



Implementing RightsStatements.org

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Welcome to the “Implementing RightsStatements.org” module. I’m Linda Ballinger, and I’m the Metadata Strategist at Penn State University. I’ll be presenting along with Brandy Karl, the Copyright Officer at Penn State University.

This module is the third part in a three-part series, which started with “Copyright 101” by Caitlin Goodman and Anastasia Chiu, and continued with “What is a Rights Statement?” by Rachel Appel and Doreva Belfiore. This module will assume you’re already familiar with the contents of those modules.

We’re also assuming a U.S. audience for this PA Digital webinar, so we’ll be glossing over the statements established for other countries.



In the second module, “What is a Rights Statement?”, Doreva and Rachel introduced the rights statements from RightsStatements.org.

In this module, Brandy will go over the rights statements in a little more depth, and offer some guidelines and examples of how we’ve used these rights statements at Penn State.

In the second part of this webinar, I’ll talk about our workflow for assigning and recording rights statements.

So...on to the rights statements, with Brandy.

In Copyright (InC)

- For works that are still under copyright
- Usually, the digitizing organization is applying Fair Use to provide the digital copy or has the rights
- End users are responsible for getting permission from the rights holder if their use is anything other than Fair Use

The “In Copyright” statement, as you would expect, is applied to works that are still under copyright.

That usually means your organization is providing the digital surrogate under a Fair Use exception to copyright although the institution may own the rights or have permission to digitize the collection. The latter is more rare but is becoming more common as institutions update their agreements.

This rights statement tells end users that they might need to obtain permission to re-use the digital surrogate, depending on their type of re-use.

In Copyright (InC)

Brent Wilson Papers

- Unpublished art journals created between 1990 and 2010
- Still in copyright based on dates alone

Our first example of using the “In Copyright” statement is the **Brent Wilson Papers**. The digitized portion of this collection consisted of unpublished art journals created between 1990 and 2010.

We’ll get more into the differences in copyright for published versus unpublished works in our next example.

Meanwhile, this example is simpler, since you can assign the “In Copyright” statement based on the creation dates alone.

In Copyright (InC)

[Mira Dock Lantern Slides](#)

- Unpublished photographs created between 1897 and 1902
- Still in copyright because unpublished and creator's death date was not long enough ago when we first assigned a rights statement
- A year later they fell into the public domain in the U.S., so we updated the rights statement

Our next example of using the “In Copyright” statement is the **Mira Dock Lantern Slides** collection. These are unpublished photographs taken between 1897 and 1902.

These works being unpublished made a difference in our original rights assignment. If they had been published, you might expect them to be in the public domain, based on their dates. However, since they were unpublished, they remained in copyright for 70 years after the creator's death.

When we first assigned these works a rights statement, Mira Dock's death date was a few month short of these photographs being in the public domain, so they were assigned “In Copyright”.

A year later, we updated this collection to “No Copyright -- United States” since the photographs had become public domain in the interim.

This example highlights the need for regular maintenance of rights statements, as they can change over time.

In Copyright – Rights-holder(s) Unlocatable or Unidentifiable (InC- RUU)



- You've made a reasonable effort to identify the rights holder but have not been successful
- Basically an orphan work, but the U.S. doesn't have legislation for orphan works

The “In Copyright -- Rights-holder(s) Unlocatable or Unidentifiable” statement, is applied to works that are still under copyright, but it proved impossible to identify the rights holder.

These works are sometimes called “orphan works”, but the United States doesn't have legislation covering orphan works, so this rights statement is used instead.



In Copyright – Rights-holder(s) Unlocatable or Unidentifiable (InC- RUU)

Thomas W. Benson Political Protest Collection

- Benson collected and preserved these posters from the streets of San Francisco and New York
- Finding the the creators (rights holders) now is pretty much impossible

A good example of this predicament is the **Thomas W. Benson Political Protest Collection**.

The donor had given the Libraries all of his rights in the collection, but he wasn't the rights holder for the posters. He had collected them from the streets and preserved them.

Most of these posters lacked any creator information at all, and the few that had a signature didn't give enough information to identify the creator.



In Copyright – Educational Use Permitted (InC-EDU)

and

In Copyright – Non-Commercial Use Permitted (InC-NC)

- Your organization is the rights holder, or...
- The deed of gift from the rights holder explicitly states the work can be used by the public **only** under this circumstance

The “In Copyright – Educational Use Permitted” and “In Copyright – Non-Commercial Use Permitted” statements are applied to works that are still under copyright, but the rights holder has explicitly allowed re-use under these, and only these, circumstances.

