

Open Licensing Requirement (2 CFR § 3474.20)

What is the Open Licensing Requirement?

The Open Licensing Requirement ([2 C.F.R. 3474.20](#)) went into effect on May 27, 2017 and was fully implemented in fiscal year 2018. The requirement applies to many of the Department of Education's (Department's) competitive grant programs. This requirement requires grantees to openly license deliverables created with grant funds and to publicly disseminate the products.

What does this requirement mean for grantees?

- If the Open Licensing Requirement applies to a grant program, the Notice Inviting Applications (NIA) for grants under that program will inform grant recipients that they must openly license any deliverable that is created with Department grant funds and constitutes a new copyrightable work.
- Copyrightable work could include curricula and supporting materials, professional development content, educational resources, toolkits, and other literary, pictorial/graphic, or audiovisual works, broadly defined.
- Grantees or subgrantees should apply an open license to their Department-funded deliverable that gives the public the ability to:
 - Access, reproduce, publicly perform, publicly display, and distribute the copyrightable work
 - Prepare derivative works and reproduce, publicly perform, publicly display and distribute those derivative works
 - Use the copyrightable work, provided that in all such instances attribution is given to the copyright holder.
- Openly licensed work should include the following:
 - A symbol or device that communicates to users the permissions granted concerning use.
 - A machine-readable code for digital resources.
 - Readily accessed legal terms.
 - A statement of attribution and disclaimer specified in 34 CFR § 75.620(b): "The contents of this (insert type of publication; e.g., book, report, film) were developed under a grant from the Department of Education. However, those contents do not necessarily represent the policy of the Department of Education, and you should not assume endorsement by the Federal Government."
- When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works.
- A grantee or sub-grantee that is awarded competitive grant funds must develop plans to disseminate the work. This plan can be developed after application and selection.

What are the benefits of open licensing?

- The public can use, reuse, modify, and share the openly licensed deliverables.
- The public can prepare derivative works of openly licensed works (i.e., build on, expand, or enhance openly licensed works).
- When using openly licensed copyrightable work, the public must provide attribution to the copyright holder.
- The open licensing requirement promotes enhanced dissemination of deliverables created with Department competitive grant funds to our stakeholders and members of the public.

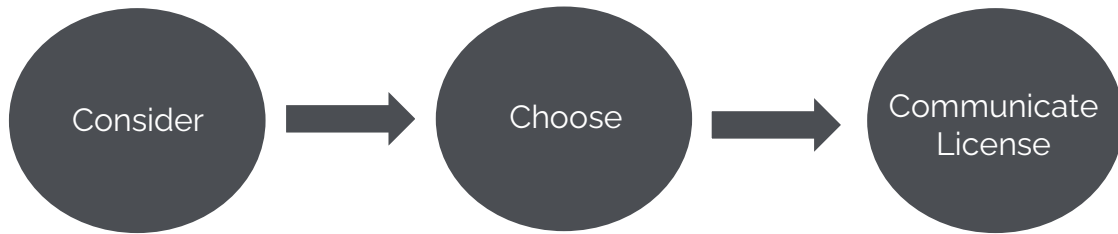
Exemptions include:

- Grants funding general operating expenses
- Grants that provide financial support for individuals (scholarships or fellowships)
- Grant deliverables jointly funded between the Department and another federal agency if the other federal agency does not require the open licensing of its grant deliverables for the relevant grant program
- Copyrightable works created by the grantee or subgrantee that are not created using Department funds
- Peer-reviewed scholarly work that arise from any scientific research funded, either fully or partially, from grants awarded by the Department
- Grantees or subgrantees under the Ready-to-Learn program
- Grantees or subgrantees excepted from the open licensing requirement by the Secretary on a case-by-case basis under 2 CFR § 3474.5 and 2 CFR § 200.102
- Grantees or subgrantees for which compliance with these requirements would conflict with, or materially undermine the ability to protect or enforce, other intellectual property rights or obligations of the grantee or subgrantee, in existence or under development.



Open Licensing Quick Tips

How do I apply an open license?



The license cannot be revoked, and only the copyright holder can apply an open license. Consider how you would want the material to be used and any obligations that may affect what type of license you should apply.

Select the open license that is appropriate for the type of content you want to share publicly and has the permissions you want to grant to others.

Communicate the license on the work, for example with a copyright notice in text with a link to the license.

What are examples of open licenses?

The Creative Commons licenses are widely used open licenses that are appropriate for many types of content.¹

Source: creativecommons.org/licenses

<u>License Type</u>	<u>Users must...</u>	<u>Symbol</u>
CC BY	Credit original author	
CC BY-SA	Credit author and license adaptations under the same terms.	
CC BY-NC	Credit author and use work for non-commercial purposes.	
CC BY-NC-SA	Credit author, use work for non-commercial purposes, and license adaptations under same terms.	

For more information, visit
www.tech.ed.gov/open

Or email the Office of Educational Technology at tech@ed.gov

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