PURPOSE

To define the copyright owner for any materials created by Office of Superintendent of Public Instruction (OSPI) employees, contractors, and grantees. To clarify the requirement for open licensing of those materials.

This policy will allow school districts, Educational Service Districts, and members of the public, to realize the educational impact from the substantial investments the state, the federal government, and private foundations have made (and will continue to make) in educational resources created by OSPI employees.

This policy is not retroactive and does not pertain to work created before the effective date on this document.

POLICY

Copyright Ownership
Consistent with federal copyright law, OSPI affirms that original works of authorship created by employees within the scope of employment are “works made for hire” and owned by OSPI. Except where otherwise agreed to in writing, OSPI affirms that original works of authorship produced by contractors which fall under “work made for hire” definition are owned by OSPI. (See Copyright Provisions section in the contract template under OSPI General Terms and Conditions.)

Except when in conflict with stated policies, grantees receiving funds managed by OSPI from state, federal, private foundation, or other funding sources shall own copyright on their original works of authorship; however, as a condition of receiving a grant, such grantees are subject to the licensing policies below.

Licensing
Original Works
Except where otherwise agreed to in writing, or approved by the Superintendent or designee, all original works of authorship produced by an OSPI employee within the scope of his or her
employment for use in the state’s schools and programs will carry a Creative Commons Attribution License, version 4.0 or later (CC BY).

Except where otherwise agreed to in writing, or approved by the Superintendent or designee, all original works of authorship produced by an OSPI contractor for use in the state’s schools and programs will carry a Creative Commons Attribution License, version 4.0 or later (CC BY).

As a condition of receiving a grant, and where not in conflict with stated policies, if any, of the funding agency or organization, all original works of authorship produced by grants from state, federal, private foundation or other funds managed by OSPI will carry a Creative Commons Attribution License, version 4.0 or later (CC BY).

Original content uploaded to OSPI’s YouTube channel, iTunesU, or other video-sharing website accounts maintained by OSPI will carry a Creative Commons Attribution License. This license choice will be an option provided via the platform itself at time of upload.

**Adapted Works**
All derivative works, adapted by state employees, contractors, or grantees from others’ existing openly licensed resources, must follow the terms of the open license on those materials. The derivative work must be licensed with the least restrictive open license possible that is not in conflict with existing licenses.

**Copyright and Licensing Chart**

<table>
<thead>
<tr>
<th>Creator</th>
<th>Copyright Holder on Original Works</th>
<th>License Requirement on Original Work</th>
<th>License Requirement on Derivative Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>OSPI Employee</td>
<td>OSPI</td>
<td>Creative Commons Attribution License, version 4.0 or later (CC BY)</td>
<td>Follow the terms of the open license on the adapted materials. The derivative work must be licensed with the least restrictive open license possible that is not in conflict with existing licenses.</td>
</tr>
<tr>
<td>OSPI Contractor</td>
<td>OSPI</td>
<td>Creative Commons Attribution License, version 4.0 or later (CC BY)</td>
<td></td>
</tr>
<tr>
<td>OSPI Grantee</td>
<td>Grantee</td>
<td>Creative Commons Attribution License, version 4.0 or later (CC BY)</td>
<td></td>
</tr>
<tr>
<td>OSPI administered grant</td>
<td>OSPI or appropriate Grantor</td>
<td>Creative Commons Attribution License, version 4.0 or later (CC BY) or License determined by grantor</td>
<td></td>
</tr>
</tbody>
</table>

This policy
- Begins June 6, 2016

Cases where this policy is not applicable:
- Posters/brochures for which a stock image was purchased and that image carries a license that is specific to only one usage of the materials.
- Work that is intended for limited use within the agency.

This policy does not affect retention schedules. Follow the retention schedule for grants, contracts, and OSPI generated materials as directed by your department.
PROCEDURE FOR AN OSPI EMPLOYEE OR GRANTEE APPLYING AN OPEN LICENSE

1. Ensure all elements of your work (e.g. text, images, charts) are eligible to be shared. This means your work should be one or a combination of the following types:
   - your original work,
   - built from open resources,
   - built from works in the public domain, or
   - built from copyrighted work that you have obtained permission to use

2. Make sure you have provided proper attribution for all elements of the work not created by you. Here are some best practices for attribution.

