Washington Office of Superintendent of Public Instruction
K–12 OER Project

Copyright and Open Licensing Guide

Open Educational Resources (OER) are teaching and learning materials available under an open license that makes them freely available to download, edit and share in order to better serve all students.

The Office of Superintendent of Public Instruction (OSPI) has launched a new open policy that requires all copyrightable intellectual property created by OSPI employees, contractors, and grantees to be openly licensed. This policy will allow all stakeholders to realize the educational impact from the substantial investments the state, the federal government, and private foundations make in educational resources.

This guide will provide you with information about open licensing and walk you through all the steps needed to apply an open license on your work.

Please note: This guide is provided for informational purposes only. Nothing in this document should be considered as legal advice.

Important Resources

Frequently Asked Questions
Definitions
OSPI Copyright and Open Licensing Policy
OSPI Open Educational Resources Project
Creative Commons Licenses
Videos on Open Educational Resources (OER) and Open Licensing

Contents

Step 1: Determine Copyright Holder

Prior to applying an open license, you must determine the copyright holder for your work**. Only the copyright holder may license the resource.**

Check the following:

1. Your district policy. Many times, resources that are created within the scope of a staff member's employment are considered "works made for hire" and are owned by the district. In a smaller number of cases, district policy may be for the teacher-creator to hold copyright.

2. If you have received funds from federal, state, or privately funded grants to create resources, check for any copyright holder clarification from the funder. Often times licensing direction will be included in these grants as well.

Regardless of who holds the copyright, consider an open policy for your district that states that all original developed materials produced by employees during the scope of their employment for use in schools and programs will carry a Creative Commons Attribution License, version 4.0 or later (CC BY).

This policy could allow the district to retain copyright and continue to use the materials in any way they see fit as well as allowing the developer and any others to adapt, remix, and redistribute the work. Other open license choices are available (see here) but the CC BY option provides the most flexibility for downstream users of the material.

Go to Step 2: Determine if the Resource is Original or Derivative Work *(go to page 3)*

Resources

Clarifying Ownership of Teacher-Created Content by the State Educational Technology Directors Association | CC BY
Copyright Basics by the U.S. Copyright Office | Public Domain
Copyright Basics from the Copyright Clearance Center | Standard YouTube License
Public Domain Sherpa | CC BY NC ND

Step 2: Determine if the Resource is an Original or Derivative Work

Consider your resource, including **ALL** components. Examples of components include:

- graphics
- charts and graphs
- video and audio
- text
- problem sets and assessments

Choose one of the following:

This is an entirely original resource.   *(go to page 4)*

This is a work that has been adapted from one resource.   *(go to page 5)*

This is a work that combines multiple resources.   *(go to page 10)*

updated 9/12/17

Original Work

Based on your responses, here's important information about copyright holder and licensing:

Copyright Holder of Original Work: {as determined by district policy}

License: Consider applying an open license.
   Be certain that this step is completed by the copyright holder or their selected designee.

Go to Step 3: Apply an open license
Be certain that this step is completed by the copyright holder or their selected designee.

Derivative Work – Single Resource

For this adaptation of a single resource, which of the following is true *(choose one)*:

I'm using an openly licensed resource that allows adaptation.   *(go to page 6)*

I received copyright permission from the copyright holder.   *(go to page 7)*

I have NOT received copyright permission from the copyright holder.   *(go to page 8)*

I'm uncertain of copyright status.   *(go to page 9)*
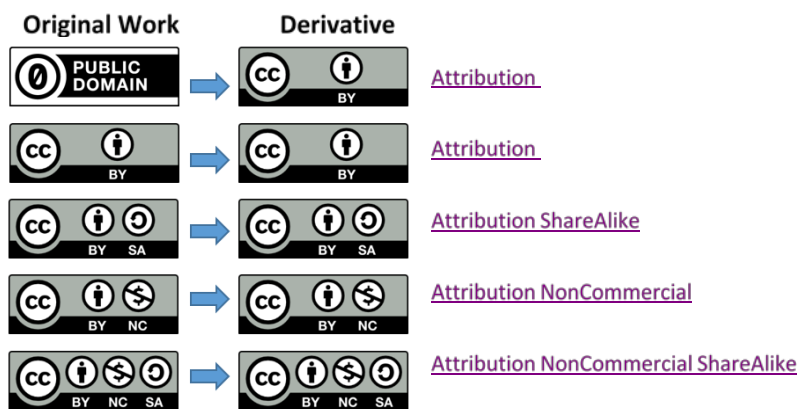
Derivative Work – Single Open Resource

