

Copyright, Licensing, and Open Data Policies

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What is open government data?

- Online & Free
 - Primary
 - Timely
 - Accessible
 - Analyzable
 - Open Formats
 - No Discrimination
- **License-Free**
 - Permanent
 - Has Provenance
 - Digital Trust
 - Public Input
 - Public Review
 - Coordinated

License-Free

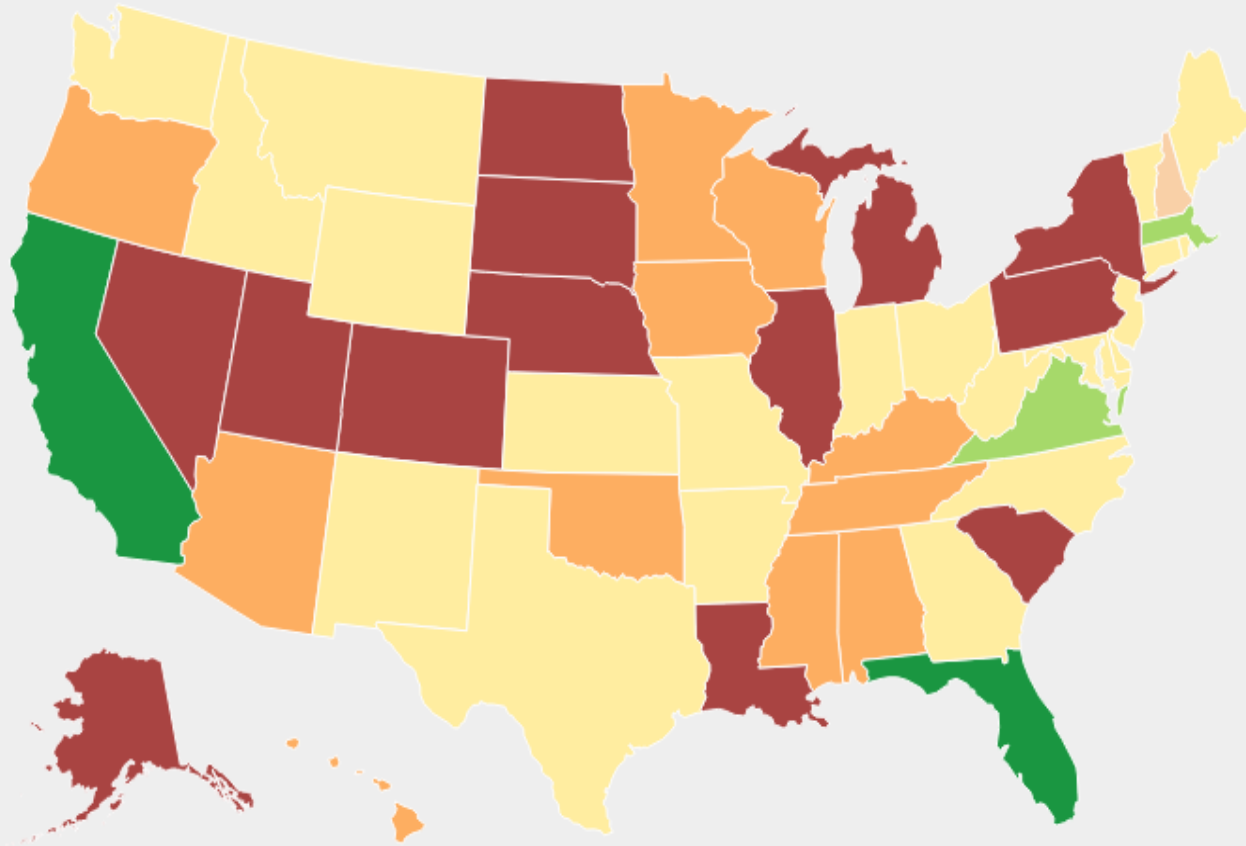
(8) “License-free.” Dissemination of the data is not limited by

- intellectual property law such as
 - copyright
 - patents
 - trademarks
- contractual terms, or
- other arbitrary restrictions.

Copyright

- US Const Art 1 Sec 8 and **Title 17** of the U.S. Code creates copyright law. In short:
 1. *Every creation* is protected by copyright law the moment it becomes fixed in physical form.
 2. The law gives the author the exclusive right to *reproduce* it and any *derivatives*.
 3. There are exceptions – including facts, “fair use,” government works¹, and the law itself² – but the gray area is bigger than the exceptions.
 1. 17 USC 105
 2. U.S. Copyright Office Compendium of U.S. Copyright Office Practices, Third Edition (2014), 313.6(C)(2), and Banks v. Manchester, 128 U.S. 244, 253 (1888) and other cases.

