OER STATE POLICY PLAYBOOK

JANUARY 2018

Open Educational Resources (OER) are the solution to high college textbook prices that have increased by 88% over the last decade. OER can save students millions of dollars and make attending and completing college a reality.
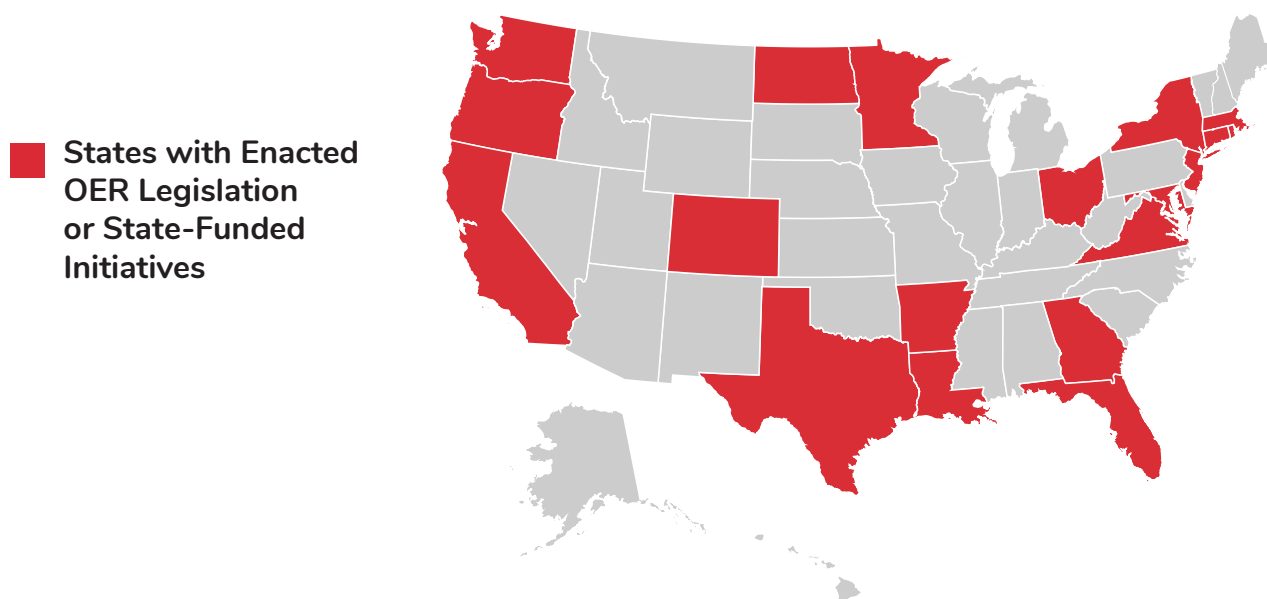
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WHY STATE-LEVEL OER POLICY?

The rising cost of higher education is about more than tuition—expensive textbooks and course materials remain a looming barrier to college affordability and access. Open educational resources (OER) are a solution to high-cost materials and state legislators are starting to take notice.

Open Educational Resources (OER) are freely available materials that can be downloaded, edited and shared to better serve all students. OER include all kinds of content such as textbooks, lesson plans, assignments, games, and other educational materials, and can include printed materials, not just digital.

Nearly half of all states have considered OER legislation in past years, and it has increasingly become a go-to strategy for legislators seeking to make college education more affordable and effective. States can catalyze and support action at institutions by providing resources, incentives, and policy frameworks.

This playbook provides a set of ideas that state legislators can consider to harness the power of OER to reduce college costs for students. Recommendations can be combined or pursued independently, and while not every recommendation is right for every state, each one offers a potential pathway to benefit students.

Check out SPARC's OER State Policy Tracker to see existing state policy and stay up to date on current legislation: **https://sparcopen.org/our-work/state-policy-tracking/**

States with Enacted OER Legislation or State-Funded Initiatives

Identify Stakeholders

Before crafting legislation, it's important to identify the stakeholders that would be impacted by OER legislation in your state. Understanding the stakeholders and their priorities in advance can help uncover opportunities and challenges.

