



Swiss Institute of
Bioinformatics

Copyright Guidelines

How to acknowledge and be acknowledged in training material

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Introduction:

Making presentations and training course materials open is a common practice in the scientific community; it is a desirable goal, coherent with the general trend towards FAIR (Findable, Accessible, Interoperable, Reusable) scientific data management. However, distributing these materials raises essential questions related to licencing and copyright.

SIB trainers frequently reuse figures, tables or entire slides made by others in presentations and teaching materials, and the resulting material is then redistributed to participants and often finds its way to public websites. In most cases, the trainers do not really know what they are allowed to do or not under copyright law, or under which conditions they can openly distribute content which they or others have created for training materials.

These guidelines aim to introduce basic principles for content reuse and redistribution from the perspective of Swiss legislation, clear the most common misconceptions on this topic, and address any questions the reader might have. Furthermore, these guidelines were developed in the context of SIB Training but can be useful to anyone who wishes to develop training material. In the first section, these guidelines focus on and outline the different resources that you can use in your trainings materials (I). In a second section, we will take a closer look at Creative Commons licences (II) so that trainers can decide how to license their training materials (III).

Note: please note that copyright law and good academic practices are two independent topics. Even if material is no longer subject to copyright protection, you must still cite it adequately when reusing any part of it to avoid the risk of being accused of plagiarism and safeguard good scientific practice. In any case, while researching and preparing materials, keep careful records of the source for all of it, as well as identification of the copyright holder and references mentioned on how to cite the author(s). Similarly, the use of some material may be restricted by limitations other than copyright; for example, material derived from medical databases containing health-related information are generally confidential and may be protected.

I - Resources that you can use in your training materials:

1. Resources that you have created

Materials that you have created, be they text, images, programs, etc., can usually be reused, but certain restrictions may apply. Be careful if you are using material that you have created under an employment relationship: you have probably assigned some of your exclusive rights to your employer, which means that you are no longer free to use those materials without obtaining their prior consent.

Similarly, if you published the material in a scientific paper which required that you transfer your exclusive rights to the publisher, you may not be able to use the content anymore. Permission may be required for re-use, and it has to be verified with the publisher. This information can also be found in the copyright agreement you may have signed.

Keep in mind that materials developed in co-authorship must not be treated as single authorship. When two or more authors prepare a work with the intent to combine their contributions into inseparable or interdependent parts, the work is considered joint work and the authors are considered joint copyright owners. Therefore, permission of all co-authors should be sought and provided.

2. Resources protected and not protected by Copyright law

Under Swiss law, copyright is granted to the author of the work, irrespective of any formalities. Only intellectual creations that have an “individual character” (i.e., stand out from existing works) are protected, even if they have not been finished or made public. In theory, you can thus reuse works such as trivial diagrams made by others, as they probably do not have the requisite level of individuality. However, there is no easy and objective way to determine whether a work has individual character; if it really is trivial, it may be safer to just recreate it. This does not apply to photographs, which are protected in all cases even if they do not have individual character.

It is worth noting that computer generated works conceived with minimal human input are not encompassed and thus not protected by copyright, no matter how rare and aesthetic they may be.

There are other types of content not protected by copyright, but they are of little use in the context of bioinformatics training. It could be the case when the copyright protection period of the work has expired, and it has passed into the public domain. Material created by authors who died more than 70 years ago are in the public domain and can be used without restriction; this can be useful if you want to show some material created by Darwin but is of little interest otherwise.

3. When the author gave permission

Copyrighted material can be used, if there is proper authorisation for doing so from the copyright holder(s). You need to contact the copyright holder in writing (i.e., email or using an online form) providing as much detail as possible about how you would like to use the material. Explain that you would like to reuse the work in an open access context and ask them how to cite their work. There is no obligation for the copyright holder to grant your request, and he may also require payment of license fee. The permission process can be fairly long, so we recommend sending your request well before the material is needed. If you ask and the author accepts, e.g., by email, you can of course reuse the material. However, attention should be given so the authorization is sufficiently clear and complete. For example, "*you can use my photo for your course*" will not be sufficient to use it for another course, or to modify it and distribute it in other situations.

