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Understanding Campus Copyright & Creative Commons

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Understanding Campus Copyright & Creative Commons

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Scope of presentation

- ❖ **Purpose & explanation of copyright law**
- ❖ **Why be informed?**
- ❖ **How it applies to higher education**
- ❖ **Fair use on campus**



Purpose & function of copyright law

- ❖ Protects creator's original work
- ❖ To advance learning & encourage the dissemination of knowledge
- ❖ Provides incentive to pursue the creation of private works



The Role of the Court

- ❖ To balance the right of the author against the right of society to have access to copy the work



Copyright owner's exclusive rights

- ❖ Reproduction
- ❖ To create derivative work
- ❖ To distribute copies by sale, gift, rental, lease, or lending
- ❖ Public performance of work
- ❖ To display publicly



Rights can be given away

- ❖ Rights can be transferred to a publisher (1 or all)
 - Done through a contract or agreement
 - Some contracts request the exclusive rights to your work
 - This means the publisher, not you, own the rights to make copies, etc.
- ❖ **READ THE CONTRACT!**



Think about the future use of your work

- ❖ Will you want to:
 - Develop or reuse your work in a subsequent work?
 - Place your work on course sites?
 - Make copies for students?
 - Deposit your work in an online archive?



Infringement of Rights

The reproduction, republishing or redistribution of a work belonging to a copyright holder without permission is a violation of copyright law



Why be informed?

- ❖ The community uses copyrighted works of others
- ❖ To understand the laws so as to limit the risk of institutional or personal liability of infringement
- ❖ Faculty, staff, & students exercise right to protect their copyrighted works



Why be informed?

- ❖ The violation of the rights of the creators is subject to civil or criminal liability
- ❖ The college relies on copyright & has interest in fostering the respect for copyright & in promoting the availability & use of copyrighted works for research & education



Copyright Applies to:

- ❖ Literary works
 - Novels
 - Articles
 - Texts
 - Poems



Copyright applies to:

- ❖ Computer programs (software)
- ❖ Web pages
- ❖ Musical works
 - Notes
 - Lyrics
- ❖ Pantomimes & choreographic works
- ❖ Pictorial, graphic, sculptural works



Copyright applies to:

- ❖ Motion pictures & other audiovisual works
 - TV programs
 - Home movies
- ❖ Sound recordings
- ❖ Architectural works
- ❖ Compilations & databases of material



More about copyright:

- ❖ Copyright is granted automatically
- ❖ The rights belong **ONLY** to the author
- ❖ The rights can be transferred or shared



What about Electronic Works?

- ❖ Electronic information is typically sold with a “limited license”
- ❖ These contracts state how digital content may be used and shared
- ❖ Licensing of electronic content is in a different legal domain than
copyright law



Copyright cannot apply to:

- ❖ Facts, ideas & raw data
- ❖ Processes or procedures (Patent Law)
- ❖ Concepts
- ❖ Principles
- ❖ Systems or method of operation



Copyright cannot apply to:

- ❖ Proprietary formulas or recipes (Trade Secret Law)
- ❖ Titles, names, short phrases
- ❖ Slogans and logos (Trademark)
- ❖ Most U.S. Government work



Other facts about copyright law

- ❖ In U.S. copyright is governed by federal law, which takes precedence over state law
- ❖ As soon as a creator produces a work it is protected by copyright immediately
 - Registration with the U.S. Copyright Office not necessary for protection
 - Registration benefits the copyright owner if an alleged infringement goes to court
 - A work does not need a formal copyright notice to be protected by law
 - Only the owner of the rights under copyright law may bring an infringement action



More facts about copyright law

- ❖ Copyrights may last a long time, the durations vary. Generally:
 - Works published before 1-1-1978 are protected 95-120 years
 - Works published after 1-1-1978 are protected for life of author + 70 years
 - Works made for hire are protected 95 years



The Public Domain ([chart](#))