> *Based on your responses, here's important information about copyright holder and licensing.*
>
> C**opyright Holder of Derivative Work:** {as determined by district policy}
>
> **License:** Creative Commons license type will vary (see below)

All works adapted from others' existing openly licensed resources, must follow the terms of the open license on those materials. Best practice is to license the new derivative work with the least restrictive open license possible that is not in conflict with existing license.

Use the chart below to figure out the final license

Before proceeding, make sure each element included in your derivative work is properly attributed and the license type is noted.

Go to Step 3: Apply an open license   *(go to page 18)*
Be certain that this step is completed by the copyright holder or their selected designee.

Resources

Best Practices for Attribution – Creative Commons Website | CC BY
Quickstart Guide to Openly Licensed Images and Attribution by Office of Superintendent of Public Instruction | CC BY
How to Attribute CC Photos - poster by foter | CC BY SA
Attributing Creative Commons Material (pdf) - Creative Commons Australia | CC BY (AU)
Open Attribution Builder by Open Washington at the State Board for Community and Technical Colleges | CC BY

Derivative Work - Single Resource – Copyright Permission

Based on your responses, here's important information about copyright holder and licensing.

Copyright Holder of Derivative Work: {as determined by district policy}

License: depends on usage permission granted by copyright holder of original work

If you have permission from the copyright holder to adapt their original work, clarify if that permission extends to openly licensing the adaptation (derivative work).and keep a copy of that approval in writing. *

Be sure to provide proper attribution to the copyright holder prior to moving to the next step.

Go to Step 3: Apply an open license
Be certain that this step is completed by the copyright holder or their selected designee.

* If permission to openly license the work is not received, you cannot openly license your derivative work.

updated 9/12/17

Derivative Work - Single Resource – No Copyright Permission

STOP – DO NOT APPLY AN OPEN LICENSE…YET

**Do not proceed with adapting this work until you have received
permission from the copyright holder of the original work.**

When making your request, clarify that you would like to openly license the adapted work. Request permission in writing and come back to this document when ready.

updated 9/12/17

Derivative Work - Single Resource – Uncertain

STOP – DO NOT APPLY AN OPEN LICENSE…YET

Even if there is no obvious marking on the work you are interested in adapting, you must assume it is under "all rights reserved" copyright.

Just because a resource is free to view online does not make it legal to copy, adapt, and distribute. To determine the permitted uses of this resource, try the following:

- Check the Terms of Use on the website where the resource was located – often times, information about user licenses is located here. Sometimes it is also located under the Privacy section.

- Contact the organization where you found the resource and see if they can identify the copyright holder for this work or confirm that the work is in the public domain.

Do not proceed with adapting this work until you have received permission from the copyright holder of the original work, or confirmed it has an open license or is in the public domain.

Derivative Work – Multiple Resources

For this adaptation/remix of multiple resources, which of the following is true: *(choose one)*

I'm using all openly licensed resources. *(go to page 11)*

Where openly licensed resources were not used, I received copyright permission from ALL the copyright holders. *(go to page 15)*

I have NOT received copyright permission from ALL the copyright holders of non-openly licensed materials. *(go to page 16)*

I'm uncertain of copyright status of materials. *(go to page 17)*

Derivative Work – Multiple Open Resources

One of the most frequent uses of OER is in creating a derivative work that pulls together multiple resources, makes adaptations to those resources, and adds new content. However, not all licenses are compatible.