These statement can also be used by the digitizing organization if they have been given all the rights in the works.

Whether you can use this rights statement should be found in the deed of gift for the collection.

In Copyright – EU Orphan Work (InC-OW-EU)

- This one's easy!
 - It's not for use in the United States.

As mentioned previously, the United States doesn't have legislation covering orphan works. This rights statement was established for organizations in the European Union, where such legislation applies.



Creative Commons Public Domain Mark

- Best used when a work is clearly in the public domain internationally
- Longest copyright in the world is life of the author plus 100 years, so 1835 is the latest date it's safe to assume (based on date alone)
- Borrowed from Creative Commons because it already existed

For works in the public domain internationally, RightsStatements.org uses the Public Domain Mark already established by the Creative Commons community.

There, it is defined as the work “being free of known restrictions under copyright law, including all related and neighboring rights.”

While using the Public Domain Mark doesn't mean you guarantee the work is out of copyright internationally, we've chosen to limit its use to works where we're fairly certain the work is out of copyright worldwide.



Creative Commons Public Domain Mark

[Digital Map Drawer](#)

- Rare Maps sub-collection, where dates of creation range from 15th to 19th centuries

One collection where we felt that much certainly is the **Rare Maps sub-collection in the Digital Map Drawer**.

These maps date from the 15th to early 19th centuries. It's possible that some of the 19th century maps are still in copyright somewhere in the world, but we decided it was unlikely enough that we felt comfortable using the Public Domain Mark.



No Copyright – United States (NoC-US)

- Public domain in the U.S. but not necessarily elsewhere
- Works can fall into the public domain in the U.S. in a variety of circumstances that don't affect their copyright elsewhere in the world
- Will probably be the rights statement you use the most

For organizations in the United States, “No Copyright -- United States” will probably be the rights statement you use the most. It essentially means public domain, but not necessarily worldwide.

It's not only possible, but likely, that different people assigning rights statements will choose to use the Public Domain Mark and the “No Copyright - - United States” statement differently. And that's okay. Linda and I found ourselves changing our minds about which statement to apply the more we delved into the rights statements.

“No Copyright -- United States” is especially useful for works that have come into the public domain by one of the convoluted exceptions in U.S. copyright law.



No Copyright – United States (NoC-US)

Digital Map Drawer

- Post-1923 Sanborn Fire Insurance Maps
- Research found that copyright had not been renewed during 1923 through 1963
- So they entered the public domain
- Also used for works created by the U.S. government (usually... it's complicated)

A typical example of a way a work can enter the public domain in the U.S. but not elsewhere in the world is by the rights holder not renewing their rights between 1923 through 1963.

This was the case for the **post-1923 Sanborn Fire Insurance Maps**. The publication dates of these maps would normally mean they're still in copyright, except that the copyrights weren't renewed during the years they had to be renewed.

We also applied this rights statement to maps created by the United States Geological Survey, since they fell into the category of federal government works that are public domain, as the rights aren't enforceable in the US, but are enforceable in extraterritorial situations.

No Copyright – Contractual Restrictions (NoC-CR)

and

No Copyright – Non-Commercial Use Only (NoC-NC)

- For works in the public domain, but...
- There are contracts with third parties that limit how the works can be used
- Usually when digitization has been contracted out to a for-profit company



“No Copyright – Contractual Restrictions” and “No Copyright – Non-Commercial Use Only” both mean the works are in the public domain, but the organization making the digital copy available is bound by a contract that limits how end users can re-use the works.

Usually this is a contract with a for-profit digitization company that has agreed to digitize the works for free in exchange for a commercial benefit.

It's far from ideal, but when it's necessary to get the digitization done, be sure to change the rights statement to public domain as soon as the contract's moratorium is over.

No Copyright – Other Known Legal Restrictions (NoC-OKLR)

- This one's easy!
 - It's not for use in the United States.
- Intended for use in Europe
- For works with legal restrictions besides copyright, such as cultural heritage protection

“No Copyright – Other Known Legal Restrictions” was established for organizations in the European Union, where there is legislation that restricts the use of some works on the basis of cultural heritage protection and similar circumstances.

Unfortunately, the United States has no legislation similar to this, so you probably won't need to use this rights statement.