<http://copyright.lib.harvard.edu/states/>



Click on a state to see a review of the copyright status of government documents within that state, or use the states menu above. Red indicates that documents are presumptively copyrightable, green indicates that documents are presumptively public domain, and colors in between indicate a tendency to one or the other where the governing law is not clear.

Consequences of Conviction

(abacollateralconsequences.org)

Under a contract with the Department of Justice, pursuant to a 2008 statute, the ABA created the *National Inventory of the Collateral Consequences of Conviction*.

It lists “legal sanctions and restrictions imposed upon people because of their criminal record.”

- Housing, employment, voting rights, etc.

11 CSR 80-9.010	(transportation)	including firearms
12 CSR 10-23.160	related to profession)	other property rights	vehicles, trailers, motor vehicle p
12 CSR 10-23.160	years for felonies)	and certification	convicted in any federal or state
12 CSR 10-23.160	misdemeanors)	other property rights	convicted in any federal or state
12 CSR 10-23.465	(background check)	other property rights	inapplicable to this circumstance
12 CSR 10-24.050	(relief)	Provision	offense or enforcement contact.
12 CSR 10-24.160	(transportation)	and certification	
12 CSR 10-24.160	(transportation)	and certification	(10) years preceding the date of
12 CSR 10-24.160	offenses)	and certification	302.341, <u>RSMo.</u> . . .
12 CSR 10-24.160	(transportation)	and certification	application.
12 CSR 10-24.326	license (driving)	and certification
12 CSR 10-24.412	(transportation)	and certification	accident. . . .
12 CSR 10-24.444	(transportation/relief)	Provision	
12 CSR 10-24.465	(transportation)	and certification	violation. . . .
12 CSR 10-24.465	(transportation)	and certification	separate incidents. . . .
12 CSR 10-24.465	(transportation)	and certification	separate incidents.
12 CSR 10-26.020	(background check)	other property rights	submit that record check with ne

ABA NATIONAL INVENTORY OF COLLATERAL CONSEQUENCES OF CONVICTION

NOTICE, DISCLAIMER, AND TERMS AND CONDITIONS OF USE

NOTICE:

The ABA National Inventory of Collateral Consequences of Conviction ("NICCC") is a project of the ABA's Criminal Justice Section ("CJS"). It is an online database of the collateral consequences of criminal convictions contained in the laws and regulations of the federal, state and territorial jurisdictions of the United States. This project was supported by Award No. 2009-IJ-CX-0102, awarded by the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this publication are those of the authors and do not necessarily reflect those of the Department of Justice. Any views expressed in it have not been approved by any state, the federal government, or ABA's House of Delegates, and accordingly, may not be construed as representing the views or policies of any of them.

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The NICCC is intended solely for educational and informational purposes, and no part of it may be considered as constituting legal advice. Users are cautioned that this area of law is complex, voluminous, and constantly changing, and, accordingly, users should research and verify all search results for accuracy and applicability at an official federal, state or territorial database. Review the Additional Terms and Conditions of Use at the link below for additional

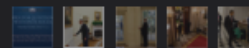
“All materials ... are protected by United States **copyright law** . . . and may not be reproduced, distributed, transmitted, displayed, published or broadcast without the prior written permission of the ABA.”

- Is this a contract or is this merely a reminder of the law?

Prompt

- What are the practical consequences of copyright restrictions on the ABA project?
- Is it even government data?
- As a citizen, is this the best policy for a government by and for the people?
- As a civil servant, is this the best policy for my agency's work?





The White House

+ Follow

P102909CK-0211

PRO

President Barack Obama opens the door of the Oval Office to welcome Minister Mentor Lee Kuan Yew of Singapore, Oct. 29, 2009. (Official White House Photo by Chuck Kennedy)

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22
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10
comments

Taken on October 29, 2009

☐ United States government w



Canon EOS 5D
Mark II

EF24-70mm
f/2.8L USM

f/5.0

24.0 mm

1/80

1250

White House Flickr Account

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Georgia Code Revision Commission

“Use of this website and the downloading or copying of any material there from shall be subject to the Terms and Conditions of LexisNexis®, which is the official publisher of the O.C.G.A.”

- Use on “one single-user personal computer.”
- “may not...copy any portion” of the law.
- “The technology used ... in the Website ... is a trade secret, and you will ... not disclose that information”
- Terms are subject to New York jurisdiction!



