

0907 INTELLECTUAL PROPERTY

“Intellectual property” is a generic term referring to patents, trademarks, copyrights, trade secrets, and any other tangible personal property that is created through the intellectual efforts of its creator or creators. The Department creates and owns intellectual property and uses intellectual property created and owned by others. The rights related to intellectual property exist in and of themselves, apart from the actual creation. That is, while a person may physically own a painting, musical recording, photographic print, etc., the actual owner of the intellectual property rights connected to said material is the creator of the property, unless those rights were explicitly assigned, given, or sold by the creator to another party.

For more information about intellectual property rights, see the Department's *Intellectual Property Handbook*.

0907.1 Intellectual Property Policy

It is the policy of the Department to:

- Protect its intellectual property rights by properly documenting and, when appropriate, formally registering intellectual property created or acquired by the Department. (Section 0906.1 provides policies and guidelines for the proper documentation of photographic materials owned by the Department.)
- Protect its intellectual property against unauthorized use, whether intentional or unintentional, by individuals or organizations, to the extent practicable.
- Obtain ownership or appropriate license rights to intellectual property created pursuant to contracts between the Department and third parties.
- Grant licenses for use of material copyrighted by the Department when it furthers the mission and goals of the Department and benefits the public. Copyright licensing should be consistent with providing maximum protection of the integrity of the copyrighted material while allowing public access and use under the appropriate conditions. (For more information on copyright licensing, including forms, see Section 0907.2.3)
- Grant licenses for use of the Department's trademarks only when appropriate to promote the public's recognition of products and services associated with the Department, and increase the Department's visibility while also protecting the integrity of the Department, its goals and mission. (For more information on trademark licensing, see Section 0907.2.3)
- Avoid infringing on intellectual property rights owned by others. The Department should use its best efforts to document ownership of copyrights in connection with materials in the Department's possession and seek permission for use of material in which the Department does not own the copyright when required by the applicable laws. (For more information on the use of intellectual property owned by outside entities, including forms, see Section 0907.4)
- Require that any person or entity using copyrighted material obtained from the Department take full responsibility for avoiding any infringement resulting from that use. Where the Department does not own the copyright for the material it provides, the Department should notify the prospective user, and it will be the user's responsibility to obtain a license from the appropriate source.

0907.2 **Department-owned Intellectual Property**

Generally, the Department owns the rights to all intellectual property created by employees in the scope of their employment; by volunteers who create property on volunteer time and have a current, signed Volunteer Service Agreement; by contractors; and by cooperating associations. In these instances, the product is considered a work made for hire and the copyright is owned by the Department unless there is a separate written agreement that specifies otherwise. Thus, the Department generally owns the intellectual property rights to works created by its employees, volunteers, and contractors within the scope of their employment, agreement or contract.

0907.2.1 **Department-owned Intellectual Property Policy**

All volunteers shall have a written agreement in place that clearly delineates the Department's ownership of the copyright in works created by the volunteer within the scope of his assigned volunteer duties. (The standard DPR volunteer services agreement has a boilerplate provision covering intellectual property; if the language in this agreement is amended, it must be approved by the Chief of the Interpretation and Education Division.)

Department contracts for services with a third party that involve production of creative works shall include an explicit agreement that the products of the contract are intended to be works for hire and that the Department will be the owner of the copyrights to the created materials. This language appears in the Department's standard services agreement.

0907.2.2 **Notice of Copyright and Trademark Policy**

To protect a copyright, notice of copyright shall be placed on publicly distributed copies of the copyrighted material. This notice must include the copyright symbol (©), followed by year of first publication and the name of the copyright owner (and the month and year of last revision if applicable). For example, © 2000 California State Parks (rev. 12/04). In lieu of using the copyright symbol (©) the word "Copyright" or the abbreviation "Copr." may also be used. It is important to maintain the year of first publication in the copyright line (rather than replacing it with a new year each time an item is reproduced) in order to protect the Department's ability to enforce its ownership of a copyright.

The registration symbol (®) shall be used in connection with each use of registered trademark logos unless it is infeasible from a design or fabrication standpoint (such as for patches or decals). Alternatively, if the registration symbol is not used at all (for design reasons, for example), a statement that the name or design is a registered trademark of the California Department of Parks and Recreation, registered with the U.S. Patent and Trademark Office, may be used somewhere on the material (e.g., on copyright page, on credits screen, at bottom of panel) to provide notice of registration. For registered trademarked names, however, it is not necessary to use the symbol with every subsequent use of the trademarked name in/on the same material once the name has initially appeared with the symbol (or, as stated above, a statement is made somewhere in the material that the name is a registered trademark). The "™" symbol shall be used to designate trademarks that are in the process of being federally registered.

