

**Copyright FAQs
for
University of Toronto
Instructors**



Copyright FAQs for UofT Instructors

It is a common misconception that the latitude given by copyright law for educational uses is significant. In fact, the Canadian Copyright Act provides for a relatively narrow set of exceptions for educational use. Many very common pedagogic practices can result in copyright infringement unless the appropriate safeguards are observed. Copyright Act exceptions are supplemented by a number of agreements that the University has entered into with publishers and copyright collectives, but these arrangements too are limited in scope.

It is therefore necessary to be cautious when using any literary, dramatic, musical or artistic work in an educational setting that is not your own. This caution should be exercised whether you are photocopying portions of a textbook to include in your course materials, showing a movie in class, or handing out copies of your favourite poem to students for discussion purposes only.

The following answers to frequently asked questions provide a general overview of the exceptions available to educational institutions, as well as certain licensing arrangements that permit practices that would otherwise constitute copyright infringement.

Teaching

Print Materials

1. What can I copy without seeking permission?

There are three different levels of limitations on copying without having to seek permission.

a. Specific Agreements

The University has an agreement with Access Copyright, a copyright collective that represents most publishers, that allows you to copy certain printed materials without seeking permission. Under this agreement, you can copy up to 10% of any written copyrighted work, or any of the following:

- an entire newspaper article,
- an entire short story, play, poem, essay or article from a book,
- an entire single item of print music from a book,
- an entire entry from reference material (such as a dictionary),
- an entire reproduction of an artistic work from a book (such as a drawing or sculpture), or
- an entire chapter of a book which is 20% or less of the entire length of that book.

In addition to the Access Copyright agreement, the University has entered into licensing agreements with a number of on-line publishers. In accordance with some of these agreements, the University is permitted to reproduce and include copies of the licensed materials for use in “course packs” or classroom instruction. Different stipulations apply in each case, and the individual agreements should be consulted for absolute certainty. For more information, please contact Custom Publishing at the UofT Bookstore, (416) 640-5333 or e-mail: custompub@uoftbookstore.com.

b. Specific Exceptions

In addition to the “Access Copyright” agreement, the following exceptions are explicitly set out in the Copyright Act. You can do the following without first obtaining permission:

- make a manual reproduction of a work onto a dry-erase board, flip chart or other similar surface,
- make a copy of a work to be used to project an image of that copy using an overhead projector or similar device, and
- for the purposes of a test or examination,
 - reproduce, translate or perform a work in public on the premises of the University, or
 - communicate a work by telecommunication to the public situated on the premises of the University.

In order for these exceptions to apply:

- you must be using the work for purposes of education or training,
- the activities in question must be taking place on the premises of the University or another place controlled by it, and
- the work which you are copying must not be commercially available in a medium appropriate for your purpose.

c. The “Fair Dealing” Exemptions

The general “fair dealing” exceptions under the Copyright Act permit certain uses of copyrighted material for purposes of research, private study, criticism, review, or news reporting. With the possible exception of reproducing or performing excerpts of works for purposes of a critical classroom lecture, the fair dealing exceptions have little application in the classroom context and should not be relied upon.

2. How do I obtain permission if I need to copy additional material?

Contact Custom Publishing at the UofT Bookstore, (416) 640-5333 or e-mail: custompub@uoftbookstore.com.

If you do not obtain permission when you photocopy more than 10% of a book and distribute it to your students (for example), you are stepping out of the boundaries of the Access Copyright agreement and likely infringing the copyright in that work.

3. Does it make any difference if I charge students for the cost of the course materials?

Yes it does. If you charge students for the cost of the course materials (or “course packs”), you can photocopy up to 15% (not 10%) of a published work, or any of the following:

- an entire newspaper article,
- an entire single short story, play, poem, essay, or article from a book,
- an entire single item of print music from a book,
- an entire entry from a reference work (such as a dictionary), or
- the entire chapter of a book if that chapter is 20% or less of the entire length of the book.

Where the materials include extracts from other textbooks, the following limitations apply:

- no extract can exceed the lesser of 5% or a single chapter of a textbook,
- you can only use a maximum of two extracts from textbooks written by the same author and published by the same publisher within any five-year period, and
- no more than half of the pages in the “course pack” can be taken from textbooks.

Further, the course pack must include at least one page listing all copies made in accordance with the Access Copyright agreement. This page must include:

- the international copyright symbol, ©,
- credits to each publisher and each author, artist and/or illustrator of every work reproduced (where known), and
- the following notice: “This material has been copied under licence from Access Copyright. Resale or further copying of this material is strictly prohibited.”

Digital Materials

1. Can I put Internet materials or materials scanned from print on my course website?

Not without permission. Scanning the materials or downloading them from the Internet constitutes reproduction of the work, which is an exclusive right of the copyright holder. Also, students who download the material are committing impermissible “telecommunications” of it. These do not fall within the Access Copyright agreement or the “educational exceptions” discussed above.

In addition, the University licenses some 25,000 electronic journals and over 26,000 electronic books, which (with the help of some of the resources listed below) can be linked to your website without needing to seek further permission. The library also licenses some collections of digital images which can be used for educational purposes.