- ❖ Works not protected by copyright; not owned or controlled by anyone; property of the public ; freely used
 - Works created prior to 1923 (copyright has expired)
 - Works created prior to 1978 (copyright not renewed)
 - Most U.S. Government publications (Federal)
 - Works prior to 1989 (copyright notice not included)
 - If the author did not reserve her rights



International copyright

- ❖ Copyright is territorial
- ❖ U.S. has agreements with many countries
- ❖ Generally, a work from those countries is protected as if it's a U.S. work (there are some exceptions)



Unrestricted copying

- ❖ Writing with expired copyright
- ❖ Most U.S. Government publications
- ❖ When duplication amounts to “fair use” of the material
- ❖ Most single-copy reproductions for one’s personal use



Copyright on campus

- ❖ Copyright law has had to change as technology changed
- ❖ DMCA - Digital Millennium Copyright Act
 - Updated & replaced the Copyright Revision Act
 - Digital technology offered new ways to create & use copyrighted works & this increases the risk of infringement
- ❖ Basic principles of copyright have not changed much since 1976



DMCA

- ❖ Under the DMCA, Internet Service Providers gain some protection
- ❖ Limits liability for digital network service providers for copyright infringement provided certain requirements are met
- ❖ Forbids circumvention of digital protections



Exceptions relevant & beneficial to the campus

- ❖ The copyright act has many limitations on the rights granted to the copyright owner in order to advance learning
 - “Fair use”
 - Performances & displays in face-to face teaching
 - Distance learning
 - First sale
 - Reproduction by libraries & archives



Fair Use is a Right

- ❖ Provides for certain uses of copyrighted work
 - “ ... for purposes such as criticism, comment, news reporting, teaching, scholarship or research.”



Fair use

- ❖ Provides instances which allow reproduction of copyrighted works without infringement
- ❖ The nature of fair use is ambiguous
- ❖ The legal definition is only a set of guidelines



More about fair use

- ❖ The doctrine is flexible
- ❖ Consider all facts & circumstances surrounding the use of the copyrighted work in hand
- ❖ Law lists four factors to consider when assessing whether use is fair use
- ❖ The four factors are weighed against each other and no “one” factor determines the decision in every case



The four factors

- ❖ Purpose & character of the use (e.g., nonprofit, educational)
- ❖ Nature of the work (generally, creative works are more protected)
- ❖ Amount and substantiality of the portion used in relation to the whole
- ❖ Effect of the use on the potential market value of the work



Factor 3: Guidelines for the amount used

- ❖ **Books with fewer than 10 chapters:**
 - **Copying of not more than 10% is permissible**
- ❖ **Books with 10 or more chapters:**
 - **Copying of not more than 1 chapter is permissible**



Fair use on campus

- ❖ In the classroom
- ❖ Multimedia
- ❖ Digital technologies
- ❖ Interlibrary loan services



Copying for classroom use

- ❖ An instructor may make one copy per student
 - Copyright notice must be included
 - Students must not be charged beyond the cost of copying



More about copying for classroom use

- ❖ What's not allowed:
 - Course packs
 - Copying workbooks, exercises, standardized tests, test booklets, answer sheets (consumable works)
 - “Performable units” of sheet music



Coursepacks

- ❖ Anthologies of copied materials gathered to supplement courses
- ❖ Typically available for purchase at bookstores, copy centers, or outsourced coursepack companies
- ❖ Permission must be obtained



Reserves

- ❖ Supplementary print or electronic materials, put on hold, for a limited time
- ❖ Access limited to student enrolled in the course, only for the term of the course
- ❖ Students prohibited from distributing copies to others
- ❖ Material must fill a legitimate purpose in the curriculum



E-Reserves

- ❖ “It is fair use to make appropriately tailored course-related content available to enrolled students via digital networks.”
- ❖ Full attribution should be provided for each work included



Guidelines for E-Reserves

- ❖ **Limit materials to:**
 - **Single articles or chapters; several charts, graphs, or illustrations**
 - **A small part of the materials required for the course**
 - **Copies of materials that a faculty member or the library possesses legally (i.e., by purchase, license, fair use, interlibrary loan, etc.)**



Guidelines for E-Reserves

- ❖ Include:
 - Any copyright notice on the original
 - Appropriate citations to the source
- ❖ Obtain permission for materials that will be used repeatedly by same instructor for the same class.