0907.2.3 **License Agreements for Department-owned Intellectual Property**

Both trademarks and copyrights can be licensed for use by non-Departmental persons or entities. Use of Departmental intellectual property displayed on a website or in any other electronic medium is subject to the same licensing requirements as any other use of intellectual property.

0907.2.3.1 **License Agreements for Department-owned Intellectual Property Policy**

The Department shall require that any person or entity using copyrighted material obtained from the Department take full responsibility for avoiding any infringement resulting from that use. Where the Department does not own the copyright for the material it provides, the Department will notify the prospective user, and it will be the user's responsibility to obtain a license from the appropriate source. (The DPR 990 and 990A forms both contain language that addresses this requirement.)

Forms DPR 990 and 990A shall be used to license use of copyrighted materials by external entities. If the standard language in either of these forms is customized in order to allow for different use than the standard language allows, the customized form must be reviewed and approved by the Department's Legal Office prior to signing. Copyright license agreements must be signed by the District Superintendent (or Division Chief for Headquarters units) or his or her designee, and a copy of each agreement must be sent to the Interpretation and Education Division for filing. Alternate forms provided by an outside entity may not be used nor signed by the Department unless they have been reviewed and approved by the Legal Office.

Districts and other Department offices shall not grant trademark licenses without first consulting with the Legal Office. For use of the Department logo, all external entities must obtain written permission from the Chief of the Interpretation and Education Division, documented by an appropriate license agreement, unless the license is being granted as part of a contract that includes the Department's standard language for logo/trademark use, such as the standard cooperating association contract or concessions contract. Copies of all trademark licenses and contracts/agreements with language that licenses use of Department trademarks must be sent to the Interpretation and Education Division for filing.

The Department may charge licensing fees for use of its intellectual property by outside entities. General questions about license fees may be directed to the Interpretation and Education Division. For specific questions, or to put in place a policy of charging license fees, consult with the Legal Office. When the licensee has made some contribution towards the creation of the intellectual property, the Department does not normally charge license fees.

0907.2.4 **Department-Owned Visual Media**

To allow greatest use of visual resources, employees may copy Department-owned materials for distribution. Whenever copies of photographs, digital images, etc. are made or provided, documentation on the materials must be transferred to the copies. See policies above on requirements for licensing use of intellectual property (which includes visual media) by entities outside the Department and information below on the use of the DPR 993 form when distributing copies of visual media within the Department.

0907.2.4.1 **Department-Owned Visual Media Policy**

When copying images for which the Department holds copyright, staff members shall transfer the following minimum information from the original to the copy:

- Original photographer's last name and first initial
- Park name or location
- Date photograph was taken (as specific as possible)
- Primary subject matter (determined by original photographer)

Duplication of visual materials from the Department's Photographic Archives requires the completion of the DPR 108 Photographic Work Request form, with appropriate approval by the District Interpretive Coordinator or designated staff member.

0907.3 **Intellectual Property Developed by a Cooperating Association**

The copyright for original works of authorship created with the joint resources of a cooperating association and the Department may be owned by the Department, the cooperating association, or both. Sole ownership by the Department is preferable. Standard default language protecting the Department's intellectual property rights is included in all cooperating association contracts.

0907.3.1 **Intellectual Property Developed by a Cooperating Association Policy**

Any changes to the cooperating association standard contract language in relation to intellectual property rights must be approved by the Department's Legal Office. In special situations where a copyright is to be owned by a cooperating association and the Department needs to have the ability to use the work, the Department shall strive to obtain a license from the association for the Department's convenient use of the material.

0907.4 **Intellectual Property Not Owned by the Department**

The Department often uses intellectual property owned by external entities. In order to do so, the Department must secure written permission to use the material from the individual or organization/agency that owns the intellectual property rights to the material; this includes videos the Department would like to show in specific parks. In some cases, it may not be possible to secure permission for use due to an inability to locate or determine the owner of the material. If this is the case, a thorough search shall be conducted using all available sources of information (Internet, libraries and repositories, word of mouth, etc.), and written documentation of the research conducted in trying to locate or determine the owner must be retained with the files for the project where the material is to be used.

It is important to note that "use" of intellectual property in relation to the policies below includes public performance. These policies therefore apply to any playing of music in state parks or showing of videos or other media.

0907.4.1 Intellectual Property Not Owned by the Department Policy

The Department shall make a good faith effort to identify the copyright owner of material it is seeking to use. If, after making this effort, the Department is unable to identify or locate the copyright owner, the material may be used. In these instances, all documentation regarding research conducted to identify and locate the copyright owner shall be retained with the master file for the project in which the material was used.

