

# A BRIEF COPYRIGHT PRIMER

## What is copyright?

Copyright law grants to the author (or copyright owner) the exclusive right to: reproduce, make derivatives of, sell, distribute, publicly perform, or display a copyrighted work, subject to fair use and other limitations and exceptions to copyright law. Copyright owners may retain all these rights in their copyright, or give limited licenses that allow others to make specific use of their works.

## What does copyright protect?

Copyright law applies to intellectual property that are “original works of authorship.” Common types of works protected by copyright include literary, artistic, and musical works. Copyright is automatic, so it applies as soon as the work has been created. Unless otherwise granted, copyright protection in the United States lasts for the life of the author plus 70 years or 100 years for an institutional author. After this time period has expired, works fall into the public domain and are free from copyright restrictions.

## Are there limits to what copyright protects?

There are a number of exceptions and limitations to copyright. For example, works produced by federal employees in the course of their employment are in the public domain in the United States. Functional concepts, names, and logos are typically covered by patent or trademark law, if protected at all, rather than copyright. Exceptions in copyright law permit some uses of copyrighted works for libraries, public broadcasters, and around efforts to make works more accessible to those with disabilities. Copyright protects the specific expression of a work - the words - but not the underlying idea.

Likely Covered	Likely Not Covered
<ul style="list-style-type: none"> <li>• A biography of Abraham Lincoln</li> <li>• A painting</li> <li>• An article in a newspaper (even if freely available online)</li> <li>• An email to a friend, telling them the story of your summer vacation</li> </ul>	<ul style="list-style-type: none"> <li>• Facts about Abraham Lincoln’s life (underlying knowledge)</li> <li>• A Venn diagram (functional concept)</li> <li>• A food safety guide from the USDA (work by federal employees are public domain)</li> <li>• <i>Romeo and Juliet</i> by William Shakespeare (copyright has expired)</li> </ul>

## Fair Use Exemption:

Fair use is a provision of copyright law that allows the use of a copyrighted work without permission from the copyright holder under specific circumstances. News reporting, teaching, and parody are all examples of activities that could qualify as fair use. Fair use is evaluated on a case-by-case basis, and considers the purpose of the use, how much of the original work is used, and how it impacts the market for the original work.

# WHAT IS OPEN LICENSING?

## What is Open Licensing and How is it Different?

With the rise of the internet and the broad ability of more people to produce and share blogs, photographs, videos, and other content, there has been an explosion of both authorship and the methods to distribute copyrighted content. Copyright law, as it stands, provides broad protections that limit the potential for these modes of distribution to improve innovation and improve access to knowledge.

Whether an author officially registers their copyright or not, copyright is automatic: it attaches to eligible works as soon as they are created. Traditionally, if an author wanted to give permission to use their work, they would need to negotiate a license agreement between themselves and one other particular party.

With current technology, however, this becomes unwieldy. In contrast to “All Rights Reserved” licenses, open licenses allow authors and creators to grant the *whole public* broad permission to reuse their work, while reserving a set of desired rights for themselves. {See our fact sheet “Licensing with Creative Commons” to read exactly how CC Licenses work}. Many types of intellectual property can be openly licensed - data, software, photography, music, research, and books are just a few examples.

## Example: Open Educational Resources

OER are teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that permits their free use and re-purposing by others. Open educational resources include full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge.

### Free for Users

The primary condition of an open license is that it grants the public free and unfettered use. As a result, open educational resources are accessible to users online for free, and can be printed at the cost of printing. In K-12 education, OER have the potential to save school districts millions every year, and in higher education, save students thousands of dollars every year.

### Permissions

While free access may have the most immediate impact on users, the “five R’s” are the core permissions that give OER their massive potential to unlock learning. Traditional copyright licenses prevent teachers and students from engaging in any adaptation or revision of the work. Open licenses, in contrast, allow educators to adapt works to better fit their teaching style, create new works by combining and adding material, and allow students to keep the resource beyond their semester in the classroom.

Retain	• Make and own copies
Reuse	• Use in a wide range of ways
Revise	• Adapt, modify, and improve
Remix	• Combine two or more
Redistribute	• Share with others

