

Copyright Policy

All items displayed online, as part of this digitization program, must be under the copyright of one of the participating libraries or be in the public domain. Items may also be placed online if permission to do so has been granted by the copyright holder.

Items will not be published online if doing so will be a known infringement of copyright. Items may be uploaded to VITA if permission has not yet been granted, however they must remain hidden from public view until permission can be obtained.

If copyright is unknown, the material may be posted. However, a statement that highlights the fact that copyright is unknown must accompany the material.

A copyright statement should appear with each item placed online. Additionally, a terms of use statement encourages proper treatment of items and should also be included.

General Copyright Information:

Factual information, ideas, and news are part of the public domain, and cannot be copyrighted. Ownership of an item does not equal the ownership of copyright of that item. Often the copyright belongs to the creator of the item or the original producer of the item. Permission for use of copyrighted information should always be obtained in writing.

Determining Copyright:

How to decide if copyright is expired and if an item is in the public domain:

- 1) Determine what type of media the item is. E.g. unpublished work, photo, published book, etc.
- 2) Determine who owns the copyright. This is often printed in the front of a published work. If the work is unpublished the copyright holder is most likely the author or creator of the work.
- 3) Determine how long the copyright is in effect. If the copyright has expired, the material is now in the public domain and can be posted online. If the material is still under copyright permission must be granted before material can be placed online.
- 4) If the owner of the copyright is not known (eg. No author, creator, or publisher is listed) material may be placed online when accompanied by a statement which highlights that "copyright is unknown." However, every effort to find who the copyright holder is should be attempted prior to a copyright unknown statement being attached. Any items in question which are locally created should be brought to the partner organization, in hopes of obtaining a contact name.

Copyright Complaints:

If the copyright of material published online is questioned, the matter must be investigated. Material should be removed as soon as possible from online and someone is to be assigned to investigate the copyright claim.

If the person claims to own copyright to a photo or document published online they must prove so by providing documentation of their copyright. If no documentation can be provided within the span of two months, the claim of copyright is to be dismissed.

However, if documentation can be provided and the copyright holder does not wish the material to be used online the material will be taken down permanently. If the copyright holder agrees the material should be re-published online with the correct copyright statement.

Examples of Copyright Infringement:

- Reprinting an article or book without permission from the copyright holder.
- Playing music or videos for public consumption without permission.
- Photocopying and distributing material without permission.

Actions which do not Infringe on Copyright:

- Quoting lines or small portions of a work for research. This is considered fair dealing.
- Using music or videos for personal consumption or research.
- Performing works whose copyrights have expired in public (eg. Shakespeare).
- Obtaining permission to use an article or media in public.

Note: There is a separate copyright for musical work, for example, a song, and for the device (CD), that contains the song. Separate protection exists because the song and the sound recording are considered two different works.

Copyright Rules and Expiry Dates:

General Copyright Expiry Rule:

Copyright lasts for the life of the author, the remainder of the calendar year in which the author dies, and for 50 years following the end of the calendar year. Therefore, protection will expire on December 31 of the 50th year. After that, the work becomes part of the public domain and anyone can use it. Any exceptions to this rule are seen in the chart below. The chart also highlights the general rules for the most common types of media.

Item Type	Original Copyright Holder	Length of Copyright
Pamphlets	Author, or employer if done under contract.	Life of author + 50 years
Newspapers—clippings and articles	Newspaper or periodical if the writer was one of its employees; Author if a freelance writer	Life of author + 50 years

Copyright Procedures

Unpublished records of an organization. Eg. memos, reports etc	Organization if the author was one of its employees; otherwise copyright holder is the author of each work	Life of author + 50 years Note: There is a complicated series of term rules for unpublished works whose authors died before 1999. See appendix.
Federal or provincial records.	The government	Date of first publication + 50 years.
Unpublished personal manuscripts	Author	Life of author + 50 years Note: There is a complicated series of rules for unpublished works whose authors died before 1999. Please see appendix.
Scrapbooks or other multimedia projects	The scrapbook itself: Author (whoever selected and arranged the contents). Items in the scrapbook: Depends on the format or medium	Life of author + 50 years Items in scrapbook: see specific medium standards
Dissertations, theses, essays	Author.	Life of author + 50 years
Maps and Plans. Both published and unpublished.	Employer if the author was one of its employees; otherwise copyright holder is the author,	Life of author + 50 years
Photographs (incl. postcards) taken before 1949	In public domain.	Expired
Photographs (incl. postcards) taken after 1949	Owner of initial negative at the time the photograph was made (not necessarily the person who took the picture) OR Employer if made in the course of employment	Life of owner of initial negative + 50 years. UNLESS The owner of the initial negative is a corporation, in which case the term is 50 years from the making of the photograph.
Commissioned photographs (e.g., wedding pictures) taken after 1949	Person ordering the photograph (e.g., the bride)	Life of owner of initial negative + 50 years. UNLESS The owner of the initial negative is a corporation, in which case the term is 50 years from the making of the photograph.
Films or Videos	Author Note: The Act does not specify who the “author” of a film or video is. Generally, the author is the person responsible for the intellectual or artistic content of a work; in the case of moving image materials it may be the director. OR Employer if made in the course of employment	Life of author + 50 years Note: There is a complicated series of for unpublished works whose authors died before 1999, and other special rules for films or videos that do not have “original “character.” See Appendix.
Sound Recordings	Maker	First Fixation + 50 years
Oral Histories	Maker	First Fixation + 50 years


