

St. Louis College of Pharmacy at UHSP Continuing Education Copyright Guidelines

St. Louis College of Pharmacy's Continuing Education department has published these guidelines to assist presenters in determining when they need permission to use all or a portion of a table, chart, graph, and other similar Materials (hereafter "Materials") that are published in print or electronic media including, for example, copyrighted articles, journals, books, posters, and web pages.

How do I know if a work is protected by copyright?

A copyrighted work that has been accepted for registration by the U.S. Copyright Office after March 1, 1989, does not have to include a notice of copyright in order to be protected. Typically, however, authors who want to protect their work will include a proper copyright notice that includes the symbol "©" together with the year of first publication and the author's name – for example "© 2018 Joseph Author." Other valid methods of copyright notice include using the word "Copyright" or the abbreviation "copr." For example, "Copyright 2018 Joseph Author." You should understand that an author who does not register their work with the U.S. Copyright Office or include any form of copyright notice in a copyrightable work can still seek legal protection for infringement.¹

What do I do if the Materials that I want to use are registered with the U.S. Copyright Office?

You should contact the copyright holder (e.g. author, publisher) to obtain permission.

What should I do if the Materials that I want to use have not been specifically registered with the U.S. Copyright Office or are contained in a copyrighted work such as a journal or book?

You should evaluate the Materials that you want to use under these guidelines to determine whether to use all or a portion of the Materials. If you have any doubt, then create a new expression or display of the content that you want to include in your presentation.

¹ Copyright Notice, Circular 3, U.S. Copyright Office (2017), <https://www.copyright.gov/circs/circ03.pdf>.

What types of information typically found in these types of Materials can be used without permission?

The Copyright Act does not protect any idea, procedure, process, system, method, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.² This is because the Copyright Act only protects works of original authorship that have some minimal amount of artistic expression. All facts (e.g. scientific, historical, biographical, news) are not copyrightable because they are “discovered” as opposed to created by the author.³ Examples of information that can be used without permission include:

1. Charts, graphs, tables, and generic or other common illustrations or representations of data.
2. Depictions of scientific or technical methods, discoveries, formulas, algorithms, methods of operation, metabolic pathways, DNA sequences, drug interactions, treatment regimens, and protocols.
3. Lists or illustrations of genetic, biological, or chemical substances, compounds or structures, compounds, prescription, chemical compositions, and geometric figures and shapes.
4. Names, titles, and short phrases found in column headings and simple checklists.
5. Common information such as standard height and weight charts, tape measures, rulers, and lists or tables contained in public documents or common sources.
6. The layout or format of a slide presentation, website, webpage, form, poster or other templates of expression.

When are these types of Materials entitled to copyright protection?

A chart, table, graph, or compilation of data may be entitled to copyright protection only if there is some element of originality i.e. creativity in the selection, coordination, and arrangement of the data.

Selection is the choice of data that will be included in a compilation. Important considerations include: What type of material or data was compiled? Is the selection exhaustive? Is the amount of original content too minimal or “*de minimis*”? For example, a diagram containing the names of various drugs and side effects consisting of a few words and short phrases or two or three elements out of a larger data set cannot be protected.

Coordination is the classifying, categorizing, ordering, or grouping the material or data. Arrangement is the order, position, or placement of data within the compilation as a whole. In other words, how is the material or data presented? A standard or obvious coordination or arrangement of data is not protected

² 17 U.S.C. Section 102 (b).

³ Feist Publications, Inc. v. Rural Telephone Service Co., 499 U.S. 340 (1991) (phonebook lacked creative expression)

by copyright. For example, you can reuse or republish an obvious or common place listing of data compiled or presented in alphabetical, numerical, chronological, sequential, or symmetrical order.⁴

It is important to emphasize that you may still reuse and republish the facts and data contained in the copyrighted Materials as long as it is displayed in a new way.

Do I need permission to use Materials created and published by the federal government?

No. All published or unpublished Materials created by the United States Government are treated as works that are in the public domain. These materials may be reproduced and used in their entirety by the general public.⁵

What are examples of Materials that are protected or unprotected under copyright?

In general, data, presentation of data, and commonly accepted illustrations or depictions are not protected by copyright. Processes are also not protected by copyright.

For example, a Frank Netter image of anatomy is copyrighted and should not be used without permission. This is because these images contain unique artistic representation. However, a line drawing showing commonly accepted depictions of anatomy is likely ok to use without permission. A line drawing would not represent unique artistic creativity that would be protected by copyright.

Users should also demonstrate caution when searching for images to add to their educational materials. Just because it is searchable on the Internet, does not mean that it is available for consumption in the Public Domain.

When does copyright protection end?

A work enters the public domain and may be copied without permission when the full copyright term, including extensions, has expired. This will depend on the rules that existed at the time a work was created.

All works published in the United States before 1923 are in the public domain. Works that were published after January 1, 1923, were entitled to copyright protection for 75 years if proper notice and renewal occurred. On January 1, 2019, copyrighted works that were published with proper notice and properly renewed under the Copyright Term Extension Act will enter the public domain. Copyright protection for works created after March 1, 1989, runs 95 years from publication or 120 years after creation. You may

⁴ Compendium of U.S. Copyright Office Practices, Chapter 300, U.S. Copyright Office (2017)

⁵ 17 U.S.C. Section 105.

contact the Copyright Public Information Office for assistance if you need help researching works that are in the public domain at (202) 707-3000 or 1-877-476-0778 (toll free).

Do I still need to give attribution to resources that I use even if they are not protected under copyright?

Yes, presenters should follow the proper rules of attribution for using all or a portion of Materials consistent.

NOTICE

These guidelines are provided for informational purposes only and should not be relied upon as legal advice by the reader. The reader should engage an attorney to seek legal advice and assistance for any copyright questions.