Multimedia includes:

- ❖ Musical recordings
 - Single recording for evaluation or rehearsal purposes
 - Single copy that is owned by an institution or individual teacher is allowed if used to construct aural exercises or exams



Multimedia also includes:

- ❖ TV programs
 - May be recorded
 - Except those from cable TV services such as: Showtime, HBO, C-Span, ESPN
 - If not altered
 - If only shown in a place devoted to instruction



Multimedia also includes:

- ❖ Video recordings for classroom use
 - Use is considered “fair use” in a face-to face teaching situation
 - The activity must be part of the curriculum



More about videos & DVDs

- ❖ Copying a college-owned video can be made only after permission has been obtained; it may be easier to purchase a second copy
- ❖ A “Public performance right” is needed to show a video in a non-teaching situation; most videos in the Library’s collection have been purchased with this



Still more about videos & DVD's

- ❖ Copying a preview video before its return is an infringement; an extension may be arranged
- ❖ Permission to copy a video in the Library's collection must be obtained even if it's no longer available



Distance education and the TEACH Act

- ❖ **Technology, Education & Copyright Harmonization Act**
 - **An extension of Fair Use**
 - **Addresses use of digital technologies in an online learning environment**
 - **Makes distance education analogous to the face-to-face-classroom**



Distance education & the TEACH Act

- ❖ Materials can be used if use is fair use & certain requirements are met:
 - The works must be lawfully acquired
 - Teaching occurs at a non-profit educational institution
 - Only be available to students enrolled in the class
 - Use of work is limited to a small portion of the work
 - Works must be labeled with “notice of copyright”



More requirements of the TEACH Act

- ❖ No materials “typically purchased or acquired by students” such as textbooks
- ❖ Technological measures must be taken to prevent:
 - Availability of works after the course has ended
 - Further distribution



Internet resources

- ❖ **Web pages are protected by copyright**
- ❖ **Apply same rules to online information as you would to traditional print form**
- ❖ **Web pages only enter into public domain through permission of creator or copyright expiration**



Copying a portion of another's Web page is permitted if:

- ❖ Credit the sources
- ❖ Display the copyright notice & ownership information
- ❖ Include full bibliographic description: author, title, publisher, place & date of publication



More about WWW pages

- ❖ Linking to other sites
 - Go ahead; links are a form of citation
- ❖ Copying someone else's list of links
 - Should not pose a problem



More about WWW pages

- ❖ Placing digital images, scanned photos, & graphic illustrations on your Web page
 - Displayed on secure network to enrolled students, by educator, for classroom use
 - Anything in the public domain permissible



Newsgroup messages are protected by copyright law:

- ❖ Email; Listservs; Web blogs
- ❖ Making 1 copy for your own personal/education use is most likely fair use
- ❖ Sharing someone else's message in a listserve, etc. is most likely unauthorized distribution
 - Must be a reposting of the message to the original group (in response)



Online course readings:

- ❖ Electronic Reserves
 - No problem; permission is sought for you
- ❖ Blackboard & faculty Web pages
 - Determine whether it is fair use
 - [Consult the Copyright Decision Map](#)
 - [Seek permission](#)



Transfer from analog to digital format only if:

- ❖ The digital format is not available
- ❖ Only the necessary portion is copied
- ❖ Copy is not shared with other institutions
- ❖ Digital copies are not made of the digital copies



What about computer programs (software)?