CREATIVE COMMONS


VITA includes creative commons licensing options. Below is a brief summary of the common terms used while discussing creative commons. In all cases decisions regarding creative commons licensing should be decided on with the participating organizations.


Intro into Creative Commons


Creative commons licensing does not replace copyright, it works in conjunction with copyright. Creative commons licensing is designed to allow for the dissemination of information. It defines the range of possibilities between all rights reserved and the public domain, and allows people to keep their copyright while allowing certain uses of their work by the public. Creative commons licenses allow you to modify access to your work based on your needs.

Creative Commons Terms

 **Attribution** You let others copy, distribute, display, and perform your copyrighted work — and derivative works based upon it — but only if they give credit the way you request.

 **Share Alike** You allow others to distribute derivative works only under a license identical to the license that governs your work.

 **Noncommercial** You let others copy, distribute, display, and perform your work — and derivative works based upon it — but for noncommercial purposes only.

 **No Derivative Works** You let others copy, distribute, display, and perform only verbatim copies of your work, not derivative works based upon it.

Types of Creative Commons Licensing

Definitions of the following terms are available [here](#).

- Attribution Only.
- Attribution, no derivatives
- Attribution, non-commercial, no derivatives
- Attribution, non-commercial
- Attribution, non-commercial, share alike
- Attribution, share alike
- Dedicated to or certified to be in the public domain
- None, all rights reserved

Recommended Creative Commons Policy

In order to promote equal access and education it is recommended that organizations license their information using Creative Commons. The preferred type of licensing is attribution, non-commercial. However, all decisions regarding creative commons licensing should take into account organizational policy and organizational needs.

Appendix

When the Author is Unknown:

If the author is unknown, but the work is protected for the life of the author, copyright is in place for whichever of the following terms ends earlier:

- (1) the remainder of the calendar year of the first publication of the work and a period of 50 years after that; or
- (2) the remainder of the calendar year of the making of the work and 75 years after that.

Posthumus Works:

Works which have not been published during the lifetime of the author. The length of copyright in depends upon the date of creation of the work.

If the work was created **after** July 25, 1999, the term of copyright protection is the life of the author, the remainder of the calendar year in which the author dies, and for 50 years following the end of the calendar year.

If the work was created **before** July 25, 1999, then there are three possible copyright lengths:

- (1) If, the author dies, the work is published, performed or delivered prior to July 25, 1999, the copyright lasts for the remainder of the calendar year in which the work was first published, performed or delivered and for 50 years after that.
- (2) Secondly, if the author dies during the 50 years immediately before July 25, 1999, and the work has not been published, performed or delivered by July 25, 1999, the copyright lasts until December 31, 1997.
- (3) Thirdly, if the author died more than 50 years immediately before July 25, 1999, and the work has not been published, performed or delivered on July 25, 1997, the copyright lasts until December 31, 1999.

NOTE: Based on the complex nature of the above copyright procedures, any information contained in the appendix of this document should be confirmed and expanded on by reviewing a reputable source. Recommended copyright sources for more information include:

- Canadian Intellectual Property Office (CIPO) <http://cipo.gc.ca> includes their booklet, *A Guide to Copyrights* (Ottawa: Industry Canada, 2000).
- Copyright Board (www.cb-cda.gc.ca/collectives-e.html) includes a list of copyright collectives and their mandates, as well as links to copyright organizations.
- The *Copyright Act* <http://laws.justice.gc.ca/en/C-42/index.html>
- Jean Dryden, *Demystifying Copyright: A Researcher's Guide to Copyright in Canadian Libraries and Archives* (Ottawa: Canadian Library Association, 2001). Can be purchased at www.cla.ca.
- Lesley Ellen Harris, *Canadian Copyright Law*, 3rd ed. (Toronto: McGraw-Hill Ryerson, 2000).