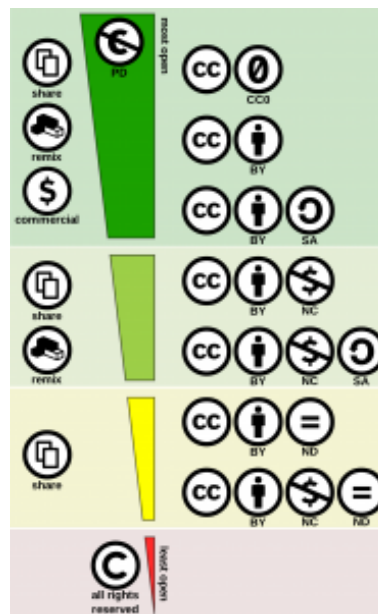


Clarification of

Free Cultural Works, Open Educational Resources and Open Access

Confusion may arise from the use of various terms such as Free Cultural Works (FCW), Open Educational Resources (OER) and Open Access (OA).

This document, while not legally definitive in any way, attempts to describe the differences between the three terms and how works with different licenses fall under the different terms. It draws on existing definitions and attempts to explain the connections, but does not add any new definitions. The term “Open Education Resource” was first coined in 2002¹ at a forum organised by UNESCO on Open Courseware in Higher Education. Prior to this, various terms such as free content², open content³ and open courseware⁴, were used to describe open content.



Source: "Creative Commons License Spectrum" by Shoddin (CC BY)
Figure 1: Licenses

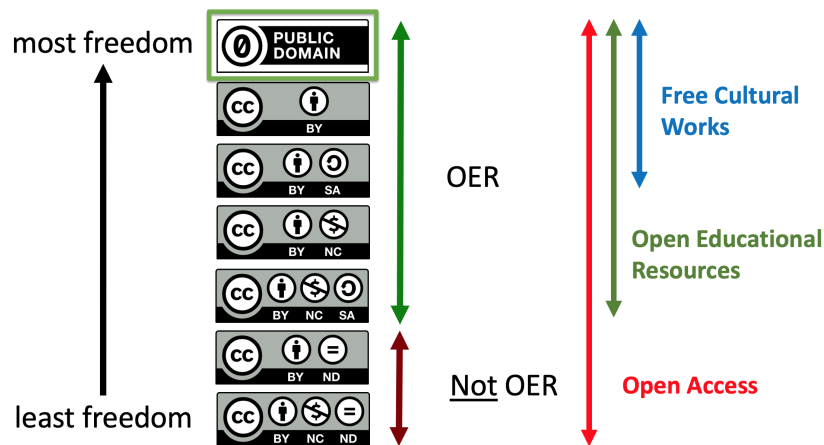
The Creative Commons website provides many clarifications including in Figure 1 above. The three terms used overlap, as can be seen in the Figure 2 below.

¹ <https://en.unesco.org/themes/building-knowledge-societies/oer>

² https://en.wikipedia.org/wiki/Free_content

³ http://edutechwiki.unige.ch/en/Open_content

⁴ https://en.wikipedia.org/wiki/MIT_OpenCourseWare



Adapted from: [Creative Commons, Open Licensing & Open Education](#), by Cable Green, CC-BY
Figure 2: Terms that overlap the licenses

For added clarity, Figure 3 shows the licenses and terms groups graphically.

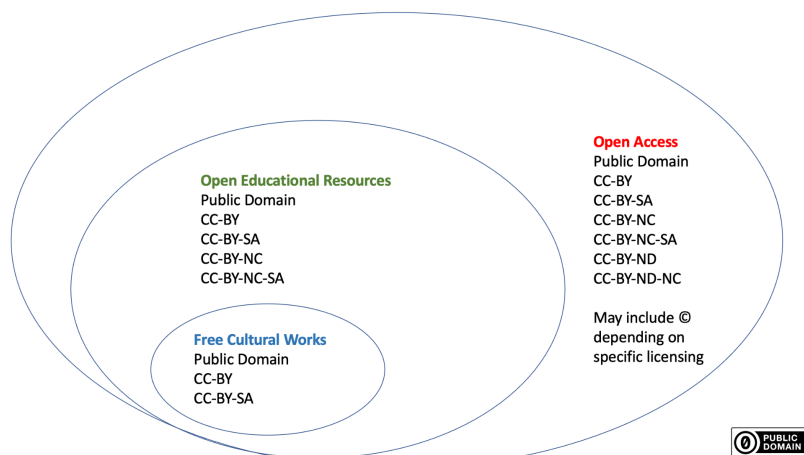


Figure 3: Mapping of terms to copyright licenses, Public Domain

Free Cultural Works (FCW)

Free Cultural Works are “works or expressions which can be freely studied, applied, copied and/or modified, by anyone, for any purpose. It also describes certain permissible restrictions that respect or protect these essential freedoms.”⁵

Free Cultural Works include those works in the public domain which may be marked with a:

- Public Domain marker,
- CC0 Public Domain dedication,
- CC-BY, or
- CC-BY-SA license.