It is much better if the author can explicitly provide an authorization using an existing and recognized license such as Creative Commons copyright licenses and/or a Right-to-Use Agreement. It is also very important to keep a copy of the written permission or license that you received and to share it with the legal department. We never know; you may be required to show that proof of the permission granted in the future.

Access to copyrighted works on the internet does not necessarily mean that these can be reproduced and reused without any permission or royalty payment, as copyrighted works may have been posted to the internet without authorization of the copyright holder. In any case, be

sure you verify the kind of copyright permission is associated to the material you decide to use.

4. Seek out the original data and reproduce the figures

If you are unable to get permission to reuse a graph or a similar figure, see if the original data used to create it is publicly available and create your own graphical representation. Publicly available data itself consists of facts, and is thus not subject to copyright as these do not have the requisite level of individuality.

5. Use the right of quotation

You can reuse published material for the purpose of "comment, reference or demonstration", but this use is limited to the strict minimum, and must clearly indicate the reference, source and author. In particular, you cannot reuse material under this rule simply for illustration purposes. Crediting the source must adequately identify the source of work, giving a full description bibliographic where available (including author, title, publisher, and place and date of publication).

6. Rely on the exception for educational purposes

The Copyright Act allows "*the use of a work by a teacher and their students for educational purposes*". This limitation is one of the several exceptions that the Swiss law allows for "private use" and it should apply to the majority of material of interest within SIB training; however, this limitation to copyright law is narrow and does not allow trainers to do anything they want.

The work used must necessarily be linked with the subject being taught and be used directly for educational purposes. Material created relying on this limitation can only be shared with the participants (e.g. on paper, by personal email, or on a Moodle webpage that is password-protected). In particular, creating material using the educational exception is not compatible with open distribution of resources (documents or videos) of the resulting resources. The complete or substantive copying of copyrighted works available in commerce (e.g. books or journals) are not permitted unless the copyright holder gives their prior consent. In view of the requirements associated with this limitation, we discourage the use of material under this exception and recommend seeking permission from the copyright holder(s).

7. If nothing else works...

In theory, if none of the situations described above apply to resources you need for your training material, you should not use it. In practice, it is easier said than done: this material may be essential (or in any case, its absence could be very damaging). In this case, you should consider using an alternate work for which you can obtain permission or, if possible, to point your audience to the work via a link to a website or to a resource in the library.

When this is not possible, some people may decide to use the resource anyway if the risk that the original author will complain is low. While it may be the only possible solution, and the actual risk will indeed often be low when working with academic works, we of course do not recommend it, as your material will remain tainted and the risk will still exist.

II - The Creative Commons (CC) licenses

8. Brief presentation

The most commonly used and widespread contractual licenses are the Creative Commons (CC). The first set of Creative Commons licences was published in 2002 in response to the observation that current copyright laws are a brake on the dissemination of culture and open knowledge. The aim of Creative Commons licences is to facilitate the dissemination and sharing of copyrighted materials by defining standard and user-friendly terms for their distribution and their re-use. They allow authors to easily select under which conditions and restrictions reuse of material is allowed and allow users to recognize which content they can reuse. There were several versions of these CC licenses, and the latest one is version 4.0.

9. CC Licensing scheme

CC licenses are made of four different license elements which are as follows:

Attribution only | CC BY. All CC licenses require by default (BY element) that attribution be provided to the original authors when reusing and modifying their CC-licensed materials. The attribution should ideally be placed close to where you are using the material (e.g. on the same slide), but you could potentially have a “credit” slide at the end of your presentation.

Attribution-Share Alike | BY-SA. Attribution-Share Alike licensing terms (tagged “SA”) allow you to reuse the CC-licensed work, but only if you distribute it in whole or in part under the same terms and conditions as the original CC-licensed work.