No Known Copyright (NKC)

- Use when you researched a work's copyright status...
- And you found just enough information to assign a rights statement...
- But not enough to be absolutely certain

Using the “No Known Copyright” statement indicates that you did the research to determine the work’s copyright status, and you discovered substantial evidence that it’s in the public domain, but you can’t be certain.



No Known Copyright (NKC)

[World War I Glass Plate Stereographs](#)

- Created 1914-1919
- Research found that the works were created in Europe and published in the U.S.
- Rights passed through the hands of multiple publishers
- Registration appears not to have been renewed (if registered at all)
- *Probably* in the public domain in the U.S.

We used this rights statement for the **World War I Glass Plate Stereographs** for that very reason.

There was almost, but not quite, enough evidence that the works were at least public domain in the United States. But the “No Known Copyright” statement better represented the uncertainty.

Copyright Undetermined (UND)

- Use when you researched a work's copyright status...
- But you didn't find enough information to assign a rights statement
- If you're using the [Hirtle chart](#), and you can't narrow down to a single line or status, you can use UND

The “Copyright Undetermined” statement is similar to “No Known Copyright” but indicates even less certainty about the work’s copyright status.

It can be used when important information for making the determination is missing, such as missing pages that might have given dates and other necessary information.

Copyright Undetermined (UND)

[World War I Glass Plate Stereographs](#)

- Created 1927-1929

???

Slide 19

- 1 UND used for 1927 and 1929 works. Need reasons.
Linda Ballinger, 8/29/2017

Copyright Not Evaluated (CNE)

- _(ツ)_/
- Avoid if possible -- it means you didn't try to find out the work's copyright status
- But... it can be helpful when retrospectively applying rights statements to older digital collections

Finally, the “Copyright Not Evaluated” statement should be the statement of last resort. It indicates that you have not done any research into the work’s copyright status.

However, it could be the only rights statement you can apply when doing retrospective rights assignments.

It would be better to use this statement than to assign a blanket statement to a collection when you know that it will be incorrect for some of the items.



[Brandy] Next, Linda will talk briefly about our workflows for assigning rights statements.

[Linda] At Penn State we have the advantage of a dedicated Copyright Officer to make rights statement determinations, but the workflow doesn't have to depend on the availability of a copyright specialist.

So for this workflow, feel free to read "Copyright Officer" as anyone charged with making rights statement decisions.

New Digital Collections

When a collection is selected for digitization, information is gathered to inform the whole process:

- Initial rights evaluation
- Preservation and physical handling needs
- Digitization needs
- Metadata needs

When a collection is selected for digitization, an initial rights evaluation is part of the planning process.

This isn't the point at which the standardized rights statements are assigned, but a general "Go" or "No Go" for the project, based on the collection's probable copyrights status, and other considerations.

New Digital Collections

Initial rights evaluation:

- Is digitizing this collection and making it available to the public a Fair Use?
- Are permissions needed from rights holders?
- Who are the rights holders?
- If the collection donor handed over their rights, which rights did they own?
- Which rights does your organization now own?

The initial rights evaluation is centered around determining whether digitizing and making the collection available is Fair Use. If it isn't, permissions have to be obtained from the rights holder.

Digitization might still continue, for instance if it's necessary for preserving the original, but the digital copies won't be made public until permissions are obtained.

It's often at this stage that assumptions about rights are sometimes revealed.

The Libraries might begin a digitization project thinking that they hold the rights because the donor granted them. But the initial rights evaluation might determine that the donor didn't own all the rights to begin with.

This was the case with the **Thomas W. Benson Political Protest Collection** described previously.

New Digital Collections

- Digitization can happen before, during, or after assigning rights statements
- Depends on the nature of the materials, and on the needs of the project
- Copyright Officer might need access to the physical materials or the digital copies
- Copyright Officer will need access to any deeds of gift

Once the Copyright Officer has given the go-ahead to digitize and make the works available to the public, digitization can proceed. But it doesn't have to wait for the specific rights statements to be assigned.

The Copyright Officer may need to consult the digital copies as they are created, or after digitization is complete. They may also need access to the original materials along the way.

And, of course, they'll need to see any deeds of gift dealing with the collection.

New Digital Collections

- Descriptive metadata creation can happen before, during, or after assigning rights statements
- Descriptive metadata sent to Copyright Officer as a spreadsheet
- Copyright Officer needs at least:
 - Title
 - Creator
 - Publisher
 - Dates
 - (possibly) Description

Meanwhile, descriptive metadata can also be created at the same time that digitization and rights assessments are going on.

