

## COPYRIGHT GUIDELINES

Except where otherwise stated, these guidelines apply to a University of New Brunswick employee, or a person acting on his/her behalf, making a copy from a published work protected by copyright under the definition of the *Canadian Copyright Act*. Copying outside of these guidelines may require contacting the copyright holder for permission to reproduce a work (see section II, paragraph 6).

**It is the responsibility of each individual to observe the *Canadian Copyright Act*. The University of New Brunswick is not responsible for individual infringements that violate the *Canadian Copyright Act*.**

More information is available online: [www.lib.unb.ca/copyright/](http://www.lib.unb.ca/copyright/).

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### I. PUBLIC DOMAIN

1. *Public Domain* is the term used for materials in which copyright has expired. The *Canadian Copyright Act* limits the term of copyright to the life of the author or creator plus fifty years. After the term of copyright expires, the work becomes public domain. This means materials in the public domain may be reproduced in any form without the permission of the copyright owner. It is important to remember that translation and republication of a work constitute a new work and the term of copyright is extended. For example, the term of copyright for a translated version of a work would be for the life of the translator plus fifty years; this does not affect the duration of copyright for the original work.

### II. FAIR DEALING

1. *Fair Dealing* is a defense in the *Canadian Copyright Act* that provides for the copying of a significant portion of a copyrighted work. Single copies that are permitted pursuant to this provision must be made only from publications in which copyright subsists, such as books, journals and other periodical publications, newspapers, and magazines ("Published Works"). A copy may only be made from a lawful copy of the work in the possession of the University. If the lawful copy is in electronic form, the terms of the license prevail (see below, section IV). Insignificant copying, such as a quotation, does not trigger any limitations.
2. *Fair Dealing* applies to portions of work that are used for the purposes of research, private study, criticism or review, and news reporting. Determining if a copy is fair dealing depends upon six factors:
  - i. **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.
  - ii. **Character:** what is the intended use of the copy? For example, single copies are more fair than multiple copies; destroying the copy after use is also more fair.
  - iii. **Amount:** a larger volume of copying is less fair. It is important to note that in certain circumstances it is necessary to copy an entire work, such as photos, if they satisfy the remainder of the factors.
  - iv. **Alternatives:** are there other non-copyrighted works available that would have served the same purpose, or is

the copying necessary to achieve the purpose of the copy?

- v. **Nature:** is the work published and widely available? If the work is not published, and considered a 'leaked' breach of confidence, then it is less likely to be considered fair.
- vi. **Effect:** will the copy unduly affect the original work's market value?

Specific examples of *Fair Dealing* as part of a book or a periodical issue include:

- a copy of an article from a scientific, technical, or scholarly periodical;
- a newspaper article;
- an entry from an encyclopaedia, annotated bibliography, or similar reference material;
- a short story, play, poem, or essay from a publication containing other works.

It is important that proper credit is given. *Fair Dealing* does not apply to the copying of unpublished works that represent a breach of confidence (e.g. private letters or internal memos).

Specific examples of works that **cannot** be copied under *Fair Dealing* include:

- required textbooks for a particular class;
- consumable works, such as workbooks, work cards, assignment sheets;
- entire tests or examinations;
- business cases which are made available for individual purchase.

3. In the event that print copies are made on the behalf of students, each paper copy *must* contain, on at least one page, the name of the author or artist (where known), the title of the publication from which the copy was made, the name of the publisher of that publication, and the following statement:

This copy is made solely for use by a student, staff member or faculty member for research, private study, review or criticism. Any other use may be an infringement of copyright if done without securing the permission of the copyright owner.

4. If electronic copies are made on behalf of students, each copy must follow the *Fair Dealing* provisions and include the information and statement referred to in paragraph 3 on at least one page, except for an electronic copy made available from a server in which the information and statement could instead be associated with the copy such that the notice of that information and statement would come to the attention of the person who accesses the copy (i.e. pop-up notice).
5. If a fee is charged for making a copy, the fee must be no more than an amount representing a reasonable approximation of the actual cost of making and delivering the copy.
6. Requests to make copies which fall outside these copying guidelines and requests to make copies of unpublished works may be referred to university library staff responsible for interpreting this guide or to his or her delegate for evaluation. A recommendation will be made as to whether the proposed copies are permissible in all the circumstances relating to the requests and may ultimately be refused. The evaluation will examine all relevant circumstances, including *Fair Dealing*.