More information is available on the Creative Commons website.^{6 7}

⁵ <https://freedomdefined.org/Definition>

⁶ <https://creativecommons.org/licenses/>

⁷ <https://creativecommons.org/share-your-work/public-domain/freeworks/>

Open Educational Resources (OER)

Open Educational Resources have been defined by a few organisations starting in the early 2000s by the William and Flora Hewlett Foundation⁸, the Commonwealth of Learning⁹ and UNESCO¹⁰. UNESCO defines OER as: “teaching, learning and research materials in any medium – digital or otherwise – that reside in the public domain or have been released under an open license that permits no-cost access, use, adaptation and redistribution by others with no or limited restrictions. OER form part of ‘Open Solutions’, alongside Free and Open Source software (FOSS), Open Access (OA), Open Data (OD) and crowdsourcing platforms.”¹¹ Creative Commons defines OER as: “teaching, learning, and research materials that are either (a) in the public domain or (b) licensed in a manner that provides everyone with free and perpetual permission to engage in the 5R activities.”¹² The Cape Town Open Education Declaration: Unlocking the promise of open educational resources¹³ states that: “. . . open educational resources should be freely shared through open licences which facilitate use, revision, translation, improvement and sharing by anyone. Resources should be published in formats that facilitate both use and editing, and that accommodate a diversity of technical platforms. Whenever possible, they should also be available in formats that are accessible to people with disabilities and people who do not yet have access to the Internet.”

UNESCO and COL have provided clarification of OER in their joint publication titled “Guidelines on the Development of Open Educational Resources Policies”¹⁴, which states that: “OER can be revised and updated by anyone other than the copyright holder, with due attribution to the original.” No provision is made by the various definitions of true OER for “3R” OER. They are all “5R” to be OER or they are not OER at all. The 5Rs are described in Figure 4 below.¹⁵

Permissions

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

Source: [Creative Commons, Open Licensing & Open Education](#), by Cable Green, CC-BY
Figure 4: 5Rs Permissions

Open Educational Resources include all those works listed under Free Cultural works, plus:

- CC-BY-NC and
- CC-BY-NC-SA.

For more information on OER and the licenses, see the Creative Commons website.¹²

⁸ <https://hewlett.org/strategy/open-education/>

⁹ <https://www.col.org/programmes/open-educational-resources>

¹⁰ <https://en.unesco.org/themes/ict-education/oer>

¹¹ <https://en.unesco.org/themes/building-knowledge-societies/oer>

¹² <https://creativecommons.org/about/program-areas/education-oer/>

¹³ <https://www.capetowndeclaration.org/read-the-declaration>

¹⁴ <http://oasis.col.org/handle/11599/3455>

¹⁵ <https://opencontent.org/definition/>

Open Access (OA)

Open access works are often more widely defined than the terms used above. The Creative Commons website defines them as: “Open access literature is digital, online, free of charge, and free of most copyright and licensing restrictions.” The Budapest Open Access Initiative has been used as a basis for defining OA as: “free availability on the public internet, permitting any users to read, download, copy, distribute, print, search, or link to the full texts of these articles, crawl them for indexing, pass them as data to software, or use them for any other lawful purpose, without financial, legal, or technical barriers other than those inseparable from gaining access to the internet itself.”¹⁶ For more information on OA, also see the Open Access Overview.¹⁷

Open Access can be described to include all the works licensed as above (Free Cultural Works and Open Educational Resources) and in addition to those:

- CC-BY-ND,
- CC-BY-NC-ND, and under certain circumstances,
- Selected copyrighted works.

In the case of copyrighted works, this applies only where the work has been released by the copyright holder as described in the OA definition above.

In conclusion

Where a work is licensed with an ND restriction, it is called “Open Access” and not OER, just as when a work is licensed with an NC restriction, it may be called OER, but not FCW. If a resource is accessible and free of cost (other than the cost of the Internet connection), but does not fit the definitions of FCW or OER, it is called Open Access.

It is of great importance that users understand what the license implications are of the works they receive, especially if they plan to adapt or remix the works, and those who publish works need to fully understand the implications of the license(s) they choose to use. As licenses are irrevocable, licenses need to be consciously chosen before publication in any form.



CC-BY 4.0, <https://creativecommons.org/licenses/by/4.0/>

Disclaimer: The content of this post does not constitute legal advice nor does it refer to any particular or specific situation. If you have any doubts about your specific situation, you should consult with a lawyer.

Attribution:

Clarification of Free Cultural Works, Open Educational Resources and Open Access, by Paul G. West, <https://docs.google.com/document/d/16MqFZl2dClip2tYtYiPrDWQvcZNAFxIU/edit>, CC-BY.

Kindly attribute all included works appropriately.

Ver: 4 May 2021

¹⁶ <https://www.budapestopenaccessinitiative.org/read>

¹⁷ <http://legacy.earlham.edu/~peters/fos/overview.htm>