This video does a nice job of explaining compatibility issues.
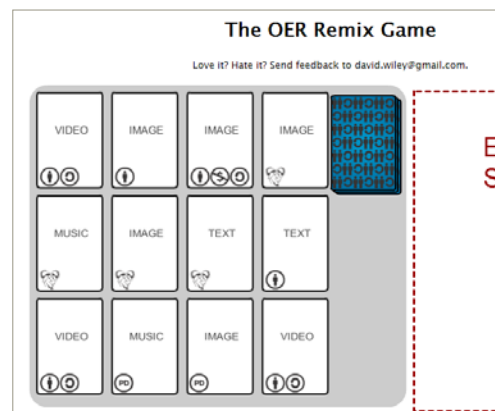
[Creating OER and Combining Licenses](#)
The Orange Grove Repository | [Creative Commons Attribution License](#)

Confused? This demo addresses the issue very quickly, as well as highlighting the reasons why CC BY is a good choice for the default license.

[OER Remix Game](#)
From David Wiley and [BYU Independent Study](#) | Creative Commons Attribution License

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If this describes your situation, review the chart below.

	PUBLICDOMAIN	BY	BY-SA	BY-NC	BY-ND	BY-NC-SA	BY-NC-ND
PUBLICDOMAIN	🙂	🙂	🙂	🙂	✖	🙂	✖
BY	🙂	🙂	🙂	🙂	✖	🙂	✖
BY-SA	🙂	🙂	🙂	✖	✖	✖	✖
BY-NC	🙂	🙂	✖	🙂	✖	🙂	✖
BY-ND	✖	✖	✖	✖	✖	✖	✖
BY-NC-SA	🙂	🙂	✖	🙂	✖	🙂	✖
BY-NC-ND	✖	✖	✖	✖	✖	✖	✖

Chart adapted from Open Content - A Practical Guide to Using Creative Commons Licenses licensed to the public under a Creative Commons Attribution 4.0 license.

Compare licenses on resources by looking at the license type of the first work on the first row and the license type of the second work on the first column. You can combine the works if there is a smiling face in the cell where the row and column intersect. If there a cross at the intersection of the row and column, then you cannot combine these works.

Based on the license compatibility chart above, choose one of the following:

Derivative Work – Multiple Open Resources – Compatible Licenses

Based on your responses, here's important information about copyright holder and licensing.

Copyright Holder of Derivative Work: {as determined by district policy}

License: Creative Commons license type will vary (see below)

For the license on your derivative work, you will need to use the most restrictive licensing of all the licenses present in your remix (use the license most to right and down on the chart).

Note: If your work includes a collection of openly licensed resources, your overall license for the new work may be less restrictive as long as the intact/unadapted individual resource with a different license is clearly identified and given proper attribution.

	PUBLICDOMAIN	BY	BY-SA	BY-NC	BY-ND	BY-NC-SA	BY-NC-ND
PUBLICDOMAIN	🙂	🙂	🙂	🙂	❌	🙂	❌
BY	🙂	🙂	🙂	🙂	❌	🙂	❌
BY-SA	🙂	🙂	🙂	❌	❌	❌	❌
BY-NC	🙂	🙂	❌	🙂	❌	🙂	❌
BY-ND	❌	❌	❌	❌	❌	❌	❌
BY-NC-SA	🙂	🙂	❌	🙂	❌	🙂	❌
BY-NC-ND	❌	❌	❌	❌	❌	❌	❌

Chart adapted from Open Content - A Practical Guide to Using Creative Commons Licenses licensed to the public under a Creative Commons Attribution 4.0 license.

Before proceeding, make sure each element included in your derivative work is properly attributed and the license type is noted.

Go to Step 3: Apply an open license   *(go to page 18)*

Be certain that this step is completed by the copyright holder or their selected designee.

