



# Your Copyrights: Understanding Author Rights in Scholarly Publishing

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# Copyright 101

We the People

of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common Defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

## Article 1

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

### Origin of US Copyright Law

“The Congress shall have Power [...] To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Rights to their respective Writings and Discoveries”

~United States Constitution, Article 1, Sect. 8

### Codification of Copyright Law

- Title 17 – United States Code
- Major amendments
  - Copyright Extension Act
  - Berne Convention
  - Digital Millennium Copyright Act
  - TEACH Act



# What does copyright cover?

- **Copyright Law**
  - covers “original works of authorship”
  - governs the creation, ownership, sale, and use of works
  - Goal is to balance providing incentives to creators and generating new knowledge through open circulation and reuse
- **You already own many copyrights**



# Which of these are copyrighted?

- Academic paper
- Personal diary entry
- Class list
- Grocery list
- Sketch of a tree
- Sketch of an idea for a computer program
- Computer code



# Scope of copyright law

## ■ Can Be Copyrighted

- Literary Works
- Musical Works, including any accompanying words
- Dramatic Works, including any accompanying music
- Pantomimes and Choreographic Works
- Pictorial, Graphic, and Sculptural Works
- Motion Pictures and other Audiovisual Works
- Sound Recordings
- Architectural Works

## ■ Cannot Be Copyrighted

- Ideas or concepts
- Procedures
- Processes or systems
- Principles or discoveries
- Works not fixed in a tangible form
- Titles, names, short phrases, slogans
- Lists showing no originality
- Factual information
- U.S. government works
- Works in the public domain

*Note: trademark or patent law might still apply*



# Author's Rights

- **Do You Own the Copyright in Your Work?**
  - Your work is copyrighted as soon as you put it into tangible form
  - But you may not be the copyright owner
    - Work-for-hire
      - Work done in the course of employment is owned by the employer
    - Transfer of copyright
      - Agreements with publishers often include transfer of copyright to the publisher



# Know your (copy)rights

- If most of what I create is copyrighted, why do I need to learn about my rights as an author?
  - Some publishers will require you to transfer copyright as a condition of publication
  - It is your responsibility to think about and understand what rights you sign away
- **“But I wrote it”**
  - Authors are often surprised to find that they have signed away the right to post their own articles on their website, use them in the classroom, deposit them in a repository, etc.



# Managing Your Copyright

- **Strategies for managing your copyright**
  - Publish in journals that have open policies
  - Attach an Addendum to your Contract
  - Use Creative Commons Licenses
    - Facilitate use of your work while reserving some rights



# Author Rights

- **As an Author You Might Want To:**
  - Protect your copyrighted works
  - Use your own works
  - Deposit your work in a repository or archive
  - Make your work available for others to use



# Examples of rights that might concern you

- ***Where*** the publication may be **self-archived**
  - e.g., personal website, subject-based or institutional repositories
- ***Where*** a publication can be **shared**
  - e.g., Social media -Twitter, LinkedIn, Academia.edu; classroom; colleague-to-colleague
- ***When*** can a publication be **shared**
  - e.g., before publication; upon publication; 6 or 12 months after publication (embargo period)
- ***Which version*** may be self-archived or shared
  - e.g. pre-refereeing preprint; author's own version of final article; publisher's version/PDF

# Federal agency requirements

## Overview of OSTP Responses

● Full Coverage  
 ◐ Partial Coverage  
 ○ No Coverage

Funder	Policy Coverage		Policy Stipulations					Support Provided			
	Published Outputs	Data	Time Limits	DMP	Access / Sharing	Long-term curation	Monitoring	Guidance	Article Repository	Data Repository	Costs
AHRQ	●	●	●	●	●	◐	◐	◐	●	◐	◐
ASPR	●	●	●	●	●	●	●	◐	●	◐	◐
CDC	●	●	●	●	●	◐	●	◐	●	◐	◐
DOD	●	●	●	●	●	○	●	○	●	○	◐
DOE	●	●	●	●	●	◐	◐	◐	●	◐	◐
DOT	○		○						○		
FDA	●	●	●	●	●	◐	●	◐	●	◐	◐
NASA	●	●	●	●	●	◐	●	◐	●	◐	◐
NIH											◐
NIST	◐	●	○	●					○		
NSF	●	●		●	●	◐			●	●	●
USDA	●	◐				◐	○	○	●		●
USAID	○	●	○		◐		○	○	○		
USGS		●									
VA	◐			○		○	○				



