available on the Office’s [website](#). The file name for the questionnaire should include the term “Questionnaire” and the case number assigned to the claim. The case number is a twelve digit number automatically generated by the electronic registration system; it appears near the top of each screen of the online application. When registering a group of secure test items, indicate the number of test items being registered on the questionnaire.

The Deposit

You also must upload a separate file containing a *redacted* copy of the secure test or the group of secure test items; the methods of redaction are described in more detail below. For a group of secure test items, number each test item appearing in the deposit. The file name for the redacted copy should include the title(s) you provide in response to question 1 in the questionnaire.

NOTE: Do not upload or mail an *unredacted* copy of the actual test or the actual test items to the Office.

Only One Secure Test Per Application

You may only file *one* secure test with each application. In other words, you must file a separate application, pay a separate filing fee, and upload a separate questionnaire for each secure test you wish to register. A separate application, fee, and questionnaire are also required when registering multiple versions of the same test. An applicant may not use the secure test procedures to register multiple tests together as a unit of publication, or a group of updates or revisions to a database.

Examples:

- A test publisher submits a secure test containing three test booklets. The first booklet contains reading comprehension questions. The second contains math questions. The third contains essay questions. All three booklets are distributed to test takers at specified test centers on the same date. Each test taker receives the same booklets. The three booklets may be registered as one secure test using one application, because they are always administered to test takers as part of the same secure test.
- A nursing program submits five test booklets that are used to determine eligibility for a professional certification. Test takers complete a five-week training program. At the end of each week, test takers report to a specified test center where they are tested on what they learned that week. Each of the five test booklets correspond to one week of learning. The five test booklets are considered five separate tests. A separate application must be submitted for each booklet.
- A state medical board creates a test consisting of 100 multiple choice questions. To prevent test takers from copying each other, the board's employees create ten booklets each containing a different organization and arrangement of the same 100 test questions. If the board submits an application to register one booklet, the registration would cover the copyrightable authorship contained in the test questions and the specific selection and arrangement of those questions within that booklet (if it is sufficiently creative). The board may register a claim in the selection and arrangement of the questions for the nine other booklets by filing a separate application for each version; authorship in the questions themselves will be covered by the registration for the first booklet but will not be covered by the registrations for the nine other booklets.

Examination of Unredacted Material

The Office has created a procedure that allows for the remote examination of secure tests and groups of secure test items through an online video conference, which is discussed below.

NOTE: Applicants may opt for an in-person examination instead of a video conference. However, this will cause delays in scheduling the appointment. In addition, the amount of time needed to conduct an in-person examination may be longer than a video conference, which will require a higher secure test examination fee.

Prior to the Appointment

The examiner will contact the applicant to schedule a remote examination and select a mutually convenient date and time for the appointment. The applicant will be responsible for setting up an online video conference and sending the meeting information to the examiner. The Zoom platform is preferred, but other video conferencing platforms are acceptable if they can perform all of the functions described below.

The day before the appointment, you must log into the electronic registration system and upload a signed declaration confirming that the unredacted copy you will present during the video conference is identical to the redacted copy you previously submitted. The examiner will send you an email that explains how to do this. You may obtain a copy of this declaration from the Office's [website](#). The declaration must contain a typed or handwritten signature, but it does not need to be notarized or witnessed.

During the Appointment

On the day of the appointment, the applicant and the examiner will log into the video conferencing platform at the appropriate time. All participants must use an electronic device that has a camera and microphone so that the applicant and examiner may see and communicate with each other. The applicant must share his or her screen with the examiner and must present (1) an unredacted copy of the actual test that is administered to test takers or an unredacted copy of the actual test items included in the group registration and (2) a copy of the redacted version of the secure test or secure test items that was uploaded to the electronic registration system. The applicant must use software that allows the examiner to view the documents side by side and scroll through them while keeping the pages aligned, and the examiner must be able to navigate through the documents with his or her keypad or mouse.

After the Appointment

To complete your registration, you must pay the nonrefundable secure test examining fee. This hourly fee will be calculated based on the amount of time that it takes to examine the secure test or the group of test items during the video conference. This fee is in addition to the filing fee you submitted with the online application.