### III. EDUCATIONAL EXCEPTIONS

1. It is not an infringement of copyright for an instructor or a person acting on his/her behalf to make a copy of a copyrighted work for the purpose of display for classroom instruction. For example, one may project an image of a copyrighted work in either electronic (e.g. PowerPoint) or similar medium (e.g. transparency) for the purposes of education or training on the premises of an educational institution. However, further distribution of copyrighted material within presentations, for example PowerPoint slides posted to Blackboard, must meet the *Fair Dealing* test described above (section II paragraph 3).

2. Unless materials are commercially available in a form suitable to the instruction needs, instructors may use copyrighted material in tests and examinations without restrictions.
3. Instructors may show news or news commentary, excluding documentaries, in the classroom either at the time of broadcast or within one year of making the recording of a broadcast. Copies must be erased after their use. Any copies that are to be used beyond one year must be cleared of copyright for continued use.

#### IV. LICENSED RESOURCES

1. Generally, copying of licensed materials is governed by the terms of the agreed license, not the *Canadian Copyright Act*. There are two types of licenses: *proprietary license* and *free or open license*. The use of proprietary licenses, such as UNB Libraries' eResources or ITS-licensed software, is primarily limited to the UNB community and is accompanied by an *End User License Agreement* (EULA), which defines the acceptable use of each product. Free or open license materials most often indicate unrestricted usage similar to materials in the public domain; however, certain open licenses do attach limitations. For example, *Creative Commons* have multiple types of open license agreements that creators can choose from with different sets of rights attached (for more information, see [www.creativecommons.org](http://www.creativecommons.org)). It is important to refer to each license to determine the range of acceptable uses.

#### V. WEB CONTENT

1. Any material that is freely and legally available from the web can be used in classroom presentations. Materials used from the web for class distribution must either be free or open licensed content (e.g. Creative Commons) or must follow the limits of *Fair Dealing* (section II, paragraph 3) before copying. There are no restrictions to sharing links or URLs to websites.

#### VI. PHOTOCOPIERS/SCANNERS

1. All UNB photocopiers and digital scanners will affix a notice providing information and conditions of copying permitted within the immediate vicinity of each device. A sample of the content is attached at the end of this document, and is available by request to <[copyright@unb.ca](mailto:copyright@unb.ca)>.

## COPYRIGHT WARNING

Self-serve use of this machine is governed by the provisions of the *Canadian Copyright Act* (R.S.C. 1985, c. C-42, as amended) and specifically sections 29–29.2. Copyright infringement is the sole responsibility of the individual making the copy.

Unless prior written permission has been obtained from the copyright owner, the use of this machine to make any copies that contravene the *Canadian Copyright Act* is strictly prohibited.

**The making of copies for sale, by use of this machine, is prohibited unless prior written permission has been obtained.**

The following information has been abridged for your convenience only. If you are in doubt as to the copyright status of the material, or copying falls outside these guidelines, you are encouraged to seek further information.

**ALLOWED:** Generally, for the purpose of research, private study, review or criticism, the *Canadian Copyright Act* allows for making a single personal copy, from an original lawful copy of the following selections:

- from a book or periodical issue, an entire single short story, play, poem, essay or article;
- from a newspaper, an entire article or page;
- from a book or periodical issue, a single item of print music;
- from an encyclopedia, dictionary, or similar reference work, an entire entry;
- from a book or periodical issue containing other works, a reproduction of an artistic work (drawing, painting, print, etc);
- from a book, an entire chapter.

**NOTE: Works in which copyright no longer subsists in Canada (Public Domain) and works in which the copyright is owned by the University of New Brunswick (such as administrative documents) can be copied freely.**

**PROHIBITED:** The *Canadian Copyright Act* strictly prohibits the use of this machine for the following copying:

- systematic, cumulative copying;
- a complete book; published workbooks; print music published for use by choirs, orchestras, bands and similar groups and individual performers, whether religious, instructional, professional, or recreational;
- instruction manuals;
- business case studies made available for purchase.

For more information concerning the *Canadian Copyright Act*, see: [www.lib.unb.ca/copyright/](http://www.lib.unb.ca/copyright/) or email questions to <copyright@unb.ca>.