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VIA EMAIL AND U.S. MAIL

Rob Kasunic
Associate Register of Copyrights
U.S. Copyright Office
101 Independence Ave. S.E.
Washington, D.C. 20559-6000
rkas@loc.gov

Re: Registrations for Edicts of Government of the State of Idaho

Dear Rob,

I represent Public.Resource.Org, a nonprofit organization which makes primary legal materials widely available to the public without charge. Some of those primary legal materials are state statutes. We understand that it is the policy of the Copyright Office to refuse registration of such edicts of government, as set forth in the *Compendium of Copyright Office Practices II* ("*Compendium II*"):

> 206.01 Edicts of government.
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> Edicts of government, such as judicial opinions, administrative rulings, legislative enactments, public ordinances, and similar official legal documents are not copyrightable for reasons of public policy. This applies to such works whether they are Federal, State, or local as well as to those of foreign governments.
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> 617.02 Government works: edicts of government.
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> An application we question if the claim appears to extend to any edict of government, such as judicial opinions, administrative rulings, legislative enactments, public ordinances, and similar legal documents, whether Federal, State, local, or foreign, since such materials are not copyrightable for reasons of public policy. See also section 206.01 of CHAPTER 200: COPYRIGHTABLE MATTER- IN GENERAL.
>
> Example:

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> Application is submitted for registration of a work consisting entirely of a State statute. Registration will be refused.

The rejection of such registrations not only represents sound policy, but has a strong basis in law. "'[T]he law,' whether it has its source in judicial opinions or statutes, ordinances or regulations, is not subject to federal copyright law." *Veeck v. Southern Building Code Congress Int'l, Inc.*, 293 F.3d 791, 800 (5th Cir. 2002) (en banc). *See also, e.g.*, *Howell v. Miller*, 91 F. 129, 137 (6th Cir. 1898) ("no one can obtain the exclusive right to publish the laws of a state," and anyone may reproduce "the general laws of Michigan as therein printed" in the official code books).

Accordingly, any application making a claim to copyright in a work consisting largely or entirely of state statutes should be carefully scrutinized to determine whether the subject of the claim is an edict of government in its entirety, or whether it instead contains original expression that does not constitute the law or an official edition or interpretation thereof or commentary thereon. Where the work contains sufficient expression that does not constitute such an edict of government, the registration may issue, but should clearly identify the scope of the claim being registered. For example, an unofficial edition of state statutes containing a particular private expert's commentaries thereon may be registered, but its claim must be limited to the text of that commentary.

In reviewing records of copyright registration, we have observed that registrations in works containing state statutes do not always clearly limit the registration to exclude edicts of government. Indeed, in a number of cases it appears that registrations have issued with respect to official editions of state statutes, which constitute edicts of government in their entirety by virtue of their official status.

A small sample of recent registrations for such works is below.

Registration No.	**Date**	**Claimant**	**Title**	**Basis of Claim**	**C.O. Corresp.?**
TX0007821321	2014-03-13	State of Idaho	Idaho Code 2014 Advance Code Service	"editing, text"	No
TX0007792772	2013-12-23	State of Idaho	Idaho Code 2014 Advance Code Service	"editing, text"	No
TX0007754536	2013-10-25	State of Idaho	Idaho Code 2014 Advance Code Service	"editing, text"	No
TX0007729548	2013-08-08	State of Idaho	Idaho Education Laws and Rules 2013 Edition.	"editing"	No
TX0007712450	2013-07-19	State of Idaho	Idaho Code 2013 Cumulative Supplements	"editing"	No

The Office may wish to consider making a fuller record with respect to future registrations of this type, to ensure that the public record is clear that edicts of government are excluded from the claims which are registered. It is also, of course, within the power of the Office to cancel these and similar registrations on the ground that they do not contain authorship subject to copyright. *See Compendium II* § 632.02(a).

Public.Resource.Org appreciates the Office's continued vigilance in ensuring that copyright fulfills its critical role in encouraging the creation and dissemination of expressive works, and is not misunderstood as a tool to control who is permitted to speak the law.

Very truly yours,

Joseph C. Gratz

JCG: