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OER State Policy Playbook [DRAFT]

SPARC

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Cover Page

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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 teaching and learning materials that can be freely used, downloaded and shared to better serve all students. OER include all kinds of content such as textbooks, lesson plans, assignments, games, and more, and can include printed materials, not just digital materials.

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.

Getting Started

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 before introducing legislation can help uncover opportunities and challenges.

Examples of stakeholders include:
- **Students:** Students are the main beneficiaries of OER, students 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 help faculty find content for their courses and are often the "OER expert" on campus. They can help convene stakeholders and train faculty on how to use OER.
- **Bookstore:** The 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 students is critical. Working with this Disability office is important for successful implementation of any OER initiative.
- **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: teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that allows for the free use, reuse, modification, and sharing with others, including full courses, course materials, modules, textbooks, streaming videos, tests, software, and another 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."

Recommendations for State-Level Policies

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 of faculty use and development of OER, and help promote awareness of OER's advantages and availability. States that have provided funds to new or existing OER programs have generated an enormous return on investment in terms of student savings. In Georgia, $2.7 million in grants saved students an estimated $26.8 million, and in North Dakota, a program funded with $110,000 has 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 stand alone bill with funds appropriated after passage or as a line item in the state budget.

> *Example:* Texas SB 810 (2017)
> Open Educational Resources Grant Program
> 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 consortium 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 task force that brings institutions and stakeholders to the table. Creation of a task force 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.

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.

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.

Other Considerations

Support Students with Disabilities through OER

Many students with disabilities face barriers when accessing their course materials. This can mean that students do not have their course materials at the beginning of the course, making teaching and learning more difficult. OER creators and users have taken significant steps to ensure OER is accessible to all students. It is important that the state encourages institutions and faculty to make OER equally accessible to students with disabilities.

> *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.

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. The role of the state is to encourage and support faculty to adopt OER when it is appropriate for students, not to 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.

Helpful Resources

SPARC OER State Policy Tracker: https://sparcopen.org/our-work/state-policy-tracking/

Creative Commons-USA Analysis of State Legislation:
https://creativecommonsusa.org/wp-content/uploads/2017/12/Final-Legislative-Companion.pdf

Bill Appendix

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

Colorado SB 258 (2017)
- Strong definition of OER
- OER council

Connecticut HB 6117 (2015)
- Strong definition of OER
- OER grant program
- OER task force

Maryland SB 424 (2017)
- OER grant program
- Clause supporting students with disabilities

North Dakota HCR 3013 (2013)
- Resolution
- Asks state/faculty to increase use of OER

Texas SB 810 (2017)
- Strong definition of OER
- OER grant program
- Course marked in course schedule
- Study for OER state repository

Washington HB 1375 (2017)
- OER marked in course schedule