

# Guidelines for Copying

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## COPYRIGHT ON CAMPUS

Every day across Canada university professors, staff, and students make thousands of photocopies. Books, journal articles, speeches, sections from plays -- they're all being copied. These copies help students learn, assist professors in their teaching and research, and facilitate the smooth running of the university.

But is that copy you're making legal? The answer lies in a concept in the Copyright Act known as "fair dealing", in a [Policy](#) adopted by the University effective January 1, 2011 and in a Tariff Agreement the University has signed with a copyright collective called [Access Copyright](#).

This booklet will help guide you through the law, the policy, and [tariff](#) so that you can be sure you are copying right.

## WHAT IS CANADA'S COPYRIGHT LAW?

Canada's Copyright Act, enacted in 1924, is complex law and sadly in need of an update. But one thing is clear: it is an increasingly important law for Canada's universities. Ignorance of the law will not protect you against charges of copyright infringement, the consequences of which can be serious, with civil or even criminal prosecution possible.

Copyright law protects a variety of creations, including such diverse items as inter-office memos, books, computer programs, databases, sculptures, songs, films, even a drawing scribbled on the back of an envelope. It gives copyright owners -- usually creators or authors or publishers -- the sole right to copy or to authorize someone else to copy their works. Moreover, copyright law is international. If a work is protected in any one of over 100 countries, it's covered by Canadian Copyright Act here.

There is, however, an important exception in the law to this right of creators to control the reproduction of their own work: that concept is called "fair dealing". Fair dealing balances the rights of creators with the needs of users, such as students and researchers, who require access to copyright material to pursue their studies or research. For universities, with their mission of creating and passing on knowledge through teaching, creativity, research and scholarship, understanding the copyright law and being able to apply the concept of "fair dealing" is fundamentally important.

## WHAT IS FAIR DEALING?

The law defines fair dealing as copying works for the purposes of **private study, research, criticism, review or newspaper summary**. Fair dealing with a work does not require the permission of the copyright owner or the payment of royalties.

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Although well-recognized in Canada and abroad, fair dealing has never been clearly defined by either Canadian legislation or the courts. Fair dealing in the Canadian context is NOT the same as “fair use” in the United States context.

As a result, while everyone recognizes that fair dealing exists, there is a lot of disagreement over what it includes. A number of countries have legislated clear guidelines for fair dealing. Canadian universities are lobbying the federal government to introduce such guidelines in Canada and to ensure that fair dealing is defined broadly so as to meet the needs of students and faculty. Unfortunately, for now, it remains fuzzy and there are no hard and fast rules on how to apply it.

Nonetheless, some guidelines can be offered. For instance, a strong argument can be made that the making of one copy of the whole or part of the following for the purposes of private study and research is fair dealing:

- a periodical article of a scientific, technical or scholarly nature from a book or periodical issue containing other works;
- a newspaper article or entry from an encyclopaedia, dictionary, annotated bibliography or similar reference work;
- a short story, play, poem or essay from a book or periodical containing other works.

In addition, faculty or students can make a copy of parts of a book or other complete works under fair dealing. Again, no hard and fast rules are available, but a rough indicator would be around 10 per cent of the complete work.

Fair dealing applies to photocopying as well as other methods of reproduction -- including the making of slides, microfiche, or transparencies as well as to faxes and other methods of electronic transmission. On 1 January 2011 the University adopted [policy guidelines](#) to assist you in the application of the “fair dealing” provisions.

### **WHAT IF I NEED TO COPY MORE THAN FAIR DEALING ALLOWS?**

In the past, when students, faculty and staff wanted to make copies that didn't fall under fair dealing, they were required to contact individual copyright holders and obtain permission. That process was often onerous and time-consuming. Many individuals didn't even know where to start.

Recent changes to the copyright law have allowed for the formation of copyright collectives in Canada. Collectives represent groups of copyright holders for the purpose of collecting copyright payments on their behalf and authorizing the copying of their works. Collectives also offer "blanket licences" that allow for the copying of a broad range of material without seeking individual permission.

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For published works, two collectives are now in existence in Canada, offering licences to cover copying of published material, usually books or articles, by photocopying, facsimile, or similar methods of copying including digital copies. Universities in Quebec have been operating under a licence with a Quebec-based collective known as UNEQ (Union des écrivaines et écrivains québécois) for several years. In the rest of Canada, many universities have signed licences with a collective known as the Access Copyright (CANCOPY). Mount Allison University has signed a tariff agreement with Access Copyright except for digital copies.