2. Does it make any difference if the website is “password controlled”?

No. Security access will not affect the need to obtain clearance prior to putting material on your website.

3. How do I get help connecting course materials to Blackboard ?

There are two ways to make class readings available to students on your course page. "How-to" instructions to insert permanent, durable links to articles, databases and catalogue pages within your online course page are available online at: <http://discover.library.utoronto.ca/faculty-staff/blackboard#section-0>

You may also ask library staff to add permanent links to items in your required reading lists. These lists will appear on your Blackboard course page as documents with active links. To find your Faculty Liaison Librarian please visit: <http://main.library.utoronto.ca/liaison/index.cfm?sel=all>

It is important that you do not simply link to any material that is available on the internet, as it too may be copyright protected. Proper clearances must first be obtained.

Audio / Visual Materials

1. Can I make video recordings of television programs and show them in class?

Sometimes, if you're diligent. Certain current events programs (but not other programs) may be copied and performed in public without payment to the copyright owner or any collective society, subject to certain timing, marking and record-keeping requirements.

Under the Copyright Act, you are entitled to make copies of news and news commentary programs – excluding documentaries – and show them in class as often as you desire:

- for a maximum of one year,
- so long as the audiences consist primarily of students of the University,
- so long as the material is viewed on University premises, and
- so long as it is used solely for education or training purposes.

After that first year, however, you must either destroy the copy or arrange with Media Commons (below) to take the steps necessary in order to comply with the Copyright Act.

For programs other than news and news commentary, royalties must be paid (or permission granted by the copyright owner) before showing them even in an educational setting. If you wish to tape a non-news broadcast program to assess whether to show it for educational purposes, you may do so, but only if, within 30 days of making the recording, you either destroy the copy or arrange with Media Commons to pay the necessary royalties.

For all purposes under this heading, please make sure to maintain careful records detailing when copies of broadcast programs are made, performed in public, and destroyed.

Finally, please note that none of the above exceptions to infringement applies where the copy of the broadcast was received by unlawful means. For example, it would be a copyright infringement to show any program – even a news or news commentary program – that was copied from an illegal satellite transmission.

2. What about playing music in class?

As a person acting under the authority of the University, you can do any of the following things, but only for educational purposes (not for profit) and only on the premises of the University, for audiences consisting primarily of students, instructors, and/or people directly responsible for setting curriculum:

- perform live music,

- play (i.e. “perform”) a sound recording, or
- play a live radio broadcast or other “telecommunication”.

Bear in mind, however, that any recordings that you play must be lawfully obtained – that is, either purchased commercially or licensed from an authorized source – or else you may be infringing copyright even despite the above permissions. The Copyright Act does not permit you to copy sound recordings, or even make a recording of your own live performance, for educational purposes. Moreover, the so-called “private copying exceptions” in the Copyright Act expressly exclude any right to make copies for purposes of public performance.

3. **Where do I get audio/visual materials to use in class?**

Media Commons, 3rd floor, Robarts (formerly Audio/Visual Library). The Media Commons has purchased materials with educational performance rights and can request copies of other materials for you.

Other than as above, you cannot simply make your own recordings or copies to use in class. Even as an educational institution, the University is generally required either to purchase commercially available material or to obtain licences from copyright owners and/or the collective societies that represent them.

Research

1. **From a copyright perspective, does it make any difference whether I am teaching or researching?**

Yes. Research, whether by faculty or by students, falls directly within the “fair dealing” exceptions mentioned above. Therefore, a student who quotes substantial portions of a novel in a critical essay would normally be entitled to rely on the “criticism and review” exception, provided that the author is properly acknowledged. This exception is available whether the essay is submitted only for grading by a professor, distributed more widely to the class or throughout the department, or published in a scholarly journal. A faculty member is similarly entitled to rely on the exception.

It is extremely important, in both your own writing and that of your students, to observe proper citation practices. Quite apart from issues of academic honesty, failure to acknowledge all sources relied upon could result in copyright infringement. To fall within the “fair dealing” exception for criticism or review, a work must mention the source (i.e., the publisher) of each work quoted or paraphrased, along with the author of each such work (if mentioned in the published work consulted). Where audio/visual works are used, both the performers and the maker of the sound recording must be named, if their names are given in the source work.

General

1. **Where can I find help with other copyright questions?**

The best source for answers to your copyright questions is the Library Media Commons. For more general information, you can also consult the websites maintained by the Canadian Intellectual Property Office at:

http://www.cipo.ic.gc.ca/epic/site/cipointernet-internetopic.nsf/en/h_wr00003e.html?OpenDocument?icservices=e

- Copyright Board of Canada
<http://www.cb-cda.gc.ca/home-accueil-e.html>
- Copyright Act,
<http://laws.justice.gc.ca/en/C-42/index.html>
- Centre for Teaching Support and Innovation
www.teaching.utoronto.ca

This document was prepared by the legal firm Cassels Brock (October 2003).

For additional information, please contact:

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