

American University

Supporting the Creation of OER with a Code of Best Practices for Fair Use

American University requests a \$249,860 LB21 Project Grant to conduct implementation activities for a Code of Best Practices in Fair Use for Open Educational Resources that will be released in Fall 2020. The goal of the Code is to create a community-based framework for evaluating fair use inclusions that aligns with the professional mission of educators and the predictable legal principles of fair use law. The activities proposed in this grant include training, OER project support, and co-drafted discipline-specific materials designed to engage librarians and build their capacity to use the Code as part of the guidance librarians provide to the creators of OER.

Statement of Broad Need: In order to expand the reach, impact, and quality of OER, educators must be able to incorporate selections from current and relevant materials as objects of critique, illustration, or reference, even when those materials are protected by copyright. Copyright exceptions such as fair use are critical for creating the most effective and inclusive materials, and in the OER community, uncertainty about fair use and fear of committing copyright infringement lead to overly restrictive practices. To combat this, a team of lawyers, librarians, and educators has developed a core Code of Best Practices for Fair Use for OER, focusing on questions that come up regularly across disciplines in the creation and modification of OER, and laying out a framework for evaluating fair use inclusions that aligns with the professional mission of educators and the predictable legal principles of fair use law. Previously, the team at American University has worked to draft 15 [Codes of Best Practices in Fair Use](#) with communities such as documentary filmmakers, art educators, media literacy teachers, academic librarians, and researchers, to provide them with clear, well-documented, and reliable ways to evaluate fair use.

The demand for copyright and fair use education in the OER community was demonstrated this spring in the emergency transition to online teaching, when members of this project partnered with others to deliver 15 webinars reaching approximately 2,100 live participants to address questions about fair use and OER. As we work with educators and authors to implement the Code, we believe that librarians have a unique role in the process of transforming the Code from a document to a part of OER practice. Because librarians lead many OER initiatives and serve as formal and informal copyright advisors, outreach and partnership with the librarian community is a key to driving adoption and changing practices. This project will build capacity for both librarians and educators to use the Code and support development of discipline-specific guidance on applying the Code to OER creation and expansion.

Project Design: To drive adoption of the Code within the OER community and to provide support for use of the Code in different academic disciplines we will: (1) host online train-the-trainers sessions with existing partners in the library OER community; (2) support discipline-specific teams of educators and librarians using the Code to create or improve OER; and (3) develop implementation materials for applying the Code in specific disciplines. Our team at American University Washington College of Law includes Meredith Jacob, project director for

the Copyright and Open Policy Project and Creative Commons USA public lead, Professor Peter Jaszi, professor emeritus of copyright law, and Prue Adler, former Associate Executive Director of the Association of Research Libraries. The team at AUWCL is joined by Will Cross, the Director of the Copyright & Digital Scholarship Center, NC State University Libraries.

In year one, we will partner with programs (including current IMLS grantees) such as the Library Copyright Institute, Creative Commons Certificate Program, OEN Certificate Program, and SPARC Open Education Leadership Program to engage campus OER leaders in online trainings aimed at familiarizing an initial cohort of OER librarians and authors with the Code. Three online trainings led by the co-PIs and a set of invited experts will emphasize the value of incorporating third party materials to improve the pedagogy, resilience, and inclusivity of OER.

After this initial training, we will recruit participants into small discipline-specific teams in areas such as STEM, language learning, health sciences, and LIS to use the Code to develop new OER, or substantially update and diversify existing high-impact OER. Over 9-12 months, we will have monthly online meetings to address each team's copyright challenges and help document their experiences.

In parallel to the OER creation, we will pay team members stipends to help us create discipline-specific implementation documents, and later to conduct online webinars and conference presentations in the target academic disciplines. Thus, these project teams serve to: (1) create new valuable OER, (2) offer those OERs as examples to the community about what can be enabled by fair use and (3) create a set of discipline-specific examples and other guidance to complement the core Code. We will employ webinars, a project website, and print materials to present an overview of fair use and OER, and to disseminate training materials (including case studies) along with discipline-specific guidance that nuances use of the Code in specific contexts.

Diversity Statement: OER is often cited as a tool for diversity, equity, and inclusion, but without critical evaluation it may replicate existing inequalities. While OER has the potential to enable more representational teaching materials, this requires referencing or including existing copyrighted content, and the Code is a powerful tool for that work. This project is designed to explicitly address issues of diversity and inclusion and will work to center underrepresented voices, by inviting and supporting diverse participants as developers, instructors, and authors. The project also places a strong emphasis on assuring accessibility through universal design.

Broad Impact: This project will prepare educators and librarians to understand and employ the Code so they can engage their communities to develop and improve OER on a broader scale. It will also support those communities as they pilot OER development using the Code and bring together lessons and examples to use when applying the Code in specific disciplines.

Budget: We request \$249,860 for this work. Of this, \$137,504 is for personnel costs for the four Co-Pis, \$83,000 for direct costs (\$12,000 for travel and conference fees, \$66,000 for participant support, and \$5,000 for publishing), and \$29,356 for a 19% off-campus indirect rate.