CREATIVE COMMONS CHEAT SHEET
FOR HIGHER EDUCATION→

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ABSTRACT. What folks working in higher education in the US **need to know** about Creative Commons licenses, the version of copyrights which most reflects the values of the academy.

1. BACKGROUND: ACADEMIC FREEDOM *vs* COPYRIGHT

The idea of **Academic Freedom**, a central tenet of modern higher education, was most clearly defined in the US context by the American Association of University Professors [AAUP] in its *1940 Statement of Principles on Academic Freedom and Tenure,*→ based on a statement of purpose:

← which was built on the *1915 Declaration of Principles on Academic Freedom and Academic Tenure*; both can be found on the AAUP website.

> Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition.

Note that there doesn't seem to be a lot of room here for profit-seeking, nor much excuse for restrictions on free expression.

In sharp contrast with what the foundation of academic freedom presupposes, **copyright,**→ which automatically springs into existence for *"original works of authorship fixed in any tangible medium,"* is based on an idea of restricting free expression. Or at least it restricts unfettered retention, reuse, revision, remix, and redistribution – "the **5R**'s of open"→ – of original works in order to maximize the profits, for a limited time, reaped by authors. Copyright→ is based on the idea that creators' expectations of monopoly profits (for a limited, albeit quite long, time) from their works will induce them to be more creative ... not very consistent, I assert, with the view of higher education as serving the common good!

juicy but succinct copyright background here: Copyright Cheat ← Sheet for Higher Education

for more on the 5R's, see
← opencontent.org/definition/

← in the US and other countries that have a "utilitarian" view of copyright; the US's utilitarianism is shown in Article I, Section 8, Clause 8, of the Constitution, the "Copyright Clause"

To the extent, then, that academics give credence to the AAUP's foundational description, or even to the extent that they simply want to encourage the 5Rs for their work in order to spread its influence as widely as possible, copyright is a serious obstacle. An author's first reaction might be simply to abjure copyright, perhaps by putting their works into the *public domain*, where the work is free of all copyright control. In the US, an author can simply declare that they are dedicating their work to the public domain, and this declaration makes it so.→

← see §3.1 below on CC0 for an improvement over the basic public domain declaration

One problem with the public domain, for academics, is that it does not require future users to acknowledge their source, as good scholarly protocol would have them do. Another is that it does not prevent downstream users from locking up their derivative works in some restrictive copyrighted form, curtailing the potential future uses and influence of the original author's work in the pursuit of which they originally chose to make their work as open as possible.

These same issues were noticed in the context of software by Richard Stallman in the 1980s, prompting him to invent the **GNU Public Licence,**→ which would help keep works as open as their authors wanted, even downstream: this was called **copyleft**, in that it was in many ways the opposite of copyright. For non-software copyrighted works, the Creative Commons [CC] organization, founded in the early years of this millennium, made an even more flexible and comprehensive set of open licenses and legal tools.

← see the GNU website, gnu.org, for more info.

2. Creative Commons Licences

CC licences allow authors to share their works with a global commons while having fairly detailed control over the kinds of sharing which will be permitted automatically for their works.

2.1. **Limitations of CC Licences.** CC licences get their force from the rights copyright law gives to creators. As a consequence, only a legal copyright holder has the power to put their work under a CC licence. For example, if a work is made in a context which automatically places it in the public domain← or if the copyright term on the work has expired, then there can be no CC license on that work. And if the work was created in a situation where the copyright doctrine of **works-for-hire** [W4H] applies,← then the individual creator will not be the rightsholder and so will not be able to apply a CC license.

such as if it is an official work of the US Government →

*in academia, tenure-line faculty → are often exempted from W4H, but usually other employees are not: **check your employment contract!***

Similarly, the restrictions on authors' exclusive rights which are codified in copyright law, such as **fair use**, restrict also the applicability of CC licences. So, for example, if Bob uses a part of Alice's← work under fair use, then a CC licence Alice may have put on her work has no power over Bob's new work.

apparently both have escaped → from a cryptography paper, see en.wikipedia.org/wiki/Alice_and_Bob.

