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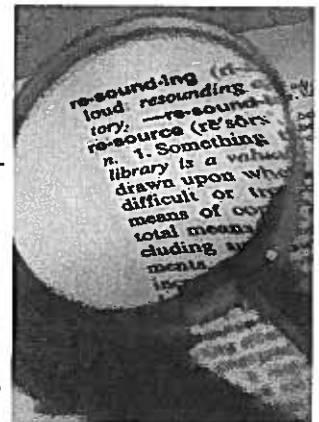
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**CREATIVE COMMONS:  
A RESOURCE FOR FREE AND LEGAL  
CONTENT**

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As any teacher, student or artist is aware, clearing the right to use a copyrighted work can be a burdensome process, especially when you are looking for something to use in the classroom the next day. The amount of available content that is free and legal to use is very limited. Most creative works are protected under copyright law which grants authors the exclusive right to control all uses of the work, including the right to copy, reproduce, distribute and perform the work. Anyone who wishes to reproduce or otherwise use the work for their own purposes must obtain permission (or license) from the owner in order to use the work.

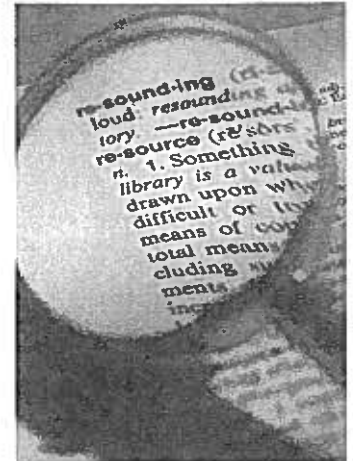
While there are exceptions under copyright law that provide educators with some freedom in this area, such as the fair use doctrine, the in-class performance and display of certain works and the distance learning companion TEACH Act, it can often be unclear and confusing whether or not one these exceptions applies to a specific work. An alternative is to use a work already in the public domain. However, the pool of public domain works may be shallow for one's particular needs and determining whether a work is or is not in the public domain (and thereby not protected by copyright laws) can also be a difficult task. There is a third option that many educators are increasingly turning to: Creative Commons.



**Creative Commons: "Some Rights Reserved"**

Creative Commons is a resource for creative content that is both free and legal to use. Creative Commons is a non-profit organization whose purpose is to increase the amount of creative works in "the commons," i.e. works that are available to the public to use for free and without the need to obtain permission from the author. It does this by providing a collection of free content licenses to creators which allows them to modify and customize the copyright terms that apply to their work. Creative Commons licenses are

an alternative to the standard “all rights reserved” copyright which, under U.S. copyright law, automatically attaches to creative works once they are fixed in tangible form (i.e. written down, recorded, or sent over the internet). Works covered under Creative Commons licenses fall somewhere between full copyright protection (“all rights reserved”) and the public domain (“no rights reserved”). Copyright owners who choose to publish their works under a Creative Commons license keep their copyright while allowing other to use their works in ways that are otherwise prohibited under current copyright law – what Creative Commons has designated a “some rights reserved” copyright. Copyright owners are free to specify which rights they reserve and which they waive, thus allowing the public to legally use the work without having to obtain prior permission. The goal of Creative Commons is to encourage and increase the amount of creative content available for shared use. The result is a large pool of available works that are free to use and legally accessible to everyone.



### How to Use Creative Commons to Your Advantage

Creative Commons is an excellent resource for educators, students and any member of the public looking for free and legal content. A Creative Commons-based search can provide a wide range of available material including images, songs, videos, and teaching materials. You can search and find millions of licensed works available for use through the Creative Commons licensed content directory at <http://search.creativecommons.org>.

When you see a Creative Commons license attached to a work, it is a signal that you can use the work for free and without having to obtain permission from the creator or licensor (so long as you use the work according the terms of the Creative Commons license). You can identify a Creative Commons-licensed work by a Creative Commons



“Some Rights Reserved” button ( ) and/or the statement that the work is Creative Commons-licensed. Since there are six different types of Creative Commons licenses available for creators to use, all varying in levels of freedoms and limitations of rights, it is important to note which type of license applies to a specific work. You should always read the license carefully to ensure your use of the work complies with the license terms.

Here is a list of the six different types of Creative Licenses you may encounter:

- 1. Attribution (CC-BY):** allows others to copy, distribute, display, perform and create derivative works based on the original creative work as long as you give credit to the owner for the original creation (as specified in the license). \*Note that all Creative

Creative Commons is an excellent resource for free and legal content.

Commons licenses contain this provision.

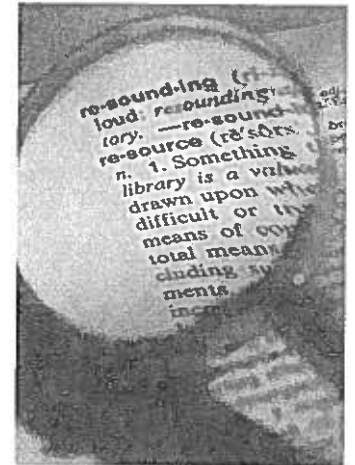
2. **Attribution –Share Alike (CC-BY-SA):** same as above, except you may only distribute the original work or license any derivative work you create based on the original work under the same CC license terms as the original work.
3. **Attribution –No Derivatives (CC-BY-ND):** allows others to copy, distribute, display, and perform only verbatim copies of the original work- you cannot make derivative works based on it. If you wish to alter, transform or build upon the original work you must contact the copyright owner for permission.
4. **Attribution –Non-Commercial (CC-BY-NC):** allows others to copy, distribute, display, perform and create derivative works based on the original work for non-commercial use purposes only. If you wish to use the work for commercial purposes (i.e. primarily for monetary compensation or financial gain) you must contact the copyright owner for permission.
5. **Attribution –Non-Commercial–Share Alike (CC-BY-NC-SA):** allows others to copy, distribute, display, perform and create derivative works based on the original creative work only for non-commercial purposes as long as credit is given to the original author (as specified in the license) and as long as you license any new creation under the identical terms as the original work.
6. **Attribution –Non-Commercial–No Derivatives (CC BY-NC-ND):** allows others to copy, distribute, display, and perform verbatim copies of the original work for non-commercial purposes only. You cannot use the work without giving credit to the original copyright owner, you cannot make derivative works, and you cannot use the work for any commercial purpose.

