

Copyright and Open Access Publishing



Sara Benson, Copyright Librarian

UNIVERSITY LIBRARY
UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN





Talk Outline

- Copyright Basics
- Adapting OER (Understanding CC Licensing)
- Creating OER (Copyright Review)



Copyright Basics





Copyright Basics





Copyright Basics

- Copyright Protects
 - ❖ Writing
 - ❖ Choreography
 - ❖ Music (sound recordings)
 - ❖ Visual Art
 - ❖ Film
 - ❖ Architectural Works (as of Dec. 1, 1990)

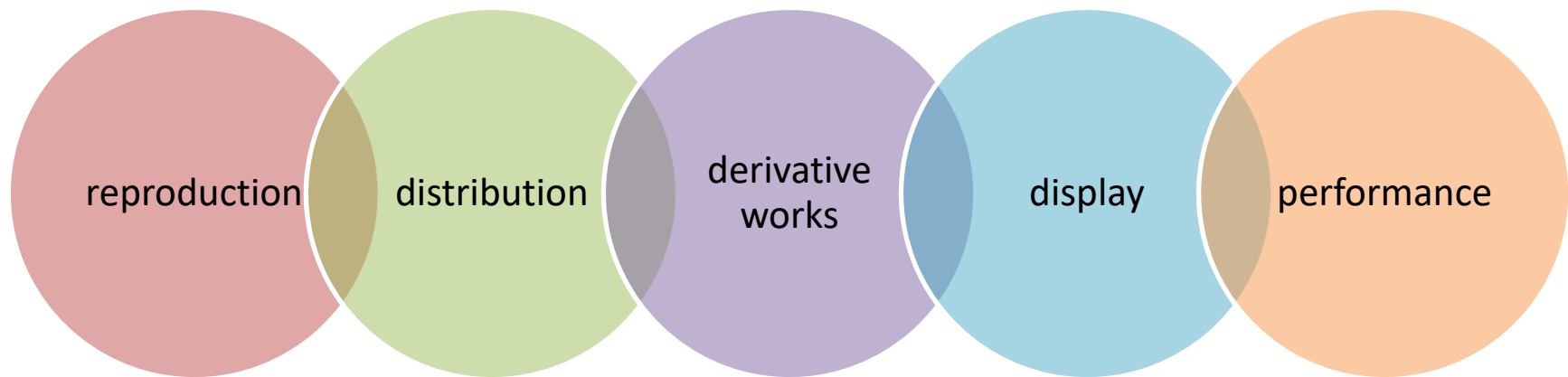


Copyright Basics

- Copyright Does Not Protect
 - ❖ Ideas
 - ❖ Facts
 - ❖ Names, titles, slogans or short phrases
(could be trademark)
 - ❖ Useful articles or inventions (patent)



Exclusive Rights (Bundle of Rights)





Copyright Basics

- The exclusive rights of authors last a long time
...
- Generally the life of the author + 70 years



Adapting OER

- So, the author of the OER owns the © in that work.
- How can others use and adapt that work?
- Generally, OER authors provide others with permission through a Creative Commons License



Creative Commons Licensing

- CC0 = public domain
- CC-BY = attribution license
- CC-BY-NC = attribution + non-commercial
- CC-BY-ND = attribution + no derivatives
- CC-BY-SA = attribution + share alike

*NC, Derivative = defined by law



Derivative Work Definition

Section 101 of the Copyright Act defines "[a] 'derivative work' as a work based upon one or more preexisting works . . . in which [the original work is] recast, transformed, or adapted. A work consisting of editorial revisions, annotations, or other modifications which, as a whole, represent an original work of authorship, is a 'derivative work'."



SA License

- The most misunderstood license, by far, is the “share alike” license.
- What it means is that if you use the original work to create a derivative work, then you must use the same license as the original work.



Let's Practice

- Mary finds an OER textbook with the following license: CC-BY-SA
- She finds a wonderful photograph (see next page) in the book that she wishes to use on her class website (which is on the open world wide web).
- Does she need to license her website with “CC-BY-SA” in the following scenarios...



Photo in OER

$$y = \frac{\text{i just don't care.}}{x + 1}$$



Mary's Use

- Mary plans to just copy and paste the photo to her website. She will cite it appropriately.
- Must she license her website CC-BY-SA?

Mary's Use

- What if Mary does this:

OH, REALLY?

$$y = \frac{\text{i just don't care.}}{x + 1}$$

BECAUSE THE GRE DOES!



Mary's Use

- Is Mary's use a "derivative work"?
- If so, does she now have to use the same license on her website: CC-BY-SA?



Mary's Use

If it constitutes a derivative work, maybe so, but remember, CC licenses are compatible with FAIR USE! So, probably not!!!

From the FAQs on the Creative Commons website:

Do Creative Commons licenses affect exceptions and limitations to copyright, such as fair dealing and fair use?