Note that a creator still retains the powers of the original copyright even over a work they released with a CC licence... up to a point. What this means is that if a creator chooses to stop publishing their work with some CC licence that it used to have, that doesn't prevent another party from using the rights granted by that CC license, should they happen to have a copy of the work which bears that prior CC licence. CC licenses are therefore said to be **irrevocable**.

Finally, a rightsholder may make deals which grant to particular individuals any of the rights controlled by copyright, even if the work was released to the general public under a more restrictive CC licence. For example, a creator may contract with someone to make commercial use of some work, even if the CC licence does not give that right to the general public. This is because the CC licenses are **non-exclusive**.

2.2. **Four Kinds of Sharing...** CC license clauses address four aspects of sharing of creative works, which can then be combined in various ways. These kinds of sharing are

- ⓘ **Attribution (BY)**: This most minimal aspect of all CC licences merely requires future uses of a work or its adaptations to give attribution to the original creator. See below for how to give good attributions, there are details!

*there are actually **very few** compatible licenses, so effectively only exactly the same license must also be used on → any derivative as on the original*

- ⓢ **ShareAlike (SA)**: This aspect requires future users to license under the same or a compatible licence← any derivative works they may create and share of the original work.

- ⊜ **NoDerivatives (ND)**: This aspect permits downstream users to redistribute only unadapted versions of the original work.

also in versions Ⓢ and Ⓨ in Europe and Japan, respectively →

- Ⓢ← **NonCommercial (NC)**: This aspect permits only non-commercial uses of the original work or its derivatives – for example, it may be sold by individuals other than the original creator, but only at cost and not for profit.←

*the NC clause rests on the **use, not the user**: for-profits can legally → use NC works and non-profits can fall afoul of the NC clause by incorrect use*

2.3. **...Resulting in Six CC Licences.** The requirement for attribution is compatible with all others,← and is in fact a part of all CC licences. **ShareAlike**, however, being a requirement on licensing for derivative works shared with the public, makes no sense when paired with **NoDerivatives**, which allows no derivatives to be shared. This means that there are six possible full CC licences, explained below with the usual icon and acronym (acronyms link to each license's details on `creativecommons.org`):

compatibility between CC licenses → is quite logical but fairly intricate; see poritz.net/j/cc/charts/ for a very thorough explanation

CC BY: Works under this license allow users to do any of the 5R's without any restrictions whatsoever, even for commercial purposes or in derivative works, so long as attribution is given to the original creator.

CC BY-SA: This is the same as CC BY, excepting only that any derivative works downstream creators make and share must be distributed with the same or a compatible license.

CC BY-NC: The is also like CC BY, except that only noncommercial uses are permitted of the original work and any derivatives.→

CC BY-ND: The work may be used as desired by the public, so long as there is attribution of the original creator and no derivative works→ are shared with the public.

CC BY-NC-SA: This is simply the intersection of CC BY-SA and CC BY-SA, in that attribution is required, no commercial uses are allowed by downstream users, and any derivative works created by such users must be released under the same or a compatible license.

CC BY-NC-ND: Likewise, this is the intersection of CC BY-NC and CC BY-ND, in that attribution is required, no commercial uses may be made by downstream users, and no derivative works by such users may be shared with the public.

2.4. **License Structure.** The licences have been instantiated by the crack team at the Creative Commons organization in complex, legal language→ to perform precisely as intended, even internationally. The resulting text is too long and too technical to be seen in public much. Instead, it lives on the Creative Commons website: see, *e.g.*, the CC BY legal text – called, in the CC world, the **legal code** – is on the page creativecommons.org/licenses/by/4.0/legalcode.

The Creative Commons organization has also translated the legal code into more *human-readable* versions, know as the **commons deeds**. While not carrying the force of law, they are detailed and carefully written, and lay out the rights and responsibilities accruing to each particular license. See, for example, the commons deed for CC BY, on the page creativecommons.org/licenses/by/4.0.