Key stakeholders include:

- **Students:** Students are the main beneficiaries of OER. They care about reducing costs and can be powerful allies on campus and in the legislature.
- **Faculty/Teachers:** Faculty care about students and want to ensure their right to select course materials is protected.
- **Librarians:** Librarians are often the go-to OER expert on campus. They can help convene stakeholders and support faculty to find and use OER.
- **Bookstore:** The campus bookstore is typically responsible for delivering course materials to students and is an important ally on OER.
- **Disability Support Services:** Like all course materials, making OER accessible to every student is important. Engaging disability services in advance can ensure OER benefits all students.
- **Administrators:** OER programs need the support of the administration to reach the most students. Working with the college/university administration can ensure OER efforts are sustainable and impactful across all degree programs and academic units.

Other stakeholders to consider:

- Parents
- Library Consortia
- Publishing Companies
- Unions
- Education Nonprofits and Advocates

Define OER Carefully

A well designed and widely accepted OER definition will ensure the intent of your policy remains intact throughout the legislative process. The term "open" and open textbooks are easily confused with other policies in the education field and it is critical to define OER in every type of legislation. An educational resource is truly "open" if it is free of cost and access barriers with legal (open license) permissions for anyone to use, share and adapt it. A strong definition is important for students to have access to OER.

Example: Texas SB 810 (2017)

Open educational resources are "teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that allows for free use, reuse, modification, and sharing with others, including full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge."

Example: U.S. Department of Education Definition

Open licensed educational materials are "teaching, learning, and research resources that reside in the public domain or have been released under a license that permits their free use, reuse, modification, and sharing with others."

Establish an OER Grant Program:

Creating an OER grant program at the state level is one of the most effective ways to accelerate OER adoption and creation on campus. OER grant programs provide financial incentives to support faculty use and development of OER, and help raise awareness of OER's advantages and availability. States that have funded new or existing OER grant programs have generated an enormous return on investment. In Georgia, $2.7 million in grants saved students an estimated $26.8 million, and in North Dakota, a program funded with $110,000 saved students an estimated $2 million. Financial incentives can accelerate faculty adoption and increase the impact of OER on students and families. This can be accomplished through a standalone bill with appropriated funds or as a line item in the state budget.

Example: Texas SB 810 (2017)

The board shall establish and administer a grant program to encourage faculty at institutions of higher education to adopt, modify, redesign, or develop courses that use only open educational resources.

Example: Maryland SB 424 (2017)

The Governor shall include $ 100,000 in general funds in the state budget for the purpose of providing a grant to the William E. Kirwan Center for Academic Innovation at the University System of Maryland for the Maryland Open Source Textbook Initiative.

Require OER to be Marked in Course Schedules:

Even at institutions with OER programs and initiatives, not all students know that OER is an option. Requiring that OER be designated in course catalogues when a student registers for classes spreads awareness of OER programs and improves transparency allowing students to be smart consumers when selecting courses.

Example: Texas SB 810 (2017)

(a) Each institution of higher education shall:

    (1) for each semester or academic term, compile a course schedule indicating each course offered by the institution for the semester or term to postsecondary students;

    (2) with respect to each course, include with the schedule a list of the required and recommended textbooks that specifies, to the extent practicable, the following information for each textbook:

        (A) the retail price;
        (B) the author;
        (C) the publisher;
        (D) the most recent copyright date;
        (E) the International Standard Book Number assigned, if any; and
        (F) whether the textbook is an open educational resource;

Example: Washington HB 1375 (2017)

To the maximum extent practicable, an institution of higher education shall provide the following information to students during registration by displaying it in the online course description or by providing a link that connects to the bookstore's web site or other web site where students can search and view:

    (a) The cost of any required textbook or other course materials; and
    (b) Whether a course uses open educational resources.

Create a Task Force or Council:

Some states have created a task force or council to lead OER work. While in some states this has already formed organically, states that are in need of stronger coordination could benefit from a formal body that brings institutions and stakeholders to the table. Creation of a task force or council can be accomplished through state appropriations, authorizing legislation, or a resolution.

