

## Copyright at UNB

The **Canadian Copyright Act** protects and promotes the advancement of literary, dramatic, and artistic works. Its purpose is to strike a balance between the “user” and the “creator” or “owner” of published works. The basic concept of copyright is to provide creators with certain legal rights over their works.

Few if any creators produce works without the influence of others. In order to achieve the necessary balance between protecting the rights of users and the rights of creators/owners, the *Copyright Act* provides for particular exceptions. Exceptions permit users to use copyrighted material without gaining permissions or paying royalties to the copyright holder under certain circumstances. While the most important of these exceptions is *fair dealing*, there are provisions particular to educational institutions, libraries, archives, and museums. Regardless of how materials are copied, it is important to indicate clearly the original source of any copied materials.

Before copying, there are four factors to consider:

1. **Licensed Resources**
2. **Fair Dealing**
3. **Public Domain**
4. **Educational Exceptions**

It is necessary to consider each work to determine which of the above factors apply when reproducing material.

### Licensed Resources

Many materials that are purchased as educational resources include rights beyond what is possible under the *Copyright Act*. For example, some textbooks include digital material for use in classroom instruction, such as graphs or figures, or access to web content. This material may be distributed to students in the class without copyright restriction. Materials identified as *Creative Commons* or *Open Source* are also considered licensed resources that permit copying or distribution beyond the limits of the Copyright Act. Publishers and creators will generally make this very clear: if you are in doubt, contact the copyright owner. "e-Resource" is an umbrella term used to describe electronic resources accessed from UNB Libraries' website (i.e. e-Journals, e-Books, ARTstor). These licensed resources allow for the distribution of materials to students and can be delivered by means such as Blackboard, Refworks, or eReserves. Although some agreements include the right to distribute downloaded copies of the article (i.e. in pdf format), many publishers consider this type of distribution to be a violation of the license. This question can be avoided by providing access to UNB Libraries' e-Resources by linking to the specific material. For detailed instructions, please refer to [Linking to Library Resources from Blackboard or Moodle](http://www.lib.unb.ca/copyright/blackboard.html) (<http://www.lib.unb.ca/copyright/blackboard.html>).

### Fair Dealing

For the purpose of research, private study, criticism or review, and news reporting, it is not an infringement of copyright to deal “fairly” with published works. To determine if you have “fairly” used the published works of others, you must consider six factors:

1. **Purpose:** is the copying for research, private study, criticism or review, or news reporting? If “yes,” continue with the next five factors. If “no,” the dealing is not fair.
2. **Character:** what is the intended use of the copy? For example, single copies are considered fairer than multiple copies; destroying the copy after use is also considered fairer.
3. **Amount:** a larger volume of copying is considered less fair. However, it is important to note that in many circumstances it is necessary to copy entire works, such as photos, if they meet the remainder of the tests.
4. **Alternatives:** are there other non-copyrighted works available that would have served the same purpose and was the copy necessary to achieve the purpose of the copy?
5. **Nature:** is the work published and widely available? If the work is not published, then it is more likely to be considered fair.
6. **Effect:** will the copy unduly affect the market value?

Specific examples of *fair dealing* are an article from a scientific, technical, or scholarly periodical; a newspaper article; an entry from an encyclopedia, annotated bibliography, or similar reference material; a short story, play, poem, or essay from a publication containing other works. *Fair Dealing* only applies to published works.

## Public Domain

Copyright is automatic. Regardless of whether the work is registered with the Canadian Intellectual Property Office, as soon as the work is fixed (i.e. saved, printed, recorded, etc.), the rules of copyright apply. Canadian Copyright applies for a period of fifty years following the death of the author. Other materials in the public domain, such as *Open Source* and *Creative Commons*, will be clearly indicated as such.

## Educational Exceptions

A student or an employee of an educational institution has additional rights to reproduce material under the *educational exceptions* of the Copyright Act. These exceptions not only apply to printed material, but under certain circumstances, audio/visual material can also be copied for [educational use](#). Copying is limited to (a) manually reproducing a work onto a dry-erase board or similar surface intended for displaying handwritten materials in a classroom and (b) projecting a work using an overhead projector or similar device. It is important to note that projected copyrighted materials, such as power-point slides, **cannot** be further distributed to the class in either paper or electronic format (i.e. Blackboard). It is permissible for instructors, or individuals acting on their behalf, to include copyrighted material for the purpose of testing or examinations. For example, an entire chart or photo may be included in a test or examination.

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## FAQ's

### **If I am copying for educational, not for profit, purposes, do I still need to get permission from the copyright owner(s)?**

Yes, if the material is not covered by educational license or in the public domain, and is intended to take the place of a textbook, classroom distribution must have the publishers' permission.

### **Can I provide photocopies of copyrighted material for my entire class?**

No. Although this issue is currently under debate, according to UNB's interpretation of *fair dealing*, it is unacceptable to distribute multiple copies of published materials to a class. In the event that a student requests a copy of material(s), instructors may provide a copy of a published work according to the rules of *fair dealing* (see above).

### **Rather than hand out copies in class, can I scan material and have students print their own copy?**

The Copyright Act applies to both print and electronic material. In the case of licensed educational resources or UNB Libraries' e-Resources, documents can be scanned or linked according to the publishers conditions. Please refer to [Linking to Library Resources from Blackboard or Moodle](#) (<http://www.lib.unb.ca/copyright/blackboard.html>). Materials in the public domain or open resources can be used without the permission of the publisher. In the case of unlicensed published materials, copying and distributing is a violation of copyright.

### **Can I place materials on Library Reserve for students?**

Yes, any original material (e.g. book or journal issue) can be placed on *reserve*. If you require multiple photocopies of the reading to be available on *Library Reserve*, they must not be intended to take the place of a textbook (i.e. course pack) and must meet the limits of *fair dealing* described above. If, however, your class requires a list of readings that will take the place of a textbook, this material must either be licensed, free of copyright, or cleared of copyright in order to distribute any copies to students (also see next question).

### **I do not have a textbook and I would like my students to read a number of selections of different publications. How can I make them available to the class?**

If your readings are available from either licensed or public domain resources, you may provide links to the class. If the material is only available in print, contact your library liaison with a list of the materials you wish to distribute to your class. UNB Libraries will assist in securing the necessary permissions for class distribution. If you have a prepared list or syllabus, submit this to your library liaison. Find your library liaison here: [www.lib.unb.ca/faculty/liaison.php](http://www.lib.unb.ca/faculty/liaison.php).

### **Can I make copies from workbooks for students?**

No. Material such as workbooks, business case studies, and sheet music are considered consumables and may not be reproduced under any circumstance without the copyright owner's permission.

## UNB Libraries' Copyright Officer

If you have any further questions on any of the above information, contact Josh Dickison at [jjd@unb.ca](mailto:jjd@unb.ca) or 447-3378.