Attribution-NoDerivatives | BY-ND. Attribution-NoDerivatives licensing terms (tagged “ND”) only allow the CC-licensed work to be used without modification; derivative works based upon it are not permitted without additional permission from the copyright holder (e.g. an image under an ND license could be used “as is” in a presentation, but you can’t modify it, crop it or annotate it).

Attribution-NonCommercial | BY-NC. Attribution-NonCommercial licensing terms (tagged “NC”) provide the same rights as those stipulated in the CC BY license but prohibit use that are “primarily intended for or directed toward commercial advantage or monetary compensation”.

The scope of CC’s NonCommercial licenses is voluntary broad and may apply in many situations. As pointed out in the CC FAQs, the ability to re-use, copy or, derive from a work licensed under BY-NC terms depends on the context and goal of the activity, not on the type of legal entity exercising the rights. Nevertheless, where limitations of private use for educational purposes comes into play, you have no obligation to comply with NC terms and conditions. This is why it is important to determine the context and the goal in which the training materials will be used, i.e. in an educational and teaching context or not. If yes, this means that NC-licensed works can be included in your training materials. If training materials are provided in a private industry context (i.e. for commercial purpose), the re-use, copy or, derive from a CC BY-NC licensed work may only take place provided that the original authors give their permission.

These four conditions form the basis of a fixed set of six CC licenses (for an overview, see: <https://creativecommons.org/licenses/?lang=en>).

It is worth noting that copyright holders may decide to give up their exclusive rights on their copyrighted work so that it can be used without any restriction. In such cases, the work is

placed in the public domain and the original authors are waiving all their rights to the fullest extent permitted by law. However, before applying CC0 license to your training materials, which is irrevocable, any copyrighted works included in your material must be listed separately to avoid infringing third party rights.

10. Use of NC-licensed works in your training materials

You should be careful: even if the SIB is a not-for-profit institution, participants (academic or industrial) may need to pay registration fees when following SIB courses, so such a context could be considered commercial. Therefore, the use of NC-licensed works should not be considered in your training materials, and we advise you to proceed as follows:

- First of all, you should start considering whether another work not licensed under NC terms would be an acceptable alternative. It is worth noting that a lot of online material is available under free licenses (without the NC or ND clauses) on the Internet, for example on Wikipedia and Wikimedia Commons. When you use tools to search for images you want, you can also sort the results according to their licensing terms (with Google, for example, click on “Tools” and then “Usage Rights”).
- If not, and if you still wish to use such work, you must contact the copyright holder in order to ask for permission before to reuse their work. As mentioned earlier, bear in mind that there is no obligation for the copyright holder to grant your request who may also require payment of license fee.

III - How to license my training materials

Any course material that is distributed should clearly indicate under which conditions it can be reused; by default, if nothing is indicated, the material can only be used by course participants.

It is SIB's recommendation that the course material should be distributed as much as possible under an open license. SIB's default choice of license is Creative Commons CC-BY 4.0.

The final choice of license will depend on your goals, the audience for the course (e.g. public course vs custom-made course developed for a company), and the origin of the material contained in the course (if my material/resources are licensed under CC-BY-SA, or under a proprietary license, you won't be able to license the result under a CC-BY license).

1. Clearly indicate the chosen license; in a presentation, it should ideally be done on the title slide (so that participants are aware beforehand of any restriction).
2. If you include any pre-existing material, cite it when it is used; indicate the license if it is not the same as the one used for your course material (your own material can be under a CC license, while the material you borrowed is under another license).
3. Make sure the material contains your contact details, in case someone wants to ask your permission to reuse some content (an email address is ideal; however, note that your personal SIB or institutional email addresses are not persistent, as they will stop functioning once you leave the institution).
4. If your material includes resources relying on the "educational purposes", make it available only on a password-protected platform accessible only to registered and enrolled students.
5. In all cases, you should not reuse works for which you can't be granted the permission. As alternate approach, we encourage you using an alternate work for which you can obtain permission or don't need permission, or to point your audience to the work by adding a link to a website or to a resource in the library.

If you need any help: please do not hesitate to contact the SIB Training group (training@sib.swiss) or the SIB Legal and Technology Transfer Office (legal@sib.swiss).