



## 5 Questions To Ask When Using Scholarly Material

### 1. Is it copyrighted?

Generally, any material published in the United States prior to 1923 or published in a foreign country prior to 1909 is in the public domain and can be used without permission. Additionally, materials created by the U.S. federal government, or federal government employees acting in their official capacity, automatically enter the public domain.

To check if a work is copyrighted, you can check using Peter Hirtle's web chart, [Copyright Term and the Public Domain](http://copyright.cornell.edu/resources/publicdomain.cfm) (<http://copyright.cornell.edu/resources/publicdomain.cfm>)

**2. Is there a license for the use I want to make of the work?** Licenses are legal contracts and override copyright law. Licenses can cover material that is copyrighted as well as materials in the public domain. Was the material you want to use published under a [Creative Commons License](http://creativecommons.org/licenses/) (<http://creativecommons.org/licenses/>) or an [Open Source License](http://opensource.org/licenses/) (<http://opensource.org/licenses/> alphabetical)? Did you access the work through one of Emory University's subscription databases? These subscriptions have "terms of use" licenses that specify what you can do with the material. In general, licenses dictate whether or not the use you want to make is allowable. Always check for a license.

Do you want to use licensed content without infringing copyright? You can link (hyperlink) to the information. This points your user to the desired information without making an actual copy.

### 3. Is there a specific exception in the [Copyright Law](http://copyright.gov/title17/) (<http://copyright.gov/title17/>)?

Under current copyright law, there are several exemptions for specific situations:

[The Classroom Exception](http://web.library.emory.edu/services/teaching-with-copyrighted-materials/) (<http://web.library.emory.edu/services/teaching-with-copyrighted-materials/>): This section allows for certain exempted uses in the classroom.

[The TEACH Act](http://web.library.emory.edu/services/teaching-with-copyrighted-materials/) <http://web.library.emory.edu/services/teaching-with-copyrighted-materials/>: This section, also known as the TEACH Act, allows for certain exempted uses in the virtual classroom.

### 4. Is it a "[Fair Use](http://web.library.emory.edu/services/fair-use/)" (<http://web.library.emory.edu/services/fair-use/>)?

"Fair Use" is an exemption in copyright law as well. It is outlined in [Section 107](http://www.copyright.gov/title17/92chap1.html#107) (<http://www.copyright.gov/title17/92chap1.html#107>)

However, instead of specifically listing what is allowable versus what is not, the law provides [four factors](http://web.library.emory.edu/applying-fair-use/) (<http://web.library.emory.edu/applying-fair-use/>) that must be analyzed and applied in determining whether or not a use is deemed fair.

### 5. Can you get permission from the copyright owner?

If you are unable to make your use under the first four questions, then you must ask [permission](#) of the copyright owner. Permission must be granted in writing to be legal. Should you receive verbal permission, make sure to obtain follow-up permission in a letter or email.



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## Resources for Information on Copyright:

<http://web.library.emory.edu/copyright-and-publishing>

<http://it.emory.edu/security/copyright.html>

<http://copyright.columbia.edu/copyright/>

<http://fairuse.stanford.edu/>

<http://copyright.lib.utexas.edu/>

Have a specific "use" question? Contact [Lisa Macklin](#), Director of the Intellectual Property Rights Office ([lmackli@emory.edu](mailto:lmackli@emory.edu))

## Ethics of Using Sources

For more information, look for the ethical standards for your discipline or professional organization.

Some examples:

[http://grants.nih.gov/grants/policy/hs/ethical\\_guidelines.htm](http://grants.nih.gov/grants/policy/hs/ethical_guidelines.htm)

<http://www.aaanet.org/stmts/ethstmnt.htm>

[http://www.mla.org/repview\\_profethics](http://www.mla.org/repview_profethics)

<http://www.historians.org/pubs/free/ProfessionalStandards.cfm#Scholarship>

<http://www.aaup.org/AAUP/pubsres/policydocs/contents/statementonprofessionalethics.htm>

## Protecting Your Own Rights

Under Section 106 of Title 17 of US Copyright Law, the author of work has exclusive rights under copyright:

To reproduce the copyright worked

To make derivative works based on the copyrighted work

To distribute copies of the work

To publicly display or perform the work

You retain these rights for **your life plus 70 years**, so your heirs will inherit your copyrights.

**Copyright DOES NOT protect** ideas, facts, data, procedures, systems, methods of operation, processes, concepts, principles, or discoveries.

**Publication agreements are negotiable.**

**Other publication/licensing options:**

<http://Creativecommons.org>

<http://opensource.org>

## ASK A LIBRARIAN!

Pitts Theology Library Reference Assistance

404.727.1221

[theologyref@emory.edu](mailto:theologyref@emory.edu)

emorypittsref for chat

in person 8:00 am – 5:00 pm M-F and by appointment