

Ms. Sharon Leu
U.S. Department of Education
400 Maryland Avenue SW
Room 6W252
Washington, DC 20202

December 18, 2015

Re: Docket ID ED-2015-OS-0105

Dear Ms. Leu,

We the undersigned organizations are writing to comment on proposed 2 C.F.R. § 3474.20 for “Open Licensing Requirement for Direct Grant Programs,” which would ensure that educational resources and other copyrightable works created with Department discretionary grant funds are openly licensed. We are grateful for the opportunity to provide input on this important proceeding.

Overall, we applaud the proposed rule. Many of our organizations joined a broad coalition this summer to send a letter to President Obama calling for a Federal government-wide open licensing policy for publicly funded educational resources. We believe that educational resources that are created with public funds should be openly licensed and available to the public to freely use, share, and build upon. The use of these resources can benefit the public good by expanding educational opportunities, reducing the cost of textbooks, improving workforce training, fueling new businesses, and more. We applaud the Department for taking an important step in this direction.

We strongly support the Department’s proposed definition of open licensing terms under § 3474.20(a), which would grant the public the right to fully use the applicable works so long as the author is attributed. We believe this type of license will maximize the value of the material to the American taxpayers who finance it, while ensuring that authors and grantees have the right to be recognized for their work. We urge the Department to maintain the strength of this definition. Other Federal agencies including the Department of Labor and the Department of State have implemented open licensing policies using the Creative Commons Attribution License, which is aligned with the terms of the proposed definition.

We encourage the Department to strike § 3474.20(c), which would establish exceptions to the proposed open licensing policy. While we recognize that the Department has provided justifications for these exceptions, we are concerned that broadly excluding types of funding could unintentionally overlook materials that would be of value to the public. We believe it is more consistent with the public interest and the Department’s stated goals to make any necessary exceptions through the Secretary’s authority pursuant to 2 CFR 3474.5 and 2 CFR 200.102, rather than through the rule itself.

Finally, we wish to recognize that the scope of the proposed rule is limited to direct competitive grant funds, which represents a subset of the grant funds the Department awards. While we fully support the Department's adoption of an open licensing policy for this portion of its funds, we believe the policy should be the default for all public funds. We hope that the proposed rule is the start of a positive trend in this direction not only at the Department, but in the Federal government as a whole.

Thank you for your consideration, and please do not hesitate to contact us if we can provide more information or support.

Sincerely,

Association of College and University Housing Professionals-International (ACUHP-I)
Center for Open Education, University of Minnesota
Connecticut Distance Learning Consortium
Creative Commons
Creative Commons United States
Harvard Open Access Project (HOAP)
Electronic Information for Libraries (EIFL)
Foothill-De Anza Community College District
International Association for K-12 Online Learning (iNACOL)
Institute for the Study of Knowledge Management in Education (ISKME)
K-12 OER Collaborative
Klamath Community College
Lumen Learning
North Carolina State University Libraries
Northern Virginia Community College
Online Education Initiative, California Community Colleges
Open Education Consortium
Open Oregon Educational Resources
The Open SUNY Textbook Project
Tidewater Community College
Public Knowledge
Scholarly Publishing and Academic Resources Coalition (SPARC)
State Educational Technology Directors Association (SETDA)
Society for College and University Planning (SCUP)
The SUNY Council of Library Directors
U.S. Public Interest Research Group
UCI OPEN
University of Connecticut Libraries
Virginia Community College System

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