

Open

Charles R. Williams, J.D., Ph.D.

Associate Vice President for Innovation

University of Oregon



We Aren't The Bad Guys

We all want to be open.....

If you build it, they will come.....

Information just wants to be free.....

Most of what we do as universities is “Open”



It's about Stewardship

Providing incentives

Providing curation

Providing quality control



The Public's Trust

Perhaps at an all time low...

Distrust of government and science

High cost of education

Its about Impact..... Not Commercialization and Profit

- Commercialization is one of the channels that can achieve or accelerate impact.
- **We need to showcase the adoption and use of our work.**
- Demonstrating the importance of validation and quality control is critical.



Open Promises a Revolution

- Open Content Definition (5 R's):
 - Retain (make your own and retain copies)
 - Reuse
 - Revise
 - Remix
 - Redistribute



Is The Problem

- “All Rights Reserved” meets 1976 Copyright Act, Berne Convention (1980), and an increase in Copyright Term
- From the public’s perspective, 3 solutions:
 - Open Source Software
 - OSI, GPL, BSD, MIT,.....
 - Open Content- Creative Commons, Free Cultural Works, etc.
 - Fair Use

© Is The Solution: Creative Commons 2001

- Easy-to-understand one-page explanation of rights, with associated visual symbols.
- Creative Commons licenses do not replace copyright, but are based upon it.
- An agile, low-overhead and low-cost copyright-management regime with > 1.1 billion works licensed under the various Creative Commons licenses.

The Whitehouse, Google, Flickr, Wikipedia, PLOS



BY

You let others copy, distribute, display, and perform your copyrighted work – and derivative works based upon it – but only if they give credit the way you request.



SA

You allow others to distribute derivative works only under a license identical to the license that governs your work.



NC

You let others copy, distribute, display, and perform your work – and derivative works based upon it – but for noncommercial purposes only.



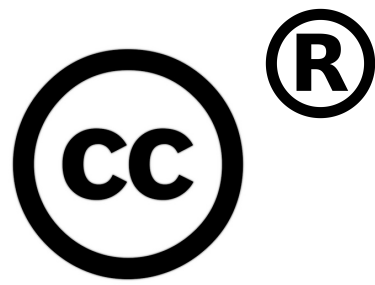
ND

You let others copy, distribute, display, and perform only verbatim copies of your work, not derivative works based upon it.



Creative Commons Evolution

- Toward Public Domain and least restrictive license **BY**
- Why not Non-commercial CC licenses - too vague about which uses count as "commercial" and "non-commercial".
- 2/3 of CC licenses are NC.
- We only have a report for NC guidance:
 - http://mirrors.creativecommons.org/defining-noncommercial/Defining_Noncommercial_fullreport.pdf



Quality Control!

- **Modification of CC Licenses:** To prevent confusion and maintain consistency, you are not allowed to use CREATIVE COMMONS, CC, the CC Logo, or any other Creative Commons trademarks with modified versions of any of our legal tools or Commons deeds, including modifications that do not modify the legal code directly but that further restrict or condition the rights granted by the particular legal tool. These modifications are often contained in a website's terms of use, and where they are present you may not suggest that you are offering works under a Creative Commons legal tool. For the avoidance of doubt, you may not use any CC trademarks with unofficial language translations of CC licenses.



