

Borrowed, Shared, Preserved: Copyright for Genealogists

A SUMMARY OF THE BASICS

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Overview: Genealogists, societies, and libraries collect, copy, publish, digitize, teach, and share materials of all kinds, created and contributed by many sources. Every one of those actions can raise copyright concerns. Knowing how we can use others' work, protect our own, understand fair use, and meet the requirements of the law is essential to responsible genealogy.

Key Elements of Copyright for Genealogists:

Copyright law gives exclusive rights to those who create works. With few exceptions, nobody else can decide if an item can be copied, distributed, shared or used as the basis for a new work while copyright protection exists.

Key resource: U.S. Copyright Office, *Circular 1: Copyright Basics*
<https://www.copyright.gov/circs/circ01.pdf>

Almost anything can be copyright-protected if it is original, fixed in tangible form, and created by a human being. Key exceptions are facts and commonly-known information. How those facts are expressed—the actual writing—can be protected, but not the facts themselves.

Key resource: U.S. Copyright Office, *Circular 33: Works Not Protected by Copyright*
<https://www.copyright.gov/circs/circ33.pdf>

Copyright lasts a long time—not forever (even if it may seem like it!). In general, count on protection lasting for 70 years after the death of the creator. That has changed over time, and the chart at the Cornell Library link is a good source for when things changed.

Key resource: U.S. Copyright Office, *Circular 15A: Duration of Copyright*
<https://www.copyright.gov/circs/circ15a.pdf>

Key resource: Cornell Library, *Copyright Term and the Public Domain*
<https://guides.library.cornell.edu/copyright/publicdomain>

Copyright today is automatic. Any original work created today gets automatic protection. It doesn't need a copyright notice or symbol and it doesn't have to be registered with the U.S. Copyright Office. Before 1978, formalities were generally required and, between 1978 and 1989, some works needed a copyright notice. The chart at the Cornell Library link is a good source for when things changed.

Key resource: U.S. Copyright Office, *Circular 3: Copyright Notice*
<https://www.copyright.gov/circs/circ03.pdf>

Key resource: Cornell Library, *Copyright Term and the Public Domain*
<https://guides.library.cornell.edu/copyright/publicdomain>

Owning the thing that is copyright-protected is not the same as owning the copyright. It's possible for someone who inherit the thing (say, the photo itself) but not the copyright—and vice versa.

Key resource: U.S. Copyright Office, *Circular 15A: Duration of Copyright*
<https://www.copyright.gov/circs/circ15a.pdf>

Copyright isn't the same thing as plagiarism. You can infringe on the copyright holder's exclusive rights even if you give credit.

Key resource: Judy G. Russell, "Credit doesn't cut it," *The Legal Genealogist*, posted 13 Aug 2021
<https://www.legalgenealogist.com/2021/08/13/credit-doesnt-cut-it/>

While something is copyright-protected, the safest way to use it is to get permission (a "license" in the language of the law).

Key resource: U.S. Copyright Office, *Circular 16A: How to Obtain Permission*
<https://www.copyright.gov/circs/circ16a.pdf>

Once copyright ends, or if something was never protected by copyright, it's considered to be in the public domain and can be used freely. You can't get a new copyright on the same material after copyright ends.

Key resource: Duke University, *Center for the Study of the Public Domain*
<https://web.law.duke.edu/cspd/>

Where you get something you want to use matters. Contract law in a website's terms of use can limit your ability to use something even if it isn't copyright-protected.

Key resource: Judy G. Russell, *The Legal Genealogist*, Category: Terms of use
<https://www.legalgenealogist.com/category/terms-of-use/>

And—sigh—nobody knows yet exactly how copyright will work with materials generated using artificial intelligence agents.

Key resource: U.S. Copyright Office, *Copyright and Artificial Intelligence*
<https://www.copyright.gov/ai/>

Get Involved with the NYG&B

JOIN:

The New York Genealogical & Biographical Society (NYG&B) is a nonprofit organization dedicated to preserving, documenting, and sharing family history and stories from across New York State. Our award-winning publications; expert staff; professional research services; extensive online records and collections; and comprehensive educational programming and resources help our members become New York family history experts. Learn more at:

<https://www.newyorkfamilyhistory.org/content/join>

VOLUNTEER:

Volunteering with the NYG&B—either in person or remotely—is a great way to actively support a community dedicated to researching New York ancestors. And there are so many ways to help, whether virtually wherever you may be, at one of our regional Digitization Centers, or at our bustling New York City headquarters. Volunteers can assist with scanning documents, indexing records, and editing images. We provide both remote and in-person training and guidance.

Please visit <https://www.newyorkfamilyhistory.org/volunteer> or email us at volunteer@nygbs.org for more information.

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