Example: Colorado SB 258 (2017)

There is created in the Department of Higher Education the Open Educational Resources Council, which is comprised of the following members:

(a) Ten persons from public institutions of higher education appointed by the Executive Director as follows:

1.) Four faculty members
2.) Three library professionals
3.) One instructional design expert
4.) One informational technology expert
5.) One administrator

(b) The Council shall review and evaluate the extent to which each public institution of higher education is using open educational resources and options for and obstacles for increasing the use of open educational resources at public institutions of higher education.

SB 258 charged the Council with writing a report on OER that was released in December 2017.

Issue a Savings Challenge:

One of the biggest barriers with OER is raising awareness with institutions and faculty. While high quality OER are available across many subjects, many faculty and students remain unaware that it is an option. A strong, visible statement made by a governor, legislature, top-level administrator, or state agency can direct tremendous attention to an issue. Challenges should always be positive, and respect that faculty have a right to select the textbooks most appropriate for their courses.

Example: Rhode Island (2016)

In the fall of 2016, Rhode Island Governor Gina Raimondo issued a challenge to the state's higher education institutions to save students $5 million over 5 years through the use of open textbooks. The announcement brought more than half of RI's institutions to the table, and within the first two months the initiative has already begun saving students money.

Example: North Dakota HCR 3013 (2013) Resolution

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-third Legislative Assembly urges the State Board of Higher Education and faculty members of North Dakota University System institutions to increase the use of open textbooks for academic courses in order to reduce the financial burden to higher education students; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to each member of the State Board of Higher Education, to the Chancellor of the North Dakota University System, and to each North Dakota University System institution president.

Respect Academic Freedom

When advocating for OER state policy in higher education, it is important to respect the right of faculty to select materials most appropriate for their courses. States can most effectively advance OER by encouraging and supporting faculty to adopt OER when it is appropriate for students. Never impose mandates or pressure.

- Ensure that policies are designed to encourage and support OER use, not mandate or pressure it.
- Consider speaking to faculty leaders in advance to communicate the intent to respect academic freedom.
- Consider including language that recognizes that the legislation should not be construed to infringe on academic freedom or the right of faculty to select course materials.

Support Students with Disabilities through OER

Many students with disabilities face barriers when accessing their course materials, no matter what type of resources they use. This can mean that students do not have their course materials at the beginning of the course, making teaching and learning more difficult. OER offers many inherent advantages to students with disabilities, and creators have taken significant steps to ensure OER is accessible to all students. Making OER equally accessible to students with disabilities is an important policy consideration.

> **Example: Maryland SB 424 (2017)**
>
> To the extent practicable, funds allocated under subsection (B) of this section shall be for the adoption, adaptation, and creation of openly licensed educational resources that are equally accessible to and independently usable by individuals with disabilities.

SPARC OER State Policy Tracker

Stay up to date on OER policy in your state.

SPARC (the Scholarly Publishing and Academic Resources Coalition) is a global coalition committed to making Open the default for research and education. SPARC works to enable the open sharing of research outputs and educational materials in order to democratize access to knowledge, accelerate discovery, and increase the return on our investment in research and education. Our membership is comprised primarily of 200+ academic and research libraries in North America spanning nearly every U.S. state.

sparcopen.org

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Creative Commons USA OER State Legislative Guide

Learn more about the strengths and weaknesses of OER state legislation.

Creative Commons USA is a chapter of the CC Global Network. We focus on furthering progress toward open culture, open education, open data, and open access to research in the United States. We provide legal expertise and advise decision-makers on open licensing.

creativecommonsusa.org

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This appendix includes every bill discussed in this playbook with their respective OER features for reference.

Colorado SB 258 (2017) bit.ly/COSB258

- Strong definition of OER
- OER council

Connecticut HB 6117 (2015) bit.ly/CTHB6117

- Strong definition of OER
- OER grant program
- OER task force

Maryland SB 424 (2017) bit.ly/MDSB424

- OER grant program
- Clause supporting students with disabilities

North Dakota HCR 3013 (2013) bit.ly/NDHCR3013

- Resolution
- Asks state/faculty to increase use of OER

Texas SB 810 (2017) bit.ly/TXSB810

- Strong definition of OER
- OER grant program
- Course marked in course schedule
- Study for OER state repository

Washington HB 1375 (2017) bit.ly/WAHB1375

- OER marked in course schedule