Law Incorporated by Reference

- Non-governmental organizations are holding the law hostage:
 - American Society for Testing and Materials (ASTM)
 - National Fire Protection Association (NFPA)
 - American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE)
 - American Educational Research Association (AERA)
 - American Psychological Association (APA)
 - National Council on Measurement in Education (NCME)

Standards Bodies v. Public.Resource.Org

DC District Court Opinion 2/2/17

- “Pursuant to 5 U.S.C. § 552, federal agencies may incorporate voluntary consensus standards . . . into federal regulations by reference [if the standards are] reasonably available to the class of persons affected
- ...
- Defendant should be permanently barred from violating any of Plaintiffs’ exclusive copyrights, including distributing, displaying, reproducing, or creating derivative works in the nine standards”



17 USC

- Copyright to promote the arts or whatever:
 - Can't copyright facts.
 - **Can** copyright the arrangement of facts.
 - Shall we go to court?
 - Gov works aren't copyrighted.
 - Unless gov pays a **contractor** to create it.
 - **Some agencies** and **most states** do copyright their works.
 - Can't copyright the **law**.
 - Can copyright **annotations** to the law.
 - Can copyright materials **incorporated** by reference into the law.

Delaware Code

TITLE 8

Corporations

CHAPTER 1. GENERAL CORPORATION LAW

§ 397 PENALTY FOR UNAUTHORIZED PUBLICATION OF CHAPTER

Whoever prints or publishes this chapter without the authority of the Secretary of State of this State, shall be fined not more than \$500 or imprisoned not more than 3 months, or both.

(8 Del. C. 1953, § 397)



FEDERAL ELECTION COMMISSION

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Disclosure Data Catalog

Welcome to [data.fec.gov](#). We're building data files that will allow you to download campaign finance information in ways that we hope are most useful for you. We'll be moving the data we've always posted on our ftp server to this new location with these new formats and RSS capabilities. We're also working on a number of new datasets that will also be available here as we move forward.

Each of the files listed here can be downloaded in either csv or xml formats. Each also has a metadata page that describes the information included and the structure of the file itself. You can also subscribe to RSS feeds for many of the files so you're notified whenever new data is available or a change is made.



[Subscribe to this feed](#)



Data Catalog

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Administrative Fines

Bundled Contributions

Committee Report Summary

Candidate Disbursements

Candidate Summary

Committee Summary

Communication Costs

Electioneering Communications

Independent Expenditures

Leadership PACs and Sponsors

Lobbyist/Registrant

New Committee Registrations

Source	Metadata Description	XSD	CSV	XML	RSS
Administrative Fines A list of completed cases where committees have been penalized for failure to file required disclosure reports or for filing reports after the deadline. More information about the Administrative Fines program.					
Bundled Contributions (Lobbyist) A list of reports filed by campaigns, parties and leadership PACs disclosing receipt of contributions bundled by lobbyists. There is also more information about lobbyist bundling reporting requirements available from the FEC.					
Campaign And Committee Report by Report Summary ● 2016 ● 2014 ● 2012 ● 2010 ● 2008 These files contains information for each time period during which a committee or organization that has registered with the FEC and filed a financial report. These data are available for the current election cycle and for election cycles through 2008.					
Candidate Disbursements ● 2016 ● 2014 ● 2012 ● 2010 These files contain all itemized disbursements reported by a candidate for either the House or Senate during the selected					

Campaign Finance Data

“The names and addresses of individual contributors . . . may not be sold or used for any commercial purpose or to solicit any type of contribution or donation, such as political or charitable contributions. 2 U.S.C. §438(a)(4); 11 CFR 104.15 . . . is subject to the penalties of 2 U.S.C. §437g.”

Types of Legal Limits on Use

	Copyright	Contract	Statute
POTUS Photos		X	
Legal Analysis	X	X	
Campaign Finance			X
The Law	X	X	X

Prompt

- What are the practical consequences of statutory restrictions on use of campaign finance data?
- Is this good policy?
- Let's look at your favorite dataset.

Open Licenses

- Grants permission you wouldn't otherwise have.
 - *It's copyrighted, but you may still make copies.*
 - Relies on © law to place other conditions on those permissions, such as attribution.
 - Stock templates: CC-BY, MIT, GNU GPL (viral)
- Creative Commons Zero
 - Is a complete waiver of rights.
 - Not a license per se.

A Good Open Data Policy

- Waives copyright, or else has an open license.
 - At least say if the works are considered copyrighted.
- Is terse with terms.
 - Ok to protect IT systems.
 - Ok to disclaim liability. (Use at your own risk.)
 - Does not restrict use & dissemination.
- Alerts users to statutory restrictions.