Resources

Best Practices for Attribution – Creative Commons Website | CC BY
Quickstart Guide to Openly Licensed Images and Attribution by OSPI | CC BY
How to Attribute CC Photos - poster by foter | CC BY SA
Attributing Creative Commons Material (pdf) - Creative Commons Australia | CC BY (AU)
Open Attribution Builder by Open Washington at the State Board for Community and Technical Colleges | CC BY

Derivative Work – Multiple Open Resources – Incompatible Licenses

STOP – DO NOT APPLY AN OPEN LICENSE…YET

There are several ways to address incompatible license issues:

- Find a replacement resource that does not have a license conflict

- Provide a link to the resource in question but do not embed the content in your derivative work

- Request permission from the copyright holder to license their work for this purpose

- Include the work with the different open license but make it very clear that particular section of your work carries a different license -- place on a different page, put in a boxed section, etc. You will need to note this in the license you apply to the derivative work. It would look something like this:

  Except where otherwise noted, this derivative work by the {School District Name}, is licensed under a Creative Commons Attribution License.

Please attend to any incompatibility issues using one or more of the above strategies and then come back to this document for additional guidance.

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Derivative Work – Multiple Resources – Copyright Permission

Based on your responses, here's important information about copyright holder and licensing.

Copyright Holder of Derivative Work: {as determined by district policy}

License: depends on usage permission granted by copyright holders of original work

If you have permission from ALL the copyright holders to adapt their original work, clarify if that permission extends to openly licensing the adaptation (derivative work).and keep a copy of those approvals in writing. ***If permission to openly license the work is not received, you cannot openly license your derivative work.***

Before proceeding, make sure each element included in your derivative work is properly attributed and the license type is noted.

If you are also including openly licensed resources in your derivative work, be sure to read the section on derivative work using multiple open resources before proceeding to Step 3.

Derivative Work – Multiple Open Resources

Go to Step 3: Apply an open license
Be certain that this step is completed by the copyright holder or their selected designee.

Resources
Best Practices for Attribution – Creative Commons Website | CC BY
Quickstart Guide to Openly Licensed Images and Attribution by OSPI | CC BY
How to Attribute CC Photos - poster by foter | CC BY SA
Attributing Creative Commons Material (pdf) - Creative Commons Australia | CC BY (AU)
Open Attribution Builder by Open Washington at the State Board for Community and Technical Colleges | CC BY

Back to Derivative Work - Multiple Resources

Back to Beginning of Guide

updated 9/12/17

STOP – DO NOT APPLY AN OPEN LICENSE…YET

**Do not proceed with adapting this work until you have received
permission from ALL the copyright holders of the original resources.**

When making your request, clarify that you would like to openly license the adapted work. Request permission in writing and come back to this document when ready.

updated 9/12/17

Derivative Work - Multiple Resources – Uncertain

STOP – DO NOT APPLY AN OPEN LICENSE…YET

Even if there is no obvious marking on the work you are interested in adapting, you must assume it is under "all rights reserved" copyright.

Just because a resource is free to view online does not make it legal to copy, adapt, and distribute. To determine the permitted uses of these resources, try the following:

- Check the Terms of Use on the website where the resource was located – often times, information about user licenses is located here. Sometimes it is also located under the Privacy section.

- Contact the organization where you found the resource and see if they can identify the copyright holder for this work or confirm that the work is in the public domain.

Do not proceed with adapting this work until you have received permission from ALL the copyright holders of the original work, or confirmed they have an open license or are in the public domain.

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Step 3: Apply an Open License

Visit the Creative Commons License Chooser.

This site will open in a new window. Be sure to keep both windows open/available as you work through the steps below.

License Features

- The preferred license type is Attribution only
  - Select Yes to "Allow adaptations" and "Allow commercial uses".
  - Do not select "as long as others share alike"

- Based on your answers to earlier questions, you may have identified a different license that is required to ensure compatibility among multiple resources. Enter the choices in the license features box that will generate the appropriately identified license.

License Features

Your choices on this panel will update the other panels on this page.