No. By design, CC licenses do not . . . restrict . . . fair use. If your use of CC-licensed material would otherwise be allowed because of an applicable exception or limitation, you do not need to rely on the CC license or comply with its terms and conditions.



Other Aspects of CC Licenses

- What if you are adapting a CC OER Textbook, but you are using chapters and exercises from multiple books and combining them into a single new work?
- This could involve . . . COMPETING CC Licensing!



	PUBLIC DOMAIN	PUBLIC DOMAIN	BY	BY SA	BY NC	BY ND	BY NC SA	BY NC ND
PUBLIC DOMAIN	✓	✓	✓	✓	✓	✗	✓	✗
PUBLIC DOMAIN	✓	✓	✓	✓	✓	✗	✓	✗
BY	✓	✓	✓	✓	✓	✗	✓	✗
BY SA	✓	✓	✓	✓	✗	✗	✗	✗
BY NC	✓	✓	✓	✗	✓	✗	✓	✗
BY ND	✗	✗	✗	✗	✗	✗	✗	✗
BY NC SA	✓	✓	✓	✗	✓	✗	✓	✗
BY NC ND	✗	✗	✗	✗	✗	✗	✗	✗



Copyright Review



public domain



cc licenses



© exceptions



fair use



asking for permission

Why not in this order?



ask for permission?



