

Ms. Sharon Leu  
United States 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,

Public Knowledge respectfully submits the following comments in response to the Department of Education's recent Notice of Proposed Rulemaking dated November 3, 2015. Public Knowledge is a nonprofit dedicated to representing the public's interest in policy debates on topics including intellectual property rights. Public Knowledge works to promote freedom of expression, an open internet, and access to affordable communications tools and creative works.

We believe that the Department's proposed §3474.20 for "Open Licensing Requirement for Direct Grant Programs" is an important step towards increasing both public access to, and the utility of, education tools and resources developed with public funding. By ensuring that works developed with Department funding are available under clear, standard open licensing terms, the Department will encourage further investment and development of resources by clearing access to these building block resources.

In order to ensure that the open licensing requirement is adopted in a manner that is clear and useful to potential users of the licensed materials, we encourage the Department to adopt the Creative Commons Attribution License (CC BY) as a standard. CC BY licensing has the benefit of being well known and well understood. Creative Commons licensing is already in use by many large-scale platforms. Wikipedia is licensed under Creative Commons, and Flickr has long given users the option of making their photos available under Creative Commons licensing. Similarly, US and international open education resource platforms and repositories have also adopted Creative Commons licensing. By adopting an open licensing standard that has broad familiarity, the Department can enhance the utility of its open licensing requirement and ensure that it has an immediate impact. Adopting new or non-standard licensing language may instead discourage or delay the adoption or integration of open education resources as potential users would have to spend time interpreting unfamiliar licensing language and reviewing legal interoperability issues among various custom licenses.

We also believe that the Department should take this opportunity to achieve comprehensive open licensing of Department funded resources. In particular we encourage the Department to reconsider the exceptions in §3474.20(c)(3). Access to peer reviewed research is as important as access to other educational materials, and we encourage the Department to consider applying a CC BY licensing standard for research that it funds. Finally, we note that the proposed rule is directed only at direct competitive grant funds. We understand that this is a subset of the work that the Department funds, and we encourage

to Department to consider broadening its approach to open licensing requirements across all of the work that it funds.

We firmly believe that the public is entitled to the fruits of public investment, and that includes investment in education resources. We further believe that the benefit to the public is enhanced when publicly funded works like education resources are made widely available and easy to use and build on, and that open licensing is the best means to achieving those objectives. In closing, we thank the Department for taking these steps towards promoting greater access to a wealth of education resources created with public funds, and we look forward to the Department's continued efforts towards that goal.

Sincerely,  
Raza Panjwani  
Policy Counsel  
Public Knowledge

Carolina Rossini  
Vice President, International Policy  
Public Knowledge