Though it's usually more efficient if the Copyright Officer has access to basic metadata for the entire collection before beginning their evaluation.

You can do this by giving the Copyright Officer access to the digital content repository system, or by exporting the metadata into spreadsheets.

We find it best to send the Copyright Officer a spreadsheet of descriptive metadata for all items in the collection. It can be just a draft, with enough information for the Copyright Officer's needs, but meant to be completed later by the metadata creator.

New Digital Collections

- Copyright Officer assigns rights statements at the individual item level
- Copyright Officer adds the selected rights statements to the metadata spreadsheet
- Metadata provider adds the rights statements to the rest of the item-level metadata

Once the Copyright Officer has assigned the item-level rights statements, they can add them to the draft metadata spreadsheet, which can then be incorporated into the finished metadata.

Existing Digital Collections

- Metadata provider exports descriptive metadata into a spreadsheet
- Copyright Officer assigns rights statements at the individual item level
- Copyright Officer adds the selected rights statements to the metadata spreadsheet
- Metadata provider adds the rights statements to the rest of the item-level metadata

For retrospective rights statements assignment, the metadata stage of the project is similar to the workflow used for new collections.

The metadata creator provides the Copyright Officer with the item-level metadata they need.

Again, they can do this by giving the Copyright Officer access to the digital content repository system, or by exporting the metadata into spreadsheets.

Then the Copyright Officer can add the appropriate item-level rights statements in either the repository system or the spreadsheet.

Assigning rights statements to existing digital collections can be especially challenging because deeds of gift might not be available.

This is where the less certain rights statements, such as “Copyright Undetermined,” may need to be used.

Rights Statements Without a Copyright Officer

- [*Copyright Term and the Public Domain in the United States*](#), by Peter Hirtle
- [*University of Miami matrix*](#), by Capell and Williams
- [*Standardized Rights Statements Implementation Guidelines*](#), by DPLA
- [*Guide to Implementing Rights Statements from Rightsstatements.org*](#), from the Society of American Archivists Intellectual Property Working Group
 - Especially helpful for unpublished materials

As we said at the beginning of this section, we know that not every organization will have the advantage of a dedicated Copyright Officer.

But the process doesn't have to depend on the availability of a copyright specialist. Anyone can be charged with making rights statement decisions.

These are a few tools we recommend for helping you make copyright determinations, and select a rights statement from RightsStatements.org.

Recording Rights Statements

- Standardized rights statements from RightsStatements.org should be in a separate field and contain **only** the URI
- Additional, local rights information should be in another field and should neither contradict nor repeat the RS.org statement

Once a rights statement has been selected, it needs to be added to the item-level metadata.

In order to be easily machine-operable, you need to make sure the URI for the rights statement, or Creative Commons Public Domain Mark, is the only content in the rights field.

URIs, or Uniform Resource Identifiers, make the rights statements machine-operable by uniquely identifying and expressing relationships among resources on the web in ways that search engines can understand.

You can also have a local rights field that supplements the rights statement. These should be in a separate field, and shouldn't contradict or repeat what's in the rights statement.



Recording Rights Statements

For PA Digital contributors:

- Map the RS.org rights statement to **dc:rights** (Dublin Core)
- Also map the local rights statement to **dc:rights**
- Make sure field with the URI is the **first** dc:rights field in the record

Penn State uses CONTENTdm and maps metadata fields to Qualified Dublin Core. However, the PA Digital Aggregator can only send Simple Dublin Core to DPLA.

So, we map the RightsStatements.org rights statement to dc:rights.

We have not yet used any local rights statements in addition to the standardized one, but if we did we would either map it to dcterms:accessRights (knowing that it won't be harvested) or we would map it to "None" in CONTENTdm (which will also not be harvested). We have done the latter for internal copyright notes.

Shameless plug...

Look for the article “Providing Quality Rights Metadata for Digital Collections Through RightsStatements.org” in Vol 5, No 2 (2017) of [*Pennsylvania Libraries: Research & Practice*](#)

We hope this overview has helped you to make your own plans for implementing rights statements from RightsStatements.org.

This webinar is drawn from an article Brandy, Anastasia Chiu, and I published in October, in *Pennsylvania Libraries: Research and Practice*. It covers this topic in more detail.



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