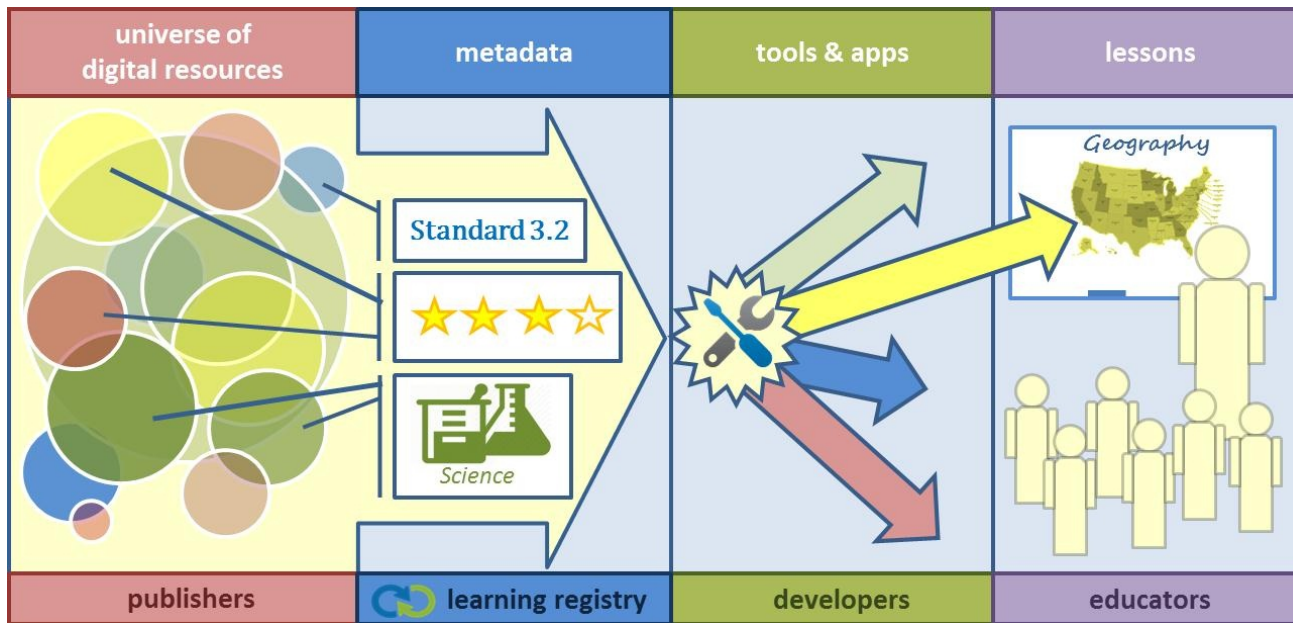
US Dept of Education GoOpen Initiative

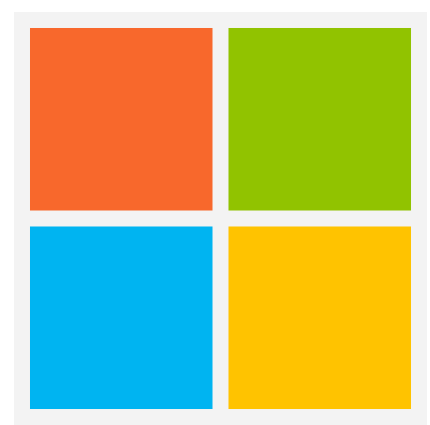
- Openly licensed educational resources are learning materials that can be used for teaching, learning, and assessment without cost.
 - Increase equity
 - Save Money
 - Keep Content relevant and high quality
 - Empower teachers



Learning Registry

- Open database where content creators and educators can share information about digital educational resources.
- Based on the [Learning Resource Metadata Initiative \(LRMI\)](#)
 - Common language for tagging resources according to quality, keyword, and alignment to curricular standards.
- Supports educator voices to help define which resources are most relevant or useful.





Curators/Winners

Edmodo

Amazon

Microsoft



Open License Rule

- **All US Department of Education grantees awarded direct grant funds shall openly license to the public all copyrightable intellectual property created with Department grant funds.**
- **Applies to new copyrightable materials created with Department grant funds and copyrightable modifications made to pre-existing content using Department grant funds.**
- **Users must give attribution to the designated authors or copyright holders of the intellectual property.**



So how could Open be bad?



Premise

- An open licensing requirement allows the Department to sustain innovations beyond the grant period by encouraging subject matter experts and users to adapt, update, and build upon grant products, stimulating quality and innovation.
- The rule promotes equity and access to Department-funded technology and materials and increases transparency and accountability for the Department and its grantees.
- Adoption of CC-By (or equivalent) promotes a standard for sharing.

The Rule is Inconsistent with IES Goal Structure

- **Goal One:** Exploratory studies inform the development of new interventions and assessment tools.
- **Goal Two:** Iterative development and pilot testing is conducted to document promise of effectiveness.
- **Goal Three:** Efficacy and replication studies determine the specific benefits of interventions (if any).
- **Goal Four:** Effectiveness trials that support the independent evaluation of fully-developed education interventions are used to determine whether they produce a beneficial impact on student education.



It takes many grants over many years to produce evidence based works

Past grant performance shows us that considerable improvement is derived from the current goal structure as research findings are applied in practice, refined, and further evaluated prior to broad dissemination.