Employees and volunteers who have created intellectual property on their own time, using their own equipment, and requiring no special access to locations, resources, or facilities, may license material for use by the Department. In such instances, a written license agreement must be executed, and credit given as specified in the policies below. Employees and volunteers seeking to retain ownership of intellectual property created on their own time, using their own equipment, and through no special access must follow all rules and regulations required of any member of the general public (e.g., obtain the necessary permit from the California Film Commission for filming and commercial photography on State property). Additionally, employees must ensure they meet the criteria contained in the Department's Conflict of Interest and Incompatible Activities policies (see DAM 0200, Incompatible Activities, and DAM 1500, Labor Relations).

DPR 992A, Copyright License Agreement, shall be used for material the Department would like to use but for which the copyright would be retained by the copyright holder. DPR 992B, Copyright Assignment Agreement, shall be used when the copyright holder is agreeing to transfer ownership rights to the Department. Forms or letters supplied by the intellectual property owner are also acceptable if they express the owner's permission to use said intellectual property and outline permitted Department uses, but should be reviewed by the Legal Office if they contain any requirements that cause concern, such as indemnification language. Copyright License Agreement forms shall be kept on file with the project or publication in which the material being licensed was used. Copyright Assignment Agreement forms shall be filed with the material being transferred to the Department. If the material is sent to another location in the Department, a copy of any such forms shall accompany it.

The Department shall obtain from the copyright owner completed release/consent documentation whenever the material it seeks to use features identifiable images or likenesses of members of the public. The documentation provided by the copyright owner shall be retained with the file for the project in which the material is being used.

0907.5 Credits for Intellectual Property Policy

Listing credits for Department-owned intellectual property created by employees, volunteers or contractors shall be determined by the District Superintendent (or Headquarters Division Chief) or his or her designee. Issues that should be taken into consideration include whether there is a clear author or creator of the intellectual property (as opposed to a team of people), whether space allows for credits given the nature of the product in question, and whether the location of credits will affect the overall design and appeal of the product.

Credit must be given for use of intellectual property owned by external entities. Usually, such credit is requested by the owner, who specifies the language to be used—generally either “Courtesy of [name of owner]” or “© [date of creation, if

provided and applicable] [name of owner].” Ordinarily such language is used next to or below the material being used (such as for a photograph), or is listed on a copyright page, credit screen of a video, or bottom of an interpretive panel. In relation to listing the name of the intellectual property owner, be aware this may be either an individual’s personal name, or the name of a business, organization, or agency. However, additional information such as logos and website addresses (unless the website address is itself the name of a business), shall not be included.

0907.6 **Copy Equipment Posting Policy**

In order to assist in the implementation of the Department’s intellectual property policies, and in accordance with the American Library Association’s recommendation, the following language is required to be posted at all copy equipment throughout the Department: “The Copyright Law of the United States (Title 17 U.S. Code) governs the making of photocopies or other reproductions of copyrighted material. The person using this material is liable for any infringement.”

0907.7 **Department Name Policy**

California State Parks is the approved name to use for the Department. When used to refer to the Department, this name is used in the singular and is grammatically correct with singular verbs (for example, “California State Parks manages a wide array of natural and cultural resources”). This name should not be prefaced with the article “the” (for example, “California State Parks provides educational opportunities for young and old alike” is correct, while “The California State Parks manages a number of grant programs for local park districts” is incorrect). Previously created signs, publications, videos, etc., that feature other Department names are acceptable only until such time as they are replaced. All new material should use the current “California State Parks” name as detailed in this notice.

Depending on individual circumstances, the use of the term “the department” or “the Department” may be appropriate (such as in operational documents, plans and reports) and is allowed after the name California State Parks has been introduced in a document. The decision as to whether to use the lowercase “department” versus the capitalized “Department” is at the discretion of the office preparing the document in question, but whichever option is chosen, it must be used consistently throughout the document.

Alternative names should not be used except under the following specific circumstances:

- *California Department of Parks and Recreation* - This is the legal name of the Department, and should be used in situations where the legal name is called for (for example, references in state codes and regulations, legal documents such as contracts, court filings, administrative filings, official documents, etc.).
- *California State Park System* - This name collectively refers to all of the classified and unclassified park properties managed by the Department. It should only be used in circumstances when all parks are being referred to as a collective unit and the use of the name California State Parks is not appropriate (for example, “The California State Park System serves visitors from throughout the world.”). The term “California’s state parks” can be used

as an alternative to refer to the units that make up the California State Park System, and in such an instance, the words "state" and "parks" would not be capitalized.

0907.8 **Department Logo Policy**

It is the policy of the Department that the Department logo should be displayed on all products produced by or copyrighted to California State Parks, wherever practical, to build the strongest possible visibility and recognition for the Department and its resources, services, products and personnel. Where appropriate, this will be done in conjunction with approved individual unit marks/logos. The Department logo shall be used in/on publications, web pages, audio-visual programs, letterhead, envelopes, business cards, mailing labels, fax coversheets, press releases, vehicle and equipment decals, signs and panels, State Park passes, and other such products and property as might be appropriate. Previously created signs, publications, videos, etc., that feature old Department logos are acceptable only until such time as they can be replaced.

