

Free and Open Use of Online Public Domain Reproductions and Metadata

This policy governs free and open use of digital reproductions and accompanying metadata of public domain works that the Library makes available online (the “Policy”). In many instances, this Policy restates principles already utilized, but which are now formalized here.

This Policy is subject to the following explanations and limitations:

1. Statement about materials in the public domain.

The Library does not claim to hold copyright in public domain materials that it digitally reproduces and makes openly available online. The Library may embed a statement, such as a RightsStatement.org No Known Copyright mark or a Creative Commons 1.0 Public Domain Mark, in metadata for these digital reproductions to designate that these materials subsist in the public domain. Even absent inclusion of such a mark, however, this Policy clarifies that the Library does not assert copyright over public domain materials it digitizes, or in their bibliographic metadata.

As such, researchers may make free and open use of Library-digitized public domain materials and accompanying metadata without having to request the Library’s permission to quote, reproduce, publish, or distribute them.

Researchers are asked to attribute use of reproductions subject to this Policy as follows, or in accordance with discipline-specific standards:

[Identification of the item], [Name of collection], [Call number of collection], [Name of the UC Berkeley Library, e.g., The Bancroft Library], University of California, Berkeley

1.1. Public Domain Materials Only.

The Library fully supports the protection of intellectual property, and is committed to complying with and strictly adhering to all applicable copyright law. This Policy applies *only* to Library-digitized works that are within the public domain in the United States, and thus bear no domestic copyright protection. Accordingly, for all other Library-digitized works that, in whole or in part, still remain under copyright either in the U.S. or abroad, researchers must continue to abide by copyright law. Further, to the extent a work remains within copyright and U.C. Regents hold that copyright, this Policy does not apply; the U.C. Regents do not relinquish copyrights that they continue to hold.

1.2. No Charge.

The Library will not charge a fee for using reproductions of public domain works, or any accompanying metadata, that it chooses to make available for download online—including as to

any such images that are uploaded in high-resolution or of publication quality. However, the Library reserves all rights to consider, and to charge fees to fulfill, requests for new digitization or the provision of high-resolution digital files that are not yet openly available online.

1.3. Exceptions.

While reproductions and metadata subject to this Policy may lack U.S. copyright protection, this does not mean that other federal or state laws or contractual agreements do not apply to their use and distribution. It is the researcher's responsibility to assess permissible uses under all other laws and conditions. In particular:

1.3.1. Privacy & Publicity Rights.

The Library respects people's rights to privacy and individuals' publicity rights, and is committed to complying with and strictly adhering to all applicable legal requirements in protecting those rights. The Library makes no representations about the permissible uses of the Library-digitized public domain digital files in relation to federal and state privacy and publicity laws. It remains solely the researcher's responsibility to address issues of privacy and publicity relating to use of the files.

1.3.2. Contract & Donor Restrictions.

The Library adheres to provisions in donor agreements for its collections. The Library will exercise best efforts to identify any public domain reproductions that are subject to donor restricted use limitations, and reserves all rights to limit access to/use of these materials at any time to honor such contract-based restrictions.

1.3.3. Other Restrictions.

The Library is sensitive to social and religious customs, indigenous knowledge, and other requirements that may impact use of some works in its collections. The Library, at its own discretion, may restrict access to or use of public domain work reproductions and metadata accordingly.

1.4. Inapplicability to Trademarks.

The use of the UC Berkeley or Library name, logo, or trademarks—other than for citation purposes—requires prior approval from UC Berkeley's Office of Business Contracts and Brand Protection.

1.5. Disclaimers.

Use of reproductions or metadata subject to this Policy shall be at the researcher's sole risk. To the fullest extent permitted by law, the Library disclaims all warranties of any kind (express, implied, or otherwise), including but not limited to any implied warranties of merchantability, fitness for a particular use, non-infringement, and/or as to the accuracy or completeness of content or related information, in connection with these digital reproductions. Neither the Library nor the U.C. Regents, or any of their employees or agents, shall be responsible or liable for any damage that may occur due to researchers' use of any material subject to this Policy.