

NJDH Interim Copyright Risk Assessment Strategy

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NJDH offers resources for non-commercial, scholarly, educational use, under *Creative Commons* license 2.5, which offers works for re-use (copy, distribute, display, perform and make derivative works) for noncommercial purposes only, with attribution.

NJDH has identified the following resources as falling within its interim Copyright Risk Management Strategy and thus acceptable for submission to NJDH:

Risk of copyright infringement

1. Resources with a deed of gift or signed permission form that clearly permits reuse (copy, display, distribute) in digital form.
2. Resources in the public domain based on date of publication or creation:
 - o Published works that were published before 1923
 - o Unpublished works of known authorship, where the author died, or can be safely presumed to have died, before 1936
 - o Unpublished anonymous works created before 1886
 - o U.S. government documents
3. New Jersey state, county and city government documents, in conformance with relevant privacy limitations for open access to government documents.
4. Unpublished orphan works with no evident commercial value, after a "reasonably diligent" effort has been made to identify the owner.
5. Unpublished works with an identifiable creator and no evident commercial value, after a "reasonably diligent" effort has been made to locate the creator or her heirs. If the creator can be presumed to be living based on date of creation and thus could be located, but is not located, or fails to respond to the permissions request, the resource cannot be made available via NJDH.
6. Creative works of fiction, literature, music or art with an identifiable creator will not be accepted for NJDH unless clearly in the public domain.

NJDH metadata will soon be available to support the copyright permissions process. Provenance event metadata can be used to provide auditable "reasonable diligence" in identifying copyright holders:

- Document attempts to locate a copyright holder.
- Document attempts to contact a copyright holder
- Document attempts to find the copyright registration or renewal status of a published work.

Works published between 1923 and 1989 may be in the public domain, depending on whether or not the creator or publisher complied with copyright law at the time with regard to registration, copyright notice affixed to the work and copyright registration renewal. NJDH will not be accepting works published after 1923 without a deed of gift or permission form at this time because efforts to determine copyright status currently produce ambiguous results. NJDH is currently restructuring to accomplish key tasks, including rights management for NJDH. Our risk management approach will be conservative until a working group tasked with rights management can be convened to review and revise the NJDH copyright risk management strategy.