Code of the District of Columbia

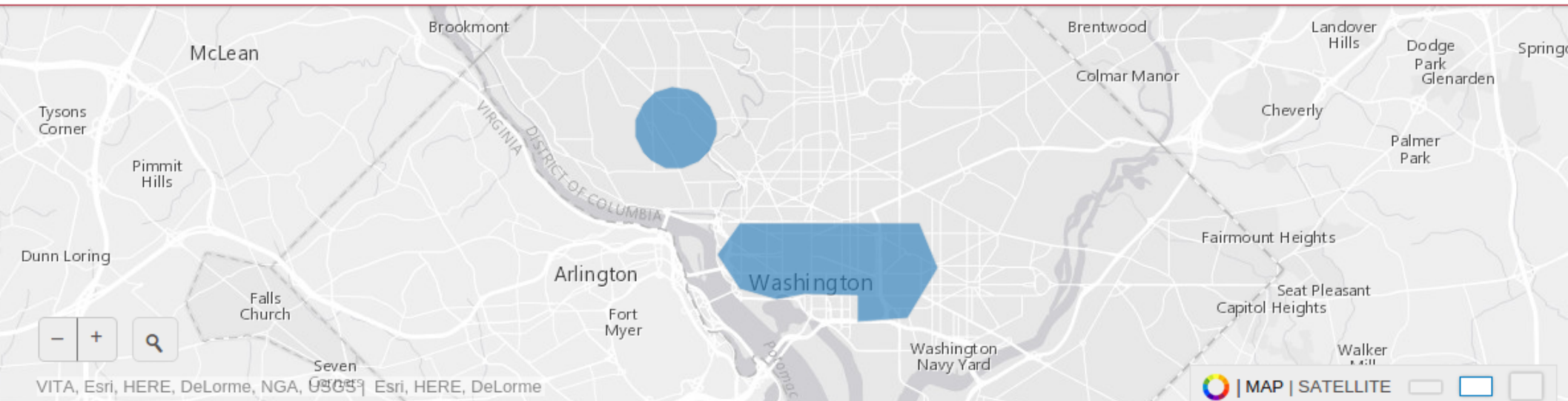
- The District claimed a copyright on its laws!
 - Now CC0.
- Access was through a WestLaw portal with TOS.
 - Now on an official government website:
<https://code.dccouncil.us/>
 - No terms of service anymore.
- Bulk data for analysis & reuse.

Search for open data



☐ SEARCH WITHIN MAP

My Activity



< No Fly Zones

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DESCRIPTION

[more](#)

No fly zones. The dataset contains locations and attributes of P56A and P56B flight restrictions in the District of Columbia, created as part of the DC Geographic Information System (DC GIS) for the D.C. Office of the Chief Technology Officer (OCTO) and participating D.C. government agencies. A database provided by the National Geospatial-Intelligence Agency (NGA) identified P56A and P56B flight restrictions in DC. The data specifically comes from NGA's Digital Aeronautical Flight Information File (DAFIF). All DC GIS

ABOUT



DCGIS Open Data:
Administrative and Other
Boundaries

By [DCGISopendata](#)

Published: 2020-04-06

DC Open Data Catalog

data.dc.gov

2013

- the District can “require the termination of any and all displaying, distributing or otherwise using any or all of the RSS feeds for any reason.”
- Attribution required
- “you will not [u]se the Site to . . . encourage others to engage in any conduct which would constitute a criminal offense or give rise to civil liability”

2014

- “Unless otherwise noted, the data on the Sites is public domain and made available with a Creative Commons CC0 1.0 Universal dedication. In short, the District waives all rights to the data worldwide under copyright law”
- “While not required, we ask that you give proper credit when using data from the Sites in your own work.”

Is this license-free?

Rhode Island Geographic Information System Data Distribution Policy

“All data distributed by RIGIS are provided 'as is.' The...State of Rhode Island...do[es] not make any warranties of any kind for these data, and are not liable for any loss or damage however and whenever caused by any use of these data.

Please acknowledge both RIGIS and the primary producer(s) of these data in any derived products.”

- Missing a copyright license.
 - Is the data subject to copyright protection?
 - Does Rhode Island think so? Would they sue?
- Are these contractual terms? Do I want to give up a right to sue over loss or damage?
- What does “please” mean in a legal document?

Prompts

- What is the state's interest in © protections?
- What is the state's interest in contractual restrictions?
- What other legal protections could open data have?