3. Address any questions with the OSPI chief legal officer or communications office.

4. Go online to the OSPI Copyright and Open Licensing Tool. This will guide you through the steps necessary to generate an open license statement for use on your work.

PROCEDURE FOR AN OSPI CONTRACTOR APPLYING AN OPEN LICENSE

1. Confirm all elements of the contractor’s work (e.g. text, images, charts) are eligible to be shared. This means their work should be one or a combination of the following types:
   - Contractor’s original work,
   - built from open resources,
   - built from works in the public domain, or
   - built from copyrighted work that the contractor obtained permission to use

2. Confirm the contractor has provided proper attribution for all elements of the work not created by them. Here are some best practices for attribution.

3. When the product is complete and the contractor is ready to apply the open license, the contractor must alert their contract manager, who will go online to the OSPI Copyright and Open Licensing Tool to generate an open license statement for use on the product.

DEFINITIONS/RESOURCES

Work Made for Hire
Section 101 of the Copyright Act (Title 17 of the U.S. Code) defines a “work made for hire” in two parts:

a) a work prepared by an employee within the scope of his or her employment or
b) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas

Works of authorship include the following categories:

a) literary works;

b) musical works, including any accompanying words;

c) dramatic works, including any accompanying music;

d) pantomimes and choreographic works;

e) pictorial, graphic, and sculptural works;

f) motion pictures and other audiovisual works;

g) sound recordings; and

h) architectural works.

Open Educational Resources
Open Educational Resources (OER) are teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that permits their free use and re-purposing by others. The purpose of OER participation is to positively
impact both the teaching and learning process by providing teachers and administrators with cost-effective materials that are available for sharing, accessing, and collaborating for personalized learning.

**Creative Commons Attribution License** (CC BY)
A worldwide, royalty-free, non-exclusive, perpetual, irrevocable copyright license granting the public permission to access, reproduce, publicly perform, publicly display, adapt, distribute, and otherwise use the work and adaptations of the work for any purpose, conditioned only on the requirement that attribution be given to authors as designated.

**Derivative Work**
A work based on or derived from one or more already existing works. Common derivative works from OSPI may include translations, abridged or enhanced resources, or collections of adapted materials. The new work must contain a sufficient element of originality that makes it a new work in its own right. For example, correcting grammatical errors or adding a sentence to a single paragraph typically will not create a new work and would therefore not be a derivative work.

**EXAMPLES**

**Original Resource Attribution Text**
The **KNOW: HIV/STD Prevention Curriculum Grades 7 and 8** developed by **Office of Superintendent of Public Instruction** is licensed under a **Creative Commons Attribution 4.0 International License**.

*Note:* The Creative Commons Attribution license cited here is the default open license used by OSPI.

**Adapted Resource Attribution Text**
Except where otherwise noted, **Bridge to College Mathematics** is licensed under a **Creative Commons Attribution-NonCommercial License**. This is a derivative work by the Washington **Office of Superintendent of Public Instruction** and **State Board for Community and Technical Colleges** adapted from the **Southern Regional Education Board Math Ready** course, funded by **College Spark Washington**.

*Note:* Because this work is a collection of resources including non-commercial licensed resources, it needs to retain the CC BY-NC license.

**Sample iGrant RFP text**
All original resources produced with the Washington Open Educational Resources (OER) grant will be licensed under the **Creative Commons Attribution License**, version 4.0 or later. All derivative works made from others’ existing OER must follow the terms of the open license on those works. Further information on correct attribution and licensing will be provided to all OER grantees.

**Sample contract text**
*See* OSPI **Standard General Terms and Conditions – Copyright Provisions** for copyright ownership text.

Except where otherwise agreed to in writing, or approved by the Superintendent or designee, all original works of authorship produced by an OSPI contractor for use in the state’s schools and programs will carry a **Creative Commons Attribution License**, version 4.0 or later.

Additional information, supporting resources, and frequently asked questions may be found on the OSPI **Copyright and Open Licensing** site.