public domain



cc licenses



© exceptions



fair use



Public Domain

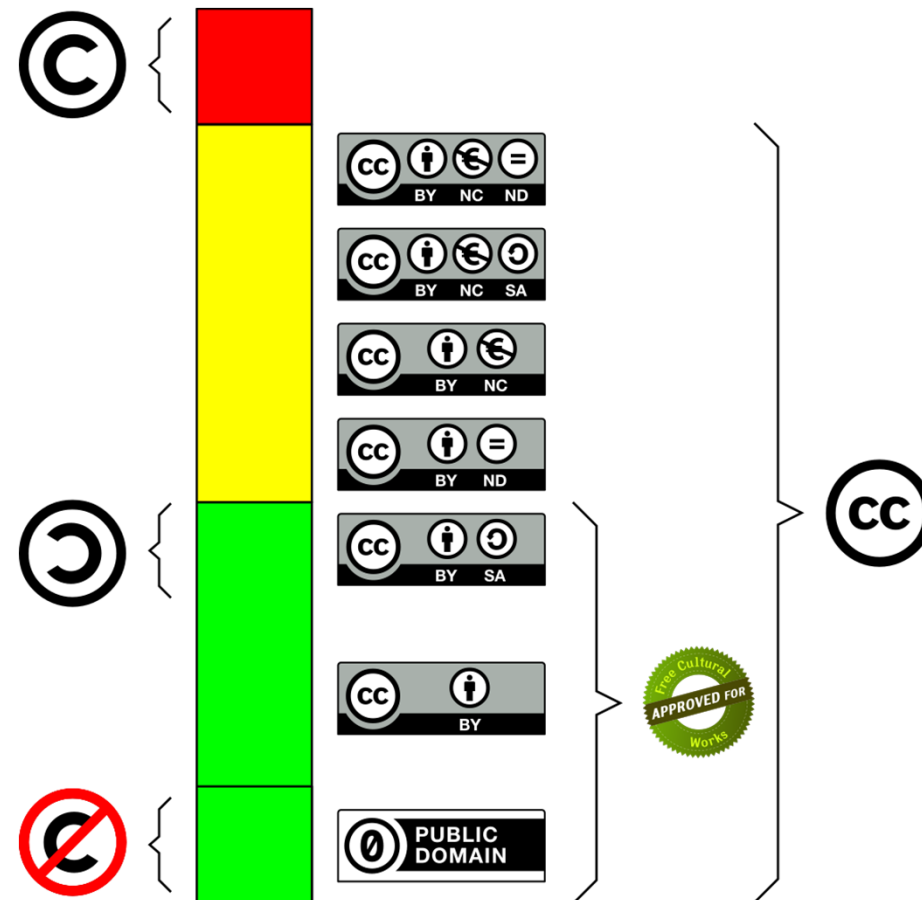


*Published in the
United States
pre-1924*

B E C A U S E
M A T H

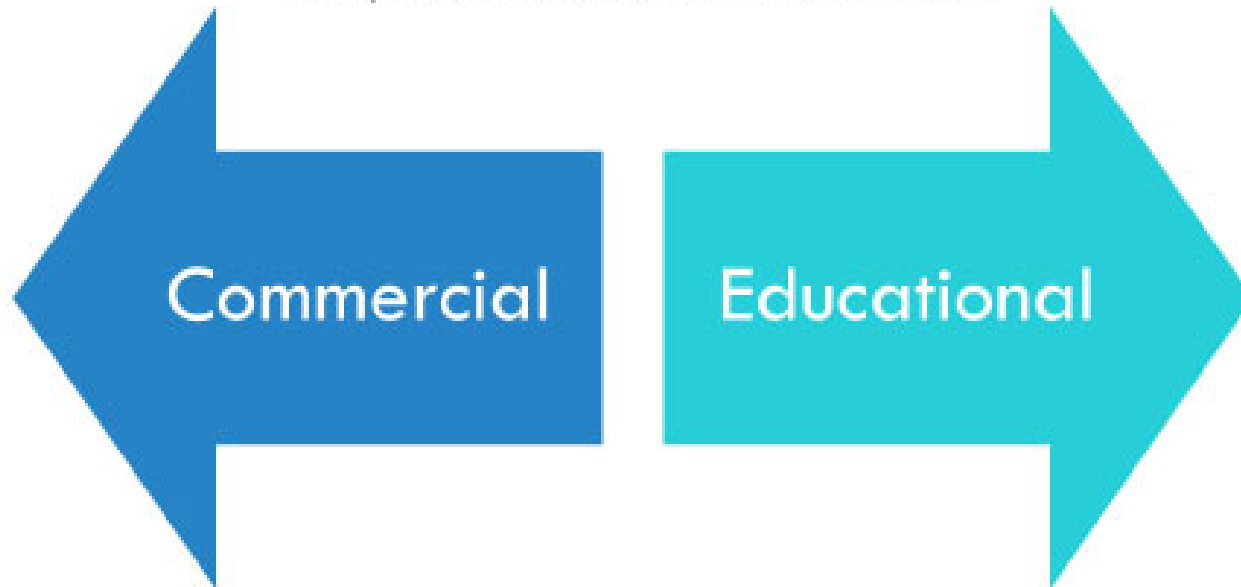


Creative Commons Licenses

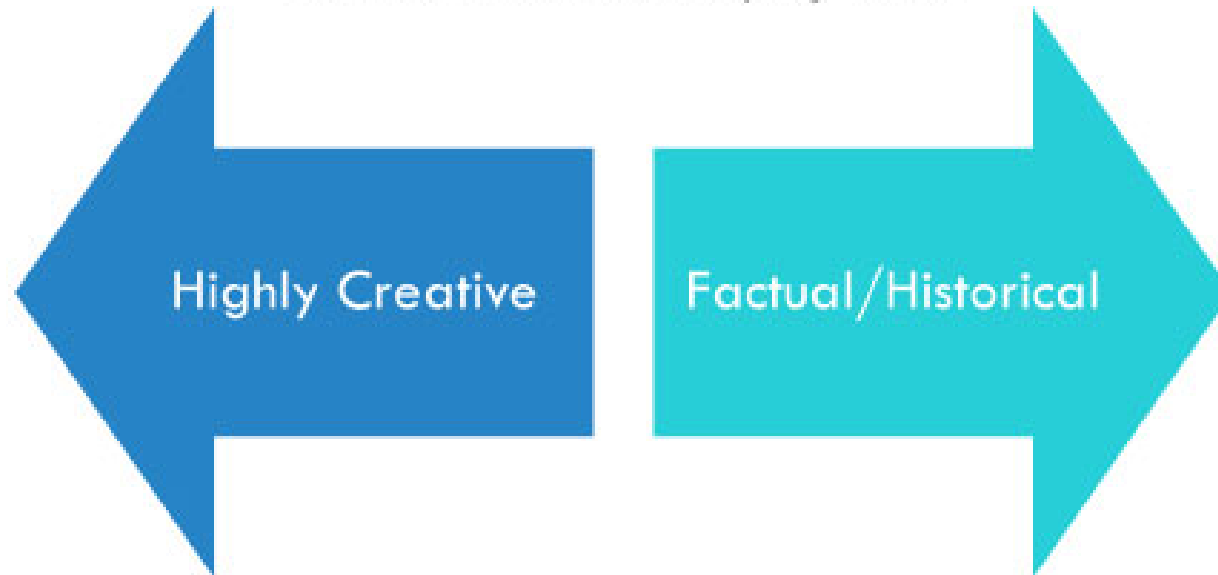




Purpose & Character of the Use



Nature of the Underlying Work



Amount Taken



Effect on Potential Market Value



*transformative
use*





Limitation
of Liability:
Section
504(c)(2)



Copyright Advisory Network

A community of librarians and copyright scholars answer your copyright questions.

Free help with copyright at your fingertips!

<http://librarycopyright.net>



Thank You!

You can always e-mail me:
srbenson@illinois.edu

Attributions:

Slide 3 = Colorful Hands, CC-BY-SA, http://blog.intef.es/cniie/wp-content/uploads/sites/3/2014/11/hands_colorful.1png

Slide 14 = Sean MacEntee, Maths, CC-BY, Flickr, <https://flic.kr/p/9Sgawd>.

Slide 19 = License Compatibility Chart, Creative Commons, Wiki/cc license compatibility, https://wiki.creativecommons.org/wiki/Wiki/cc_license_compatibility