# Publishing models


- **Traditional publishing model**
  - You transfer your copyright to the publisher
  - Publisher makes articles available through a subscription
- **Gold open access model**
  - You do not transfer copyright – Creative Commons licensing instead
  - Your work is open immediately upon publication
  - e.g.: PLOS, BioMedCentral, PeerJ
  - Cost are covered in a variety of ways – may include author fees
    - Open Access author fees may be written into a grant
- **Green open access model**
  - You might transfer copyright, but retain some rights
  - Publisher makes your work available via a subscription
  - You make your work open by self-archiving it in a repository
  - Many journals will allow for this



# How do I know?

- Tools for investigating publisher practices
  - SHERPA/RoMEO database
    - <http://www.sherpa.ac.uk/romeo/index.php>
    - Color-coded database of publisher policies
  - Open Access Spectrum (OAS) Evaluation Tool
    - <http://www.oaspectrum.org/>
    - Highlighted grid of policies

# Publisher policies



... opening access to research

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## Publisher copyright policies & self-archiving

### Search

Journal titles or ISSNs  Publisher names

Exact title  starts with  contains  ISSN

[Advanced Search](#)

Use this site to find a summary of permissions that are normally given as part of each publisher's copyright transfer agreement.

### RoMEO News

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- [Beta SHERPA/FACT API Announced](#) - 31-Oct-2013
- [Important changes to the SHERPA/RoMEO API](#) - 04-Sep-2013

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- [RoMEO Statistics](#)
- [Application Programmers' Interface](#) (API)


### Additions and Updates

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- [Association of Chartered Physiotherapists in Respiratory Care \(ACPRC\)](#) - Association of Chartered Physiotherapists in Respiratory Care (ACPRC) - 31-Mar-2015
- [Foundation Pro Scientia Publica](#) - Foundation Pro Scientia Publica - 31-Mar-2015
- [Universidad Nacional de Educacion a Distancia, Centro Asociado de Sevilla](#) - Universidad Nacional de Educacion a Distancia, Centro Asociado de Sevilla - 31-Mar-2015

### Other SHERPA Services

- [SHERPA/FACT](#) - Funders & Authors Compliance Tool
- [SHERPA/JULIET](#) - Research funders' open access policies



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# SHERPA/RoMEO



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One journal found when searched for: **critical inquiry**

Journal:	<a href="#">Critical Inquiry</a> (ISSN: 0093-1896, EISSN: 1539-7858)
RoMEO:	This is a RoMEO green journal
Paid OA:	A paid open access option is available for this journal
Author's Pre-print:	✓ author can archive pre-print (ie pre-refereeing)
Author's Post-print:	✓ author can archive post-print (ie final draft post-refereeing)
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Updated:	08-Sep-2017 - <a href="#">Suggest an update for this record</a>
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Published by:	<a href="#">University of Chicago Press</a> - <a href="#">Green Policies in RoMEO</a>

This summary is for the journal's *default* policies, and changes or exceptions can often be negotiated by authors.  
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## Open Access Spectrum Evaluation Tool

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Closed (208)





#### Copyrights Score

Full Open (335)  
Partially Open (523)  
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#### Author Posting Rights Score

Full Open (365)  
Partially Open (545)