### WHAT IS THE ACCESS COPYRIGHT TARIFF LICENCE?

The tariff agreement the University has signed with Access Copyright allows professors, students, and staff at Mount Allison to make paper copies other than those allowed under fair dealing. For example, professors may be able to make multiple copies of a periodical article, enough for every student in the class. Copies can be made for administrative purposes and multiple copies may be produced by the University during the preparation of student paper based course packs.

There are still limits to the proportion of a work that can be copied. For example, the licence generally limits copying to either 10 or 15 percent of a work (depending on whether the copies are for personal use or are to be sold), or to the whole of a chapter, short story, poem, journal article, or newspaper article, whichever is greater. If you keep these sorts of limits in mind for all your copying, whether under the licence or under fair dealing, you won't go wrong.

The Tariff makes it a lot easier for students, professors and administrators to get on with their work and not have to worry whether or not a copy is legal every time they press that start button on the photocopier. In fact, armed with the tariff and the fair dealing provision in the copyright law, you should be able to copy most of the material you need in the course of your day-to-day activities. Access Copyright has prepared a repertoire list and [exclusions](#) lists. Please consult these lists for further information.

### HOW DOES THE TARIFF LICENCE WORK?

Mount Allison University, on behalf of students, faculty and staff, pays an annual fee to Access Copyright to cover a variety of copying, including the copying at self-serve copiers in libraries and at other locations and copies made at photocopiers in various departments. No record keeping is required, as long as the copies are not sold. At this time this agreement does not include scanned images of paper based items.

The university has also agreed that, when photocopied material is sold, (for example, when the bookstore produces course packs and sells them to students), records will be kept by Reprographics and Access Copyright will be paid a pre-set amount for each page copied in order to cover royalty payment to the copyright owner. This amount will usually be included in the price of the course pack when it is sold to students.

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The Access Copyright Tariff doesn't cover all works. Certain categories of works, for example, unpublished works and government documents including legislation and court decisions, are not covered by the tariff agreement. In addition, some authors and publishers have specifically excluded some or all of their works from coverage under the tariff agreement. There is a list called an "exclusions list", attached to the tariff and available in both libraries which sets out these excluded items. So if the copying you want to do does not fit into the fair dealing guidelines, (for example, you want to make 30 copies for distribution in today's class), you need to do a quick check of this list to be sure the tariff covers the work involved. In most cases, it will. But if not, you need to get permission from the copyright holder directly or through Access Copyright.

- [EXCLUSIONS LIST \(updated September 2010\)](#)
- [Captus Press Excluded Titles \(updated November 2006\)](#)

The Canadian Museum of Civilization, which is on the Exclusions List, has a unique publishing arrangement in that it co-publishes a number of titles with other publishing houses. As a result, these titles are now included on the Access Copyright Exclusions List as well.

- [CMC Co-published Exclusions List](#)

Be familiar with the Tariff Agreement before you copy. Signs have been posted on all photocopiers to help you.

### WHAT'S NOT COVERED?

Some copying activities in universities are not covered by the concept of fair dealing or the tariff agreement. These include:

- copying an entire book;
- repeated, systematic and cumulative copying from the same published work (copying that would eventually result in the majority of that work being copied);
- copying a piece of published sheet music;
- copying published workbooks;
- copying of unpublished works, such as private letters, diaries, or class notes.

### COPYRIGHT CUES

Here are some more tips that can help guide you further through the often perplexing world of copyright:

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- Check your dates. Generally, copyright protection lasts for 50 years following the death of the creator. After that, works are in the public domain and may be copied freely.
- Don't copy letters to the editor or newspaper advertisements without permission. And remember, the individual who wrote the letter or prepared the ad holds the copyright, not the newspaper.
- Don't change a work in any way while copying (by combining two separate texts, for example, or by editing or changing the phrasing). Creators retain the moral rights to the integrity of their own work, and that means you can't make changes to suit your needs.
- With respect to government documents (federal and provincial) the Crown generally claims copyright. In January 2011 the Crown (federal and provincial governments) relaxed the copying restrictions on their publications and permitted “not-for-profit” copying as long as the copyright of the Crown is clearly indicated in the copy.

### IMPORTANT:

Members of the University community who receive notice from the copyright owner alleging infringement of copyright or the terms of the tariff agreement should immediately contact the Contract Administrator. The person designated as Contract Administrator for Mount Allison is the University Librarian.

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