



Definition and Guidance for Evaluating Copyright Status of Online State Primary Legal Material

Federal law grants the creator of an original work a copyright which allows exclusive rights to the work for a limited amount of time. Works produced by the United States government, including federal statutes, codes, regulations, and court opinions, are ineligible for copyright protection under Section 105 of the U.S. Copyright Act. Copyright protection of works of state governments is governed by state law.

Guidance: Determining the copyright status of online state primary legal material can be difficult and time-consuming. States may assert copyright in online primary legal materials in various ways, including but not limited to: using the copyright notice symbol ©, enacting state statutes, or providing non-specific language on the legislature's website. Additionally, states often inconsistently assert copyright in their primary legal materials. For instance, the state may assert copyright in the administrative code, but not in the state statutes. Or, the state may assert copyright in the print administrative code, but not the online version. Thus, it is important to review each online primary source to determine if the state has asserted copyright in that particular resource.

This document provides guidance to volunteers reviewing and confirming information posted on AALL's State Online Legal Information website. It provides steps for conducting the evaluation of copyright status as well as examples illustrating possible ambiguities.

In conducting their review, volunteers should document the steps taken in their evaluation and provide references to appropriate sources of information, e.g., controlling state statutes, language contained on the relevant website, information gleaned from secondary sources or conversations with state officials. Documentation should be submitted to the [Digital Access to Legal Information Committee](#) (DALIC). Additionally, if volunteers discover new avenues for determining copyright status, they should share such information with DALIC which will update this guidance document.

When reviewing a state's online primary legal materials to determine whether the state is asserting copyright, review the website for specific statements regarding copyright. See, for example, [Minnesota Statutes](#). At the bottom of the page, there is a copyright statement: "[Copyright](#) © 2014 by the Revisor of Statutes, State of Minnesota. All rights reserved." The site also provides a [link](#) to further information about Minnesota's assertion of copyright.

Some state sites may not be as clear as Minnesota's. For example, each page of the [Florida Legislature's website](#) includes the following statement: "Copyright © 1995-2015 The Florida Legislature." Without further clarification, it is not clear whether the state means to assert copyright in the website design, or if it is asserting copyright in all content included on the site. Where a site simply includes a copyright statement or symbol, further investigation is warranted.

If the website is unclear as to copyright status, research state law to determine if the issue of copyright in state government publications is addressed. State statutes might assert copyright, affirmatively exclude such copyright, or not address the issue. To help begin this research, volunteers may consult [AALL's non-dispositive list of state statutes](#) asserting copyright in primary legal materials. Volunteers may also wish to consult Harvard Library's [state copyright guide](#).

If a state has a statute addressing copyright in state government publications, volunteers should take care to determine whether the statute applies to online resources as well as print. In addition to state statutes regarding copyright in state primary legal materials, volunteers may also research state statutes regarding online public access to such materials.

For example, Colorado has statutes addressing both copyright by the state and the applicability of the statute to public records:

C.R.S.A. §2-5-115 Copyright by state

Colorado Revised Statutes and ancillary publications thereto, as published, shall be the sole property of the state of Colorado as owner and publisher thereof. The committee, or its designee, may register a copyright for and in behalf of the state of Colorado in any and all original publications and editorial work ancillary to the Colorado Revised Statutes that are prepared by the general assembly or its staff. The committee shall use its best efforts to ensure that any federal copyright registered pursuant to this section is appropriately maintained. Any prior actions of the committee and the revisor in securing such federal copyright are hereby validated.

C.R.S.A. § 24-72-203. Public records open to inspection

(4) Nothing in this article shall preclude the state or any of its agencies, institutions, or political subdivisions from obtaining and enforcing trademark or copyright protection for any public record, and the state and its agencies, institutions, and political subdivisions are hereby specifically authorized to obtain and enforce such protection in accordance with the applicable federal law; except that this authorization shall not restrict public access to or fair use of copyrighted materials and shall not apply to writings which are merely lists or other compilations.

Volunteers should note that while C.R.S.A. § 24-72-203 does not assert copyright in public records, it makes clear that the state is preserving existing rights. Because C.R.S.A. §2-5-115 affirmatively asserts copyright in the Colorado Revised Statutes, this protection extends to the public online version.

If copyright status remains unclear after consulting the resources outlined above, volunteers should contact someone at the state legislature and/or the state law library, legislative library, or archives.

If copyright status still remains ambiguous, volunteers should indicate this result of their research.

If you have questions about copyright while updating information about the online primary legal material in your state, please feel free to contact the [AALL Copyright Committee Chair](#). The Committee will review your question and will respond.