After the video conference, the examiner will send you a secure test appointment receipt that will specify the total fee due and provide instructions for how to submit the payment. For current fees, see *Copyright Office Fees* (**Circular 4**) or call (202) 707-3000 or 1-877-476-0778 (toll-free).

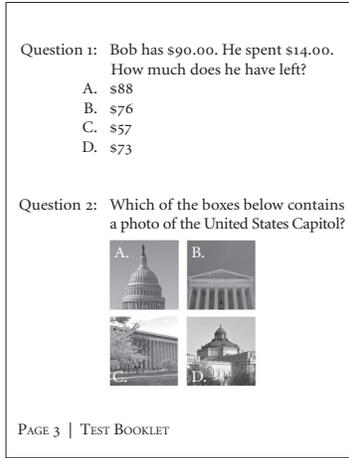
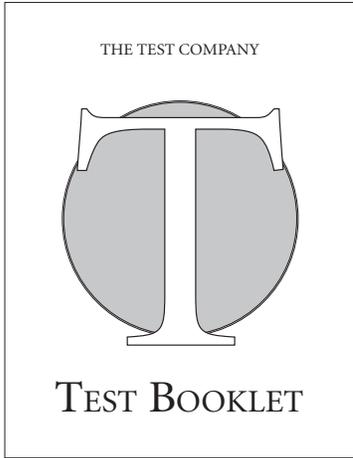
After your payment is processed, the examiner will make the final determination about whether your secure test or group of secure test items are eligible for this special accommodation and whether the work(s) contain a sufficient amount of creative authorship. If all of the requirements for registration have been met, the Copyright Office will register your claim and mail a certificate of registration to the address provided in the application. The certificate will specify the date that the video conference occurred. The effective date of the registration will be based on the date that the Office received—in proper form—the application, the filing fee, and the redacted copy of the test that was uploaded to the electronic registration system.

The signed declaration, the redacted copy you uploaded to the electronic registration system, and the secure test appointment receipt will be retained in the Copyright Office's records and may be made available to the public.

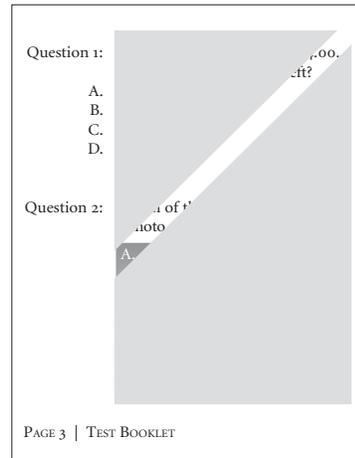
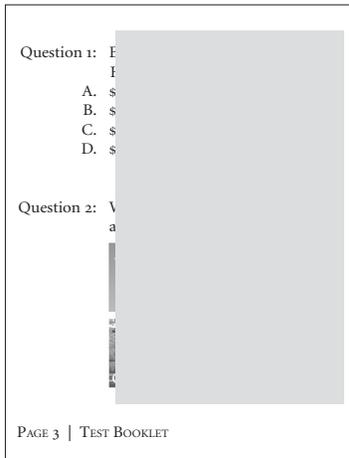
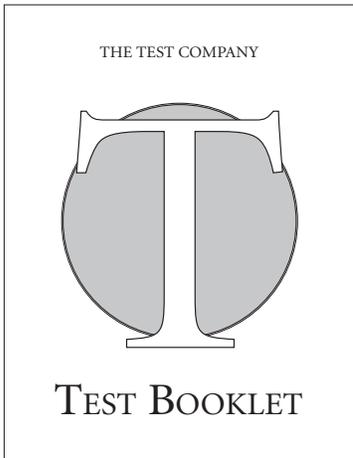
The applicant will be responsible for maintaining a copy of the unredacted deposit in the event it is needed for litigation or other purposes. The metadata for the file that contains the unredacted deposit must include the date of the video conference and the case number that was assigned to the claim by the electronic registration system.

Example Redaction for a Secure Test

UNREDACTED SAMPLE



REDACTED SAMPLE



Cover is unredacted.

