

Privacy and Copyright

Privacy Issues

Private and sensitive information that should not be shared online includes but is not limited to:

- Social Security numbers
- Individual medical information until 50 years after the person has died under HIPAA
- Individual education information under FERPA
- Individual employment information (Ex: evaluations, why someone was fired)

Privacy Resources

- [Society of American Archivists Privacy and Copyright Presentation](#)
 - This presentation goes into detail about HIPAA and FERPA regulations.

Copyright Issues

Before you put a collection online, you should make sure that it is in the public domain, that you own the copyright to the collection, or that you have permission from the copyright owner to publish the collection online.

What Is In the Public Domain

The laws about what is in the public domain are labyrinthine and have many details and exceptions, but some general guidelines are:

- Anything written, recorded, or published before 1924 is definitely in the public domain.
- Any work written or published between 1924 and 1964 whose author has not renewed copyright is in the public domain. Most archival collections were never published and therefore it is extremely unlikely that the author ever applied for or renewed copyright.
- Any published federal government document is automatically in the public domain.
 - BUT state of Michigan and local government documents are not necessarily in the public domain.

How to Determine if You Own the Copyright to a Collection:

If your collection is not yet in the public domain, you can still put it online if you own the copyright to it or if you have the permission of the copyright owner. **Just because your heritage organization has a collection does not mean that you own the copyright to that collection!**

You own the copyright/have the legal right to publish something online if you have:

- A donor agreement that specifies that the copyright has been transferred to your organization from the donor AND the donor of the collection was the owner of the copyright.
- OR a release form allowing you to publish the material online even though the creator/copyright owner has retained the copyright.

If You Don't Own the Copyright to a Collection:

If you don't own the copyright to a collection, you still have some options:

- UPLINK can still create a finding aid for the collection, and you can still provide in-person access to the collection.
- OR you can try to find the creator of the content or their heir and get their written permission to digitize and publish the records online.
- If you cannot find the content creator or their heir, UPLINK can still digitize the records if you document a diligent, good faith effort to find the copyright holder.

More Copyright Resources

- [American Library Association Copyright Genie](#)
- [Stanford Libraries Copyright and Fair Use Overview](#)
- [Cornell Library Copyright Term Chart](#)
- [Society of American Archivists Orphan Works Best Practices](#)
 - This document outlines what constitutes a diligent, good faith effort to find a copyright owner.

Copyright law is complex and confusing! If the resources above don't answer your copyright questions, UPLINK staff are happy to help. However, determining the copyright status of your collection before putting it online is ultimately your organization's responsibility.