# Open Access Spectrum Evaluation Tool

ACCESS	READER RIGHTS	REUSE RIGHTS	COPYRIGHTS	AUTHOR POSTING RIGHTS	AUTOMATIC POSTING	MACHINE READABILITY	ACCESS
 <p>OPEN ACCESS</p>	Free readership rights to all articles immediately upon publication	Generous reuse & remixing rights (e.g., CC BY license)	Author holds copyright with no restrictions	Author may post any version to any repository or website with no delay	Journals make copies of all articles automatically available in trusted third-party repositories (e.g., PubMed Central, OpenAire, institutional) immediately upon publication	Article full text, metadata, supporting data (including format and semantic markup) & citations may be accessed via API, with instructions publicly posted	 <p>OPEN ACCESS</p>
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# What if my journal isn't Green or Gold?

- **Examples of publishing agreements**
  - American Chemical Society
    - [http://pubs.acs.org/paragonplus/copyright/jpa\\_form\\_a.pdf](http://pubs.acs.org/paragonplus/copyright/jpa_form_a.pdf)
  - LMS Journal of Computation and Mathematics
    - [http://www.lms.ac.uk/sites/lms.ac.uk/files/Publications/JCM\\_licence.pdf](http://www.lms.ac.uk/sites/lms.ac.uk/files/Publications/JCM_licence.pdf)
- **Ways to amend an agreement**
  - Cross out and substitute words (e.g., ~~exclusive~~ non-exclusive)
  - Attach an addendum



# Sample Author Rights Addendums

- **BTAA Author Addendum** <https://www.lib.uchicago.edu/copyrightinfo/protecting.html>
- **SPARC Author Addendum** <https://sparcopen.org/our-work/author-rights/>
- **Scholars Copyright Addendum Engine** <http://scholars.sciencecommons.org/>

## ■ **Authors**

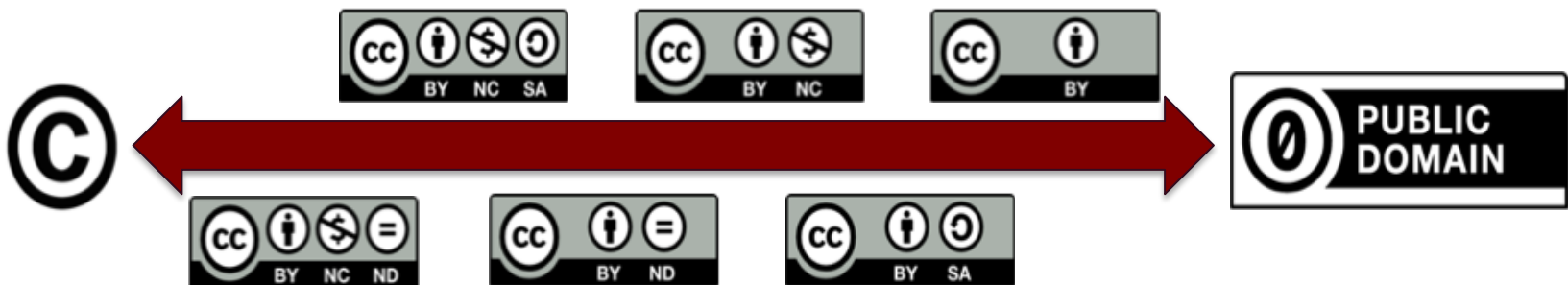
- retain your rights
- reuse your work without restrictions
- receive proper attribution for your work
- make your work openly available through your website/institutional repository

## ■ **Publishers**

- have a non-exclusive right to publish and distribute your work, and receive financial return
- cited as journal of first publication
- Able to use the work in future formats, including collections

# Another option: Creative Commons Licenses

- CC licenses are a way to permit others to use your works
  - Legal device
  - Human and machine readable licenses
  - Can be used for scholarly and other creative works
  - Different types of licensing depending on your need
  - <http://creativecommons.org/licenses/>



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# If you remember only one slide...

- Copyright transfer is formed by contract
- Contracts are negotiable
- *Always* negotiate



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# Questions? Comments?

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