As a third and last layer to the CC licenses, the Creative Commons organization created something called the **CC Rights Expression Language, [CC REL]**, (details here: wiki.creativecommons.org/CC_REL) which is used for machine-readable metadata about rights that can be attached to creative works.

In practice, though, the three layers are largely transparent to creators: users and re-users usually need only follow good licensing and attribution practices, for which, see below. Sometimes, though, it can be worth reading the commons deed,→ to be sure of the details.

3. CC Public Domain Tools

The collection of all works of original authorship but which are not subject to any copyright control whatsoever, be it because the copyright has expired, or the work was never eligible for copyright (as in works produced by the US federal government), or some formality was not followed correctly for the copyright.→ Works in the public domain may be used by anyone, for any purpose, without even a requirement of attribution. We can think of the public domain as the fertile cultural soil in which we can grow our new ideas and their (copyrightable) expressions, shared by everyone. Creative Commons has two tools→ which can help users work with the public domain.

3.1. **The CC0 Universal Public Domain Dedication.** Sometimes a creator doesn't want to have any control whatsoever over their work once it is out in the world, even to the point of not caring if someone else profits from it, uses it without attribution, and/or locks up derivative works under very tight copyright control. In such cases, the natural thing to do in such a case would be to place the work immediately into the public domain. In the US, this can be done by a simple statement of intent by the rightsholder.

In other countries, however, it is not necessarily as easy to put a work into the public domain. Therefore, the Creative Commons organization has built **CC0,**→ **the public domain dedication tool**, whose legal code and commons deed are found at the web page creativecommons.org/publicdomain/zero/1.0/. This tool follows a three-layered approach which has the same effect as a simple public domain dedication

in the US, but in a way which works in all jurisdictions on the planet.← When using this tool, one should use language similar to a a standard CC licensing statements (for which, see below) and the CC0 icon: [PUBLIC DOMAIN] .

3.2. **The Public Domain Mark.** Works under copyright do not need to have the copyright symbol ©, and the rules for when works fall into the public domain are quite complicated for works of an intermediate age.← It can therefore be hard to determine if a work is in the public domain unless it proudly bears the CC0 logo or is *extremely* old ←.

CC therefore created a **Public Domain Mark** which can be applied to a work when it is known to be part of the worldwide public domain: [PUBLIC DOMAIN] , which is mostly used by GLAM organizations (galleries/libraries/archives/museums) for works in their collections.

4. PRACTICALITIES

4.1. **Using CC Licensed Work: TASL.** Suppose you want to use someone else's CC-licensed work in one of the ways that that CC license allows. Since all of the licenses require attribution, you will need to attach an attribution statement to your re-use. The specific minimum legal requirements for a good attribution statement
vary a bit depending upon which version of the license was used,← but a process which is safe for all versions and easy to apply has the mnemonic **TASL**. That is, you must state, for a work being re-used:

Title:	What was the work's title (if available)?
Author:	Who was the work's author? (or, actually, rightsholder; when the medium of the re-use allows, often this Author's name is a live link to the author's home on the internet)
Source:	Where was the work found? (give URL, if possible: when the medium of the re-use allows, often the Title is made to be a live link to the Source)
License:	Under which CC license was the work released? (provide link to the creativecommons.org page for the particular license)

For example, a good TASL attribution statement for the Cheat Sheet you are reading right now would be:

"Creative Commons Cheat Sheet for Higher Education [in the United States]"
by Jonathan A. Poritz is licensed under a Creative Commons Attribution-
ShareAlike 4.0 International license.

Note that the title, author's name, and CC license names are all links.

If your re-use of a CC-licensed work includes adaptation, you should also say something about how your new work adapts the old.