Allow adaptations of your work to be shared?
⑦

◉ Yes   ○ No   ○ Yes, as long as others share alike

Allow commercial uses of your work?
⑦

◉ Yes   ○ No

⑦

Selected License
Attribution 4.0 International

(cc) (i)

This is a Free Culture License!

Create an Attribution Statement

Title of Work:

Leave blank if you want a generic license that can be used with multiple resources

If this is a resource that has its own webpage or is a downloadable item, consider entering the title of the work so you can add a hyperlink to it lat.

Attribute work to:

Enter the name of the identified copyright holder for the original or derivative work.

Attribute work to URL:

If available, enter the URL where the resource may be downloaded.

Source work URL:

o   Not applicable for original resources or for remixes/collections of multiple resources

o   For works adapted from a single resource, this is the URL of the original resource

More permissions URL:

Enter if you would like to include a district contact

Format of work:

Other/Multiple formats

License mark:

Leaving as HTML +RDFa will embed hyperlinks

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Copy the License and Mark Your Work

Copy the resulting license and graphic icon. The icon (normal or compact size) is not required but is helpful for quick user identification of the license.

Your work needs to be marked with this information in a way that is reasonable and suited to the medium you're working with. For example, you might include the license information on the cover page of a report, in the footer of a document, on the final slide of a slide deck, or the bottom of a web page.

If necessary, make any final edits reflecting the situations below:

- If your work contains resources with differing licenses (appropriately marked in the resource), your license statement should contain the wording "Except where otherwise noted" at the start of the statement.

- It is good practice to include the organization name as well as the URL of the original work upon which any adapted works are based.

- Funding providers may be referenced.

Note: It is important to mark both the resource itself as well as the web page. If the license info is only on the web page, this information will be lost as soon as the document gets downloaded and distributed. If your work is located on a web page, copy the generated HTML code and ask your web administrator to add to the specific page where the resource is located. This will increase discoverability of your resource so it can be found by search engines filtering for openly licensed resources.

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Here are three different examples:

Step 4: Spread the Word

Consider providing a link or uploading your resource to an open repository/referratory. Below are a few examples:

OER Commons

Curriki

Amazon Inspire

Edmoto Spotlight

Important Definitions

Attribution

Acknowledgement to credit the copyright holder of a work. You must include this with all elements of your work that are not your original content. A good rule of thumb is to provide the title, copyright holder, and license type with a link to all those sources.

> Example:
> Secondary Math One: Integrated Approach by Mathematics Vision Project is licensed under a Creative Commons Attribution 4.0 International License.

Remember that attribution is not a replacement for getting copyright permission!

Resources

> Best Practices for Attribution – Creative Commons Website | CC BY
> Quickstart Guide to Openly Licensed Images and Attribution by Office of Superintendent of Public Instruction| CC BY
> How to Attribute CC Photos - poster by foter | CC BY SA
> Attributing Creative Commons Material (pdf) - Creative Commons Australia | CC BY (AU)
> Open Attribution Builder by Open Washington at the State Board for Community and Technical Colleges | CC BY

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, fixing grammatical errors or adding a sentence to one paragraph would not meet this bar.

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. (Definition from Hewlett Foundation).

Open License

A license is a document that specifies what can and cannot be done with a work. It grants permissions and states restrictions. Broadly speaking, an open license is one that grants permission to access, re-use and redistribute a work with few or no restrictions (definition from Openedefinition.org).

Back to Beginning of Guide   *(go to page 1)*

Video Resources

What are Open Educational Resources?
Password: OER from Laura Rachfalski | CC BY

OER Playlist
Video channel from Council of Chief State School
Officers | CC BY

What are Creative Commons Licenses?
Creative Commons Kiwi from Creative Commons
New Zealand | CC BY

Why is Open Policy Important?
OER and Public Policy: Overview and
Opportunities from Open Washington at the
State Board for Community and Technical
Colleges | CC BY

Creating OER and Combining Licenses
The Orange Grove Repository | CC BY

Copyright Basics from the Copyright Clearance
Center | Standard YouTube License

Back to Beginning of Guide   *(go to page 1)*