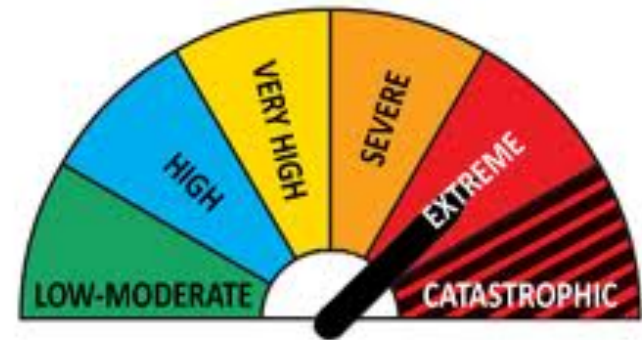
The Rule Actually Threatens Equity

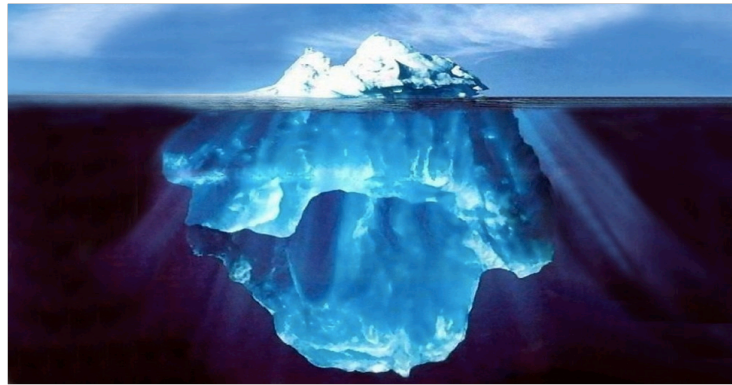


- Opens up products that have not yet been proven to work. Confusion over efficacy.
- Implementation by those who have no training in implementation or interpretation of data.
- Greatest **negative** impact will be on our country's most vulnerable populations – lower income students, students with disabilities, and English learners.

Will the rule keep works current and of high quality?

- Evidence based works require validation and curation (different than Wikipedia).
- Learning Registry is dependent on the philanthropy of 3 **for-profit** companies.
- Validated Assessments and Interventions cannot be easily mixed and matched like Content.
- Completely ignores “What Works Clearinghouse” in US Dept. of Education’s Institute of Education Sciences!





Will the rule save money?

- TCO
 - Limits Access to and use of 3rd Party IP
 - Requires grantees to only use open copyrighted works
 - Who pays to bring research content up to publishing standards? Versioning?
 - Printing!



Stifles Public Private Partnerships

- SBIR/STTR Grants
 - Will only attract startups and university spinouts that can operate in a completely open IP model.
- Private Companies working as subs under federal awards will have to go completely open.
 - Worse than Limited/Commercial rights under FARs .

Will the rule empower teachers?

- Large edutech companies will still be able to lock down improved/derivative content and control verticals (e.g. expensive platforms, marketing, distribution channels).
- Most teachers do not have the time to participate in evidence based development.
- Most teachers have insufficient background in assessments and interventions to modify them.

Better Solutions

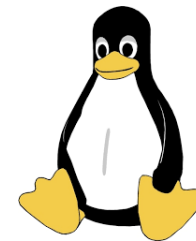
- Extension Model
 - Researcher engagement and licensing protects the quality and fidelity of research-based applications and can be applied to meet the Department's open access goals.
 - Researchers and universities are good stewards for scaling up education innovation while maintaining rigor and relevance.
- Hubs
 - Use existing US Dept. of Education Centers to develop, deploy and maintain evidence based education materials.
- Public/Private Partnerships
 - Licensing by universities with appropriate diligence, milestones, and quality control.

Where are we now?

- The Open Rule is effective for all grant announcements October 1 and forward. USDOE has no funds to create an exchange, use hubs, etc.
- Implementation is supposed to be addressed in each program announcement (e.g. whether they have waived open requirement). No FAQ or other info yet.
- Exemptions: No current plan to allow until post grant award (probably grant completion). Moving target:
 - Secretary determines dissemination plan would be equivalent.
 - Secretary determines conflict with grantee's other IP merits waiver.



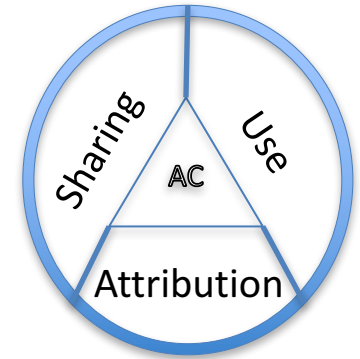
What are we doing?



- Advising UO researchers to mitigate by:
 - Identifying potential grant partners who understand and can operate within the open rule
 - Using project rules at the start of research to manage the works created and to be in position to request a waiver based on dissemination plan
 - Shifting development activities to non-federal awards where possible (house money)
 - Developing and using trademarks to deploy works with validation and quality control



Academic Commons



- Developing an iconography based open licensing system that has greater flexibility for academic researchers than CC:

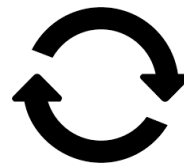
- Attribution:

- Academic Credit Required
- Approve & Update
- No Attribution or reference



- Sharing:

- Research Commons
- Hereditary
- Redistribution allowed



- Use:

- Personal
- Cost recovery
- Commercial
- Modification allowed