Page numbers and question numbers are unredacted. Redacted area with narrow vertical or diagonal strip of visible content.

	<i>Secure Test</i>	<i>Group of Secure Test Items</i>
<i>Definition</i>	A <i>secure test</i> is a nonmarketed test administered under supervision at specified centers where test takers are assembled on scheduled dates and where all copies of the test are accounted for and either destroyed or returned to restricted locked storage following each administration.	A test item comprises a question (or “stem”), the correct answer to that question, any incorrect answer choices (or “distractors”), and any associated material, such as a narrative passage or diagram, and each item shall be considered one work. A single narrative, diagram, or other prefatory material, followed by multiple sets of related questions and correct or incorrect answers, shall together be considered one item.
<i>Appropriate application</i>	<ul style="list-style-type: none"> • Submit a Standard Application through the electronic registration system. • Select the option for “literary work.” • *Begin title with “SECURE TEST.” 	<ul style="list-style-type: none"> • Submit a Standard Application through the electronic registration system. • Select the option for “literary work.” • *Begin title with “GRSTQ.”
<i>What can be registered</i>	<ol style="list-style-type: none"> 1. Authorship in the text of the individual test items appearing within a secure test, <i>but only if</i> the claimant owned all the exclusive rights in those items when the application was submitted and if those items have not been previously published or registered with the Office. 2. Authorship in the selection, coordination, and/or arrangement of the specific items included within one version of a secure test (that is, one test containing a specific set of test items organized and arranged in a particular manner). 	<p>Authorship in the text of the individual test items that have been prepared for use in a secure test.</p> <p>(Claims in the overall selection, coordination, and/or arrangement of the individual test items are not permitted.)</p>

	<i>Secure Test</i>	<i>Group of Secure Test Items</i>
<i>Number of works per application</i>	The claim may include one version of a discrete secure test <i>and</i> the individual test items included within that version if the requirements above have been met.	Currently there is no limit on the number of secure test items that may be included within each claim.
<i>Publication requirements</i>	The secure test may be published or unpublished.	The secure test items in the group must either be all published or all unpublished. If published, all the test items must have been published within the same three-calendar-month period.
<i>Author requirements</i>	The secure test and the individual items included within the test may be created by different authors.	All secure test items in the group must be created by the same author or coauthors. The author may create the items as a work made for hire.
<i>Claimant requirements</i>	If you wish your registration to cover any of the individual test items included within the secure test, those items must be owned by the claimant as of the date the claim is received.	All secure test items must be owned by the same claimant.
<i>Deposit requirements</i>	Upload a redacted copy of the secure test. Present a redacted and unredacted copy of the actual secure test during the examination.	Upload a redacted copy of each secure test item in the group. Present a redacted and unredacted copy of the actual secure test items during the examination.

NOTE

1. This circular is intended as an introduction to the U.S. Copyright Office's practices and procedures for registering secure tests and groups of secure test items. The authoritative source for U.S. copyright law is the Copyright Act, codified in Title 17 of the *United States Code*. Copyright Office regulations are codified in Title 37 of the *Code of Federal Regulations*. Copyright Office practices and procedures are summarized in the third edition of the *Compendium of U.S. Copyright Office Practices*, cited as the *Compendium*. The copyright law, regulations, and the *Compendium* are available on the Copyright Office website, copyright.gov.

For Further Information

By Internet

The copyright law, the *Compendium*, electronic registration, application forms, regulations, and related materials are available on the Copyright Office website at www.copyright.gov.

By Email

To send an email inquiry, click the *Contact Us* link on the Copyright Office website.

By Telephone

For general information, call the Copyright Public Information Office at (202) 707-3000 or 1-877-476-0778 (toll free). Staff members are on duty from 8:30 am to 5:00 pm, eastern time, Monday through Friday, except federal holidays. To request application forms or circulars by postal mail, call (202) 707-9100 or 1-877-476-0778 and leave a recorded message.

By Regular Mail

Write to

Library of Congress
U.S. Copyright Office
Outreach and Education Section
101 Independence Avenue, SE #6304
Washington, DC 20559-6304