Most works will contain one of the following symbols denoting which

type of Creative Commons license applies:



OR



There are six different types of Creative Licenses you may encounter.

### Considerations and Potential Pitfalls

Below are some additional points to consider when using a work with a Creative Commons license:

#### 1. Proper Attribution is Mandatory

All Creative Commons licenses require that you attribute the

original author of the work. While there is no standard attribution format, the copyright owner will often specify the manner of attribution in the text of the license itself. However, if the copyright holder does not specify any particular method of attribution, you still need to give credit as best you can with the information available. Here are some tips to ensure you provide proper attribution:

- Always cite the author's name (if available);
- Always cite the title of the work (if available);
- Always include the URL for the work (if applicable);
- Always include the specific Creative Commons license that applies to the work;
- If the original work itself contains a copyright notice (© NAME/ YEAR OF PUBLICATION) you should always keep the notice intact; and
- If you are making a derivative work you should identify that your work is a derivative work, i.e., "based on [original work] by [author]."

## 2. When in Doubt, Still Ask Permission

Although one of the benefits of using a Creative Commons-licensed work is that you do not have to get prior permission from the author, if you want to use a Creative Commons-licensed work in a manner that is not permitted or not specified under the license terms, you should contact the creator and/or licensor for permission. If you use a Creative Commons licensed work contrary to the terms of the Creative Commons license, your right to use the work terminates and you could be sued for copyright infringement.

## 3. Fair Use Still Applies

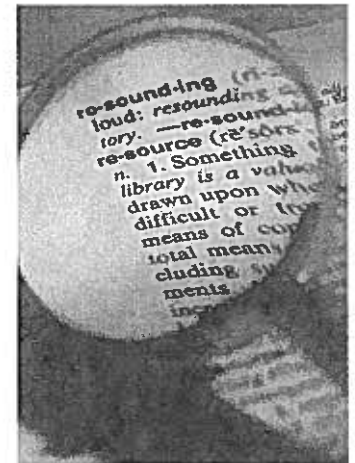
Keep in mind that a Creative Commons license does not allow authors to restrict use of their work that is otherwise permitted under copyright law—such as fair use. Thus even if a Creative Commons license contains certain restrictions, the license cannot modify or restrict a "fair use" such as using a copyrighted material for the purpose of quotation, news reporting, criticizing, parody or educational purposes.

## 4. File Sharing Exception

Under U.S. law, many jurisdictions consider file-sharing a "commercial use" even if no money exchanges hands (for example, Napster). However, for the purposes of a Creative Commons license, the trading of works online is not considered a "commercial" use so long as it is not done for monetary gain. Therefore, all Creative Commons licenses contain a special exception for file-sharing.

## 5. Consider a Creative Commons License for Your Work

Educators, authors, students and scholars may also consider applying a Creative Commons license to their work. In furtherance of the Creative Commons' goal, using a Creative Commons license may encourage the distribution and circulation of your work and thereby increase your exposure within the academic community. Since most scholars do not publish their work for financial gain, a Creative Commons license may be a useful tool to maximize exposure of your work,



A Creative Commons license may be a useful tool to maximize exposure of your work.

all while protecting your attribution rights, which are the heart of the Creative Commons license.

There you have it – a primer on the Creative Commons, the newest alternative to copyright confusion. Use it wisely and, as always, stay tuned.

Arnold Lutzker serves as legal counsel for AIME.

## CREATIVE COMMONS EXAMPLE

**Copyright Advisory Network,  
a community of librarians, copyright scholars, policy wonks.**

**<http://librarycopyright.net>**

Over the past few years, Michael Brewer and the Copyright Advisory Subcommittee of the ALA Office for Information Technology Policy have developed tools to educate librarians, educators and others about copyright. These Copyright Tools for Institutional Use now include the Public Domain slider (<http://librarycopyright.net/digitalslider>), the Section 108 Spinner (<http://librarycopyright.net/108spinner>), the Fair Use Evaluator (<http://librarycopyright.net/fairuse>), and the Exceptions for Instructors eTool (<http://librarycopyright.net/etool>). These tools are available online for anyone to use or link to. The use of these tools can help those interested in copyright become more comfortable utilizing the limitations and exceptions to the exclusive rights granted to the copyright holder under U.S. Copyright law. Tools such as these can help your institution responsibly manage instructional or scholarly uses of copyrighted materials. The tools do not perform any evaluation for you. They simply collect the information you give and provide you with educational information on the law, guidelines and how others have approached making fair use evaluations. The tools help you to make an informed evaluation and collect all your supporting data for that evaluation.

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**These tools help  
you make an  
informed  
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supporting data  
for that  
evaluation.**