

## Copyright & Trademark FAQ

Many organizations struggle with copyright rules and regulations. A qualified legal expert can offer the best counsel regarding copyrights and trademarks. Advise the board of directors about any copyright issues that arise as managing copyrights and adhering to local and national laws falls under a board's governance responsibilities. Board members may also be able to offer expert advice.

Does your organization retain the copyright to materials created by staff or volunteers? If so, it is recommended that policies surrounding these copyrights are easily accessible and shared openly to prevent confusion. A 2010 article published on Blue Avocado offers the following advice, "If your organization publishes frequently, adopt a policy that requires an agreement on copyright to be signed by employees, contractors, and volunteers in advance of work done and that requires a report to the board before any agreement is signed that gives those rights to others." The article also advises that, although it is not the easiest website to navigate for those unfamiliar with copyright language and legal terms, the best source for information about copyrights is [www.copyright.gov](http://www.copyright.gov). And, when in doubt, always seek professional counsel.

Depending on the organization's copyright needs, you may want to consider Creative Commons licensing. Creative Commons is a Massachusetts based 501(c)(3) that "develops, supports, and stewards legal and technical infrastructure that maximizes digital creativity, sharing and innovation." The Creative Commons license can be seen on online photo sharing websites like Flickr and nonprofit technology projects such as We Are Media.

### TIP...

As of May 29, 2007, any new trademark in Colorado will be effective for a period of 5 years before renewal is required. A trademark filed in Colorado prior to May 29, 2007, is effective for 10 years from the date it was filed. All trademarks can be renewed up to 6 months before the expiration date to extend the effective period. If a trademark is not renewed before the expiration date, the trademark will expire. Expired trademarks cannot be renewed.

Learn more: <http://sos.state.co.us/pubs/business/FAQs/trademarks.html>

The information below is directly from [www.copyright.gov](http://www.copyright.gov) and current as of September, 2016. For the most up-to-date information, please consult the website.

### ***What is copyright?***

*Copyright is a form of protection grounded in the U.S. Constitution and granted by law for original works of authorship fixed in a tangible medium of expression. Copyright covers both published and unpublished works.*

### ***What does copyright protect?***

*Copyright, a form of intellectual property law, protects original works of authorship including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture. Copyright does not protect facts, ideas, systems, or methods of operation, although it may protect the way these things are expressed. See Circular 1, Copyright Basics, section "What Works Are Protected."*

### ***How is a copyright different from a patent or a trademark?***

*Copyright protects original works of authorship, while a patent protects inventions or discoveries. Ideas and discoveries are not protected by the copyright law, although the way in which they are expressed may be. A trademark protects words, phrases, symbols, or designs identifying the source of the goods or services of one party and distinguishing them from those of others.*

***When is my work protected?***

*Your work is under copyright protection the moment it is created and fixed in a tangible form that it is perceptible either directly or with the aid of a machine or device.*

***Do I have to register with your office to be protected?***

*No. In general, registration is voluntary. Copyright exists from the moment the work is created. You will have to register, however, if you wish to bring a lawsuit for infringement of a U.S. work. See Circular 1, Copyright Basics, section “Copyright Registration.”*

***Why should I register my work if copyright protection is automatic?***

*Registration is recommended for a number of reasons. Many choose to register their works because they wish to have the facts of their copyright on the public record and have a certificate of registration. Registered works may be eligible for statutory damages and attorney's fees in successful litigation. Finally, if registration occurs within 5 years of publication, it is considered prima facie evidence in a court of law. See Circular 1, Copyright Basics, section “Copyright Registration” and Circular 38b, Highlights of Copyright Amendments Contained in the Uruguay Round Agreements Act (URAA), on non-U.S. works.*

***I've heard about a “poor man’s copyright.” What is it?***

*The practice of sending a copy of your own work to yourself is sometimes called a “poor man’s copyright.” There is no provision in the copyright law regarding any such type of protection, and it is not a substitute for registration.*