

Remix and Share: Teaching Others to Navigate Copyright Issues in Open Education & Open Licensing Contexts

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Abstract: Faculty and students creating or adapting openly licensed resources face numerous barriers in understanding how to appropriately handle third party works.

To address these issues I developed the EMLS (Evaluate, Mark, License, Share) model and presentation "Creative Commons and OER in 30 Minutes" [1] for non-copyright expert colleagues who needed an efficient, clear, and memorable way to teach students, staff, and faculty who want to remix, openly license, and share content from multiple sources. This poster is based in part but will go beyond the presentation.

Your feedback and questions are very welcome!

Topical Summary

The 10,000 Foot View: Threshold Concepts in Open Education & Open Licensing

- Educators of all types are in the business of sharing information and methods with others.
- Educators love to recycle, reuse, and improve upon others' works.
- Creative Commons and other open licenses allow anyone to more broadly share their original work while indicating what kinds of uses are permitted.
- Even if they are free online, original, fixed creative works are *automatically* in-Copyright in the U.S.
- There are several ways to incorporate works (remix works) in your own: [2]
 - Create it yourself and retain the rights to meet your sharing and remix needs
 - Use public domain materials
 - Apply a relevant exemption from U.S. Copyright law
 - Leverage existing permission (license terms including Creative Commons licenses)
 - Request and obtain permission for your particular use
 - Conduct an informed fair use analysis
 - Link or point to a (legal) copy rather than copying, hosting, or redistributing
- When one wants to incorporate third-part works in their own, terms of use are important
 - Free online works are most often under Copyright unless otherwise noted.
 - Educational uses are not automatically considered Fair Use
- Copyright is complex. Educators are less likely to remix and share their work under an open license (or at all) if they are uncertain regarding navigating copyright issues.

What are Open Licenses?

The most prominent, but not the only open licenses are Creative Commons licenses. Open licenses are intellectual property licenses which allow no-cost redistribution and adaptation with attribution.

		Allows adaptation	Allows redistribution	Requires attribution	Eliminates fair use
Open Educational Resources (OER)	PD (no known copyright)	Yes	Yes	No	No
	PD0 / CC0 (donated to public domain)	Yes	Yes	No	No
	CC BY	Yes	Yes	Yes	No
	CC BY SA	Yes-under same license terms	Yes	Yes	No
	CC BY NC	Yes	Yes	Yes	No
	CC BY NC SA	Yes-under same license terms	Yes	Yes	No
Not OER	CC BY ND	No	Yes	Yes	No
	CC BY NC ND	No	Yes	Yes	No
Least open	In-Copyright with no additional license or permission	No	No	—	No



The EMLS Model

- Evaluate** – Can you integrate the third party work? Under what terms? [2]
- Mark** – Mark the terms under which the 3rd party work is used.
- License** – Put an open license your overall work.
- Share** – Publically share your overall work.

Applying the EMLS Model

Evaluate [2]: Did I create (and still own) rights necessary to use the content in the way I want to use it?

If not, do I have permission for my use of third party content?

Is it Creative-Commons licensed content which requires attribution? [3]

Is it public domain content (© expired, U.S. Government content, donated to the Public Domain)

Do I have written permission from the copyright holder for your use

Can I assert Fair use, with (or without) transformative use for world-wide sharing?*

Mark (see format suggestions below*)

If used under a Creative Commons license [3]:
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Share:

Share in the places of your intended use: in print or on your website

Share in URL-stable repositories and places where people might look for your work

- Institutional repository
- Disciplinary repository
- OER Commons
- Open Textbook Library (if all content is openly licensed)
- MERLOT

Tell people about your work via social media

Discussion/Questions

- What level of knowledge would a copyright non-expert need to master to be able to accurately and confidently teach this topic?
- How can more nuanced discussions of the Public Domain and Fair Use be facilitated without overwhelming some levels of learners?
- Could a discussion about plagiarism vs. copyright infringement vs. violation of terms of an agreement fit in here? To which audiences would that be most helpful and how could that be best presented?
- Is there a good model for obtaining transferable permission to use 3rd party works for your use and in continued uses under an open license?
- Out of concern regarding "downstream" uses and users (future users and adapters) some OER referatories refuse content that contains 3rd party material not released under an open license (e.g. no Fair Use or content or all-rights-reserved "used with permission" content). When is this appropriate? Are there other best practices?
- What are some examples of a valid non-transformative Fair Use argument if in-copyright, non-openly licensed content is freely shared with the world?
- What suggestions, criticisms, observations, or additions do you have to the model and method of teaching? These would need to meet the needs of non-copyright expert colleagues who need an efficient, clear, and memorable way to teach students, staff, and faculty that want to remix, openly license, and share content from multiple sources?

Disclaimer: The author is not a lawyer. Information presented here in should not be construed as legal advice.

*Suggestion: Use <http://rightsstatements.org> formats or those discussed at <http://blog.apastyle.org/apastyle/2016/01/navigating-copyright-overview.html>

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References

- Walz, A. (2017) Creative Commons and OER in 30 minutes <http://hdl.handle.net/10919/78393>
- Walz, A. (2015) A Framework for Analyzing any U.S. Copyright Problem. <http://hdl.handle.net/10919/56505> CC BY SA. Adapted from © 2014 Kevin Smith and Lisa Macklin.
- Best Practices for Attribution https://wiki.creativecommons.org/wiki/Best_practices_for_attribution
- Copyright term and the Public Domain in the United States <https://copyright.cornell.edu/publicdomain>

Attach a copy of the presentation: Walz, A. (2017) "Creative Commons and OER in 30 Minutes" here <http://hdl.handle.net/10919/78393>
Please note the 2017 presentation has an older version of the EMLS model and very restrictive suggestions regarding Fair Use.