- ❖ Library may loan one licensed copy of a program, to which the copyright warning is affixed, for non-profit use
- ❖ Patron may not keep a copy installed on her computer
- ❖ A program may be made available via campus system, to campus community, to access simultaneously, provided it's a network version & the license permits this



License agreements

- ❖ Govern use of electronic journals, databases, & computer programs
- ❖ Users, libraries & education institutions have a right to expect that a license will not restrict fair use or other lawful library or educational uses



Interlibrary loan services (ILS)

- ❖ Making, sending of copies of material found in books, journals & other copyrighted items is permitted if:
 - No more than one copy is made and sent
 - Copies are not made for commercial advantage
 - The copied items do not substitute for a subscription or purchase of a work



ILS copies permitted if:

- ❖ Library complies with CONTU guidelines (Commission on New Technological Uses of Copyrighted Works)
- ❖ Requesting and borrowing libraries must keep records
- ❖ The copy includes a notice of copyright: “Notice: This material may be protected by Copyright Law (Title 17, U.S. Code)



ILS copies permitted if:

- ❖ The library's collections are open to the public
- ❖ The copy must become the property of the user
- ❖ The copy is used for private study, scholarship or research



ILS continued

- ❖ Once guidelines are exceeded, royalty fees are paid
- ❖ Digital collections are managed by licenses



Students have rights too

- ❖ FERPA - Family Educational Rights and Privacy Act
 - If copies of a student's papers or projects are made available to the community, both the student and the professor must sign a statement giving permission



Faculty, staff & copyright

- ❖ Some materials are “Works made for hire”
 - Works created by employee acting for her employment owned by the employer
 - Works commissioned, if the parties have a written signed agreement



Be aware of the Rhode Island College
Intellectual Property Policy.



Faculty, staff & copyright

- ❖ Academic tradition
 - Faculty own copyright to textbooks, articles, etc.
 - Pay attention to the rights being transferred
 - Before signing, make changes to the contract



In the end ...

“... the law provides substantial protection (e.g., remission of statutory damages) in favor of educators who believe and have reasonable grounds for believing that their conduct is fair use.”



Adams Library Copyright Web Page

- ❖ [Copyright: What You Need to Know / by Lisa Maine](#)

Creative Commons Licenses

Creative Commons Licensing, built on copyright, allow creators to give others permission to use their work. There are six licenses based on four “rights” used in combination.



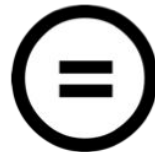
BY



NC



SA



ND

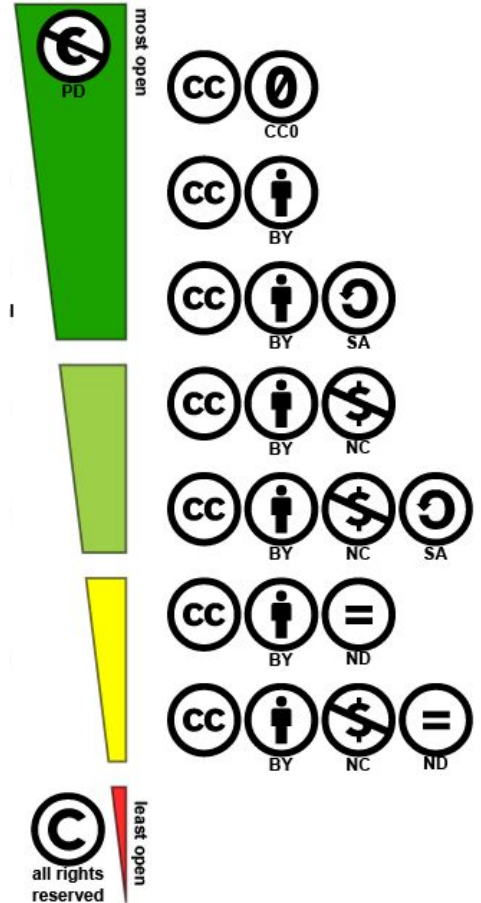
There are three layers to each license: Legal code, human readable, machine readable.

The latest version is international - language in the legal layer addresses copyright differences around the world.

Creative Commons Licenses

The licenses are progressively more restrictive.

CC0 licenses are relatively new allows creators to put content into the public domain immediately.





Applying Creative Commons Licenses

<https://creativecommons.org/choose/>



Using Creative Commons Licensed works





Using Creative Commons Licensed works



Using Creative Commons Licensed works





Using Creative Commons Licensed works



Using Creative Commons Licensed works



Using Creative Commons Licensed works





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