When Department offices, or individual employees, are having the logo embroidered or screened onto fabric, a sample must be sent to the Chief of the Interpretation and Education Division for review and approval before production unless the work is being done by a pre-approved vendor (vendor list available from the Interpretation and Education Division). It is strongly advised that a mock-up of the intended use of the logo be sent to the Interpretation and Education Division before a sample is made in order to avoid incurring costs for a use that may not be approved.

Use of the logo is restricted to Department publications and activities, unless the Department allows otherwise. Use of the logo by external entities, including cooperating associations and concessionaires, must not be allowed unless the association created through use of the logo is consistent with promoting the goodwill of the Department and the Department's goals. When the logo is used by an external entity, the following policies apply:

- A written license agreement must be executed by the Department and the third party entity, confirming the terms and conditions of use. This may be incorporated into an existing agreement (e.g., concession and cooperating association contracts, donor agreements, memoranda of agreement or understanding) or may be crafted as a separate license agreement. Agreements that incorporate logo license language must be reviewed and approved by the Legal Office prior to approval. Copies of all such agreements must be sent to the Interpretation and Education Division for permanent retention.
- Once an entity has been licensed, advance approval must be obtained before each specific use of the logo. For entities using the logo under a stand-alone license agreement, that approval must come from the Chief of the Interpretation and Education Division, or his or her designee. For entities using the logo under language contained in a valid contract or other written agreement (such as a Memorandum of Understanding or Memorandum of Agreement), approval must come from the California State Parks employee responsible for administering that contract or agreement, or his or her designee.
- The logo shall not be the most prominent design element (unless the license agreement states otherwise, such as when the logo is used on uniforms and merchandise).

- The logo shall not be used in a manner that implies editorial content has been authored by or represents the views or opinions of the Department.
- The logo shall not be used in any venue that displays adult content, promotes gambling, involves the sale of tobacco or alcohol, or violates applicable law.
- The logo shall not be used in a manner that is determined by the Department in its sole discretion to be misleading, defamatory, infringing, libelous, disparaging, obscene, or otherwise objectionable.

0907.8.1 **Specific Logo Use Policies**

It is the policy of the Department that:

- Because the logo is a trademark registered with the U.S. Patent and Trademark Office, the registration symbol ® must be used in connection with each use of the logo unless it is infeasible from a design or fabrication standpoint (such as for patches or decals). The ® registration symbol must now be used instead of the trademark symbol ™ that had previously accompanied the logo before it was registered. Versions of the logo with the ™ symbol may no longer be used.
- Logo components may not be altered, and the components of the logo may not be used separately. For instance, the bear cannot be used alone or replaced with another element and/or the lettering cannot be used without the bear or replaced with different words.
- The logo may not be used to create other, new logos.
- The logo must always appear clear and crisp.
- The logo may not be tilted, skewed, or distorted.
- To maintain clarity, the logo must be a minimum of 5/8" in diameter.
- The logo may be reproduced only from camera-ready proofs or electronic printing files. It may not be redrawn or traced.
- Due to its low resolution, the logo may not be downloaded and printed from the Department's website.
- The logo may not be cropped, overprinted, screened, superimposed, or printed behind art or copy.
- To make sure the logo stands out clearly, it must be placed within an area of unobstructed space. This also applies to the placement of the logo relative to the edge of a page or screen. There are two ways to determine the clear zone around the logo:
 - The space must be the "1" height of the type in the word "CALIFORNIA" in the logo.
 - The space must be approximately 1/8 of the diameter of the logo. For example, if the logo is 2 inches in diameter, then the clear zone would measure 1/4 of an inch.
- The full-color logo may not be converted to grayscale. Instead, the black-and-white version of the logo must be used.
- The full-color logo may not be copied on a black ink photocopier (except in the case of providing printouts of presentations that use the color logo). Instead, the black-and-white version of the logo should be used.

- The logo, in both full-color and black-and-white, may be used on colored paper, backgrounds, and fabrics.
- When printing in less than four colors, only the black-and-white version of the logo may be used. When printing in more than one color, the logo must be printed in the darkest color available.
- When embroidering the logo or screening it onto fabric, the full-color version may be used, or the black-and-white version of the logo can be reproduced in any single color.
- Except in the case of printing, screening, or embroidering the logo in one color as specified in the policies above, the logo colors may not be added to, changed or altered.
- Exceptions to the policies above must be approved by the Chief of the Interpretation and Education Division.