Attribution can seem a lot like "citation," to academics. The difference is that a citation is something required by scholarly norms and practices, and often has detailed specific requirements such as "MLA style" or "in-text citations" (*vs* endnotes or footnotes). Attribution, on the other hand, is a **legal** requirement, and the specific contents of the attribution are requirements coming from the legal code of the license in force. But attribution statements do not have to follow specific rules about punctuation and order of the elements, as a style like "MLA" would, so long as the required information is included. This even means that you can put your TASL attribution statements at the end of your work, or right next to the other works you are using within your new work, with the attribution's URLs as live links or spelled out (or
even spoken, in audio works). Whatever makes sense with the medium and style of your new work is fine, so long as your attribution has all the TASL elements.←

4.2. **Adaptations/Remixes.** Sometimes the original work of authorship you want to create will actually be an *adaptation*← of someone else's prior work. Specific permission is of course required unless that older work is in the public domain or has a CC license without the ND clause. You can determine the options you have for

a CC license (or other status such as all-rights-reserved copyright or public domain) on your new work by seeing if a new status conflicts with the copyright status of the older work. For example, if the prior work was licensed CC BY-ND, then *no* new status is possible, while if the prior work was CC BY-SA, then the only possible new status is also CC BY-SA.[→] If you are adapting several prior works simultaneously, the new status must work separately for every one of the prior works' statuses. Detailed explanations of these issues are in these New Charts for Adaptation and Remix.

← which should be clear from the requirements in the licenses described above in §2.3

4.3. **Applying a CC License to Your Work.** The last thing we need to describe is *how* to put a CC license on your original works of authorship. There are three general principles to keep in mind:

(1) Give enough information so that your [re]users can TASL you.
(2) Be kind to users by making license information easy to find and understand.
(3) Be kind to yourself by putting the licensing statement where in your work and however is easiest, so long as the information is complete.

As part of the first principle, make sure your name, your home on the internet, and your work's title are easy to find, although you don't need to repeat them if your licensing statement is a footer to your work's front page[→] where your name and the title already appear.

← e.g., in this very Cheat Sheet

Of course, CC licenses do recognize (as, indeed, does copyright law) that some works will be anonymous or pseudonymous: so your work may not have your name on it at all. In such cases, or in other cases where you want some specific attribution text,[→] it is particularly important that your licensing statement should clearly state what you want the Title and Author parts of attributions to be.

in fact, the legal code says creators may request that they, and any others they designate, receive attribution "in ← any reasonable manner"

It's also a good practice to include the license icon[→] along with your licensing statement, so that experts can instantly recognize what license applies to your work – that's part of kindness to your [re]users. However, you do need also to have a bit of clear language in addition to that icon, since if there was just a license icon floating somewhere on your work, a user couldn't be sure exactly to what it applied.

← all icons can be found on this CC Downloads page

Often the language used is something like "<work> is licensed under <license>," but if your work has (parts of) other works used within it, consider being even clearer by saying something along the lines of "<work> is licensed under <license>, except where otherwise noted." For example, if you write an article that includes someone else's openly licensed image, you want your article's licensing statement to make it clear that you are not trying to re-license the included image. The "except where otherwise indicated" languages does that.

If your work is an adaptation, you should also briefly describe what changes were made to the original work.

When you say which license you are applying, make sure your include the link to the corresponding page on `creativecommons.org` with the full license text – in fact, that's a legal requirement. Also make sure you specify which version of that license you are using: there's a real difference between the current, 4.0 version of the license suite and earlier versions.[→] That means that you should not just say something like "CC BY," but instead "Creative Commons Attribution 4.0 International" (or at least "CC BY 4.0," if you are short on space).

*← 4.0 is much better, **use it**!*

In summary, good licensing practice implementing the above general principles is to make sure

- author's name and work's title are clear
- language like "<work> is licensed under <license>" (with "except where otherwise indicated" if other works are contained within the new work) is included; if you are adapting another work, describe the changes made
- the icon for the chosen license is part of (or near) the licensing statement
- the URL of the full license text at `creativecommons.org` is given

about which it is worth noting that the legal code says you may satisfy attribution requirements "in any reasonable manner based on the ← medium, means, and context"

An example of this approach is on the front page of this Cheat Sheet; many more examples and notes about how to handle different formats,[→] *etc.*, are in the Best practices for attribution document already mentioned above.