
COPYRIGHT

Effective Date: January 1, 2010

Responsibility: Vice President Academic Admin

Amends Policy dated:

Policy Number: OAP 15

Scope: Copyright policy applies to all use of all copyrighted material in the activities of the University College by its members. The purpose of the policy is to provide information on fair, ethical and legal use of copyrighted materials in compliance with Canadian and international copyright law. It is not intended as legal advice. Each member of the University College community is expected to comply with the policy. Failure to observe legal protection of copyrighted material is a violation of the law.

Copyright Law

The law of copyright balances the legal rights of ownership and the reputation of the originator of artistic, intellectual and dramatic works to reproduce, perform, broadcast or publish a work or any substantial part of the work with the needs of the public to use the material. Copyright is granted to the originator automatically upon creation of the work whether in print or digital format and includes, but is not limited to books, periodicals, maps, images, letters, photographs, works of art, film, video, websites, etc. Works in fixed form are copyrighted. Ideas are not subject to copyright. In Canada, copyright remains in force for the life of the author plus fifty years.

Copying an insubstantial part of the work is permitted. Fair dealing within copyright law protects the right of the public to use copyrighted material for private study, research, review, criticism, and news reports. In all fair dealing the user is required to give the source and the name of the creator. Canadian University Colleges encourages full use of fair dealing in the context of Canadian law.

Copyright Collective Licenses

Canadian University College has signed licenses with the following copyright collectives to cover limited use of copyrighted material beyond what is permitted under fair dealing.

1. [Access Copyright](#): Provides for day-to-day photocopying for educational use that is not covered by fair dealing.

Photocopying up to 10% of a published work or the following, whichever is greater is permitted:



- An entire short story, play, essay or poem from a book or periodical containing other works
- An entire article from a newspaper, magazine or journal
- An entire entry from a reference work (encyclopedia, dictionary)
- An entire reproduction of an artistic work from a publication containing other works
- A whole chapter from a book, as long as that chapter does not comprise more than 20% of the book

Works NOT covered by the license:

- Works on the Exclusions List
- Unpublished works
- Consumable items such as published workbooks, assignment sheets, and tests
- Crown or provincial publications (excluding Quebec)
- Instruction manuals, including teachers' guides
- Sheet music and original artistic works including photographs or prints
- Works published in countries with which Access Copyright does not have a reciprocal agreement
- Works with notices excluding them from copying under a collective license

The creation of coursepacks incurs an additional fee of 10 cents per page and must be reported to the Copyright Officer.

2. [Audio Cine](#): The University College may show videos and DVDs of feature-length films to members of the University College community, namely students. Such screenings may not be advertised to the general public or used for fundraising purposes. Reports on screened films must be made every three months. Participating studios are listed at <http://www.acf-film.com/en/index.php>.
3. [Criterion Pictures](#): The University College may show videos and DVDs of feature-length films on campus for entertainment and educational purposes. Outdoor screenings are not permitted. The agreement does not cover taped copies. A report listing each screening and the source from which it was acquired must be submitted within ten days of the end of each month. Participating studios are listed at http://www.criterionpic.com/CPL/lcl_studiosproducers_new.html.

Copyright Officer

The Library Director is the designated Copyright Officer. All questions regarding copyright and obtaining permission to use material not covered by fair dealing, or licenses with copyright collectives, should be directed to the Copyright Officer.

Sheila Clark
Library Director
Canadian University College
Telephone: (403) 782-3381 ext. 4102
Email: sclark@cauc.ca

Permissions Checklist Procedure

1. Print works

No permission is needed if the copying is:

- Fair dealing.
- Covered by the Access Copyright license.
- Of a work in the public domain, ie, it is past the fiftieth calendar year of the author's death. This does not apply to new editions, translations, or adaptations of the original work.

Obtain permission to copy when:

- The work is unpublished. This includes getting permission from students to display their work to another class.
- The copying is more extensive than permitted under fair dealing or the Access Copyright license.

2. DVDs or Videos

No permission is needed if:

- The DVD/video is obtained from our library and has public performance right. Not all DVDs and videos in the library have public performance rights. The catalogue record in NEOS will indicate if a video or DVD does not have public performance rights.
- The DVD/video is obtained from a video outlet or is in the library collection, but lacks public performance rights, consult the list of participating studios of [Audio Cine](#) and [Criterion](#). Our license agreements require all such showings on campus whether in the classroom or for other groups or clubs to be reported.



Obtain permission when:

- Admission is being charged.
- The DVD/video is being shown outdoors and it is from a studio participating in the Criterion collective.

3. Artwork

Obtain permission from:

- The copyright owner.

4. Internet works

No permission is needed if:

- Prior permission has been given via a [Creative Commons](#) License or similar entity. Check the terms of use if you are scanning and then posting the material
- You are creating a link rather than posting material. This is a good alternative to posting the material itself.

Obtain permission if:

- You are posting the material and education use has not been addressed in the site.
- You are posting scanned materials for which you do not own the copyright. This includes student work which you wish to display to other students. An example would be posting a sample student paper from a previous course.

5. Dramatic performances

No permission is needed if:

- The play is performed on campus for pedagogical purposes. Admission sufficient to cover the overhead expenses may be charged.

Obtain permission if:

- The play is being performed as a fundraiser. Permission can be requested at <http://www.MTIShows.com/PerfLicense>.

Frequently Asked Questions

Q. Can I show any library-owned DVD or video in class?

A. Not necessarily. Not all movies in the library have public performance rights and showing a movie in the classroom is a public performance. The record in the NEOS catalogue will indicate if the movie is for home use only. Check to see if such movies

may be covered by the SDACC contracts with Audio Cine or Criterion. If they are, show it in class and report the showing to the Copyright Officer as required by the contracts.

Q. Can I link to journal articles I find within our own library databases in the courseware I use?

A. Yes. Links to journal articles found within library databases may be made within courseware.

Q. What is fair dealing?

A. Fair dealing within copyright law protects the right of the public to make copies of copyrighted material for private study, research, review, criticism, and news reports. No permission of the copyright owner or payment of royalties is required. No clear definition of fair dealings exists in Canadian law. However, fair dealing generally includes making one copy of a periodical article, book chapter, short story or poem from a larger work. Individuals can copy parts of a book up to 10% for the purposes allowed by fair dealing.

In all fair dealing the user is required to give the source and the name of the creator. In determining whether fair dealing or copyright infringement have taken place, courts consider the following

- **The Purpose of the Dealing:** “In Canada, the purpose of the dealing will be fair if it is for one of the allowable purposes under the *Copyright Act*, namely research, private study, criticism, review or news reporting.”
- **The Character of the Dealing:** “If multiple copies of works are being widely distributed, this will tend to be unfair. If, however, a single copy of a work is used for a specific legitimate purpose, then it may be easier to conclude that it was a fair dealing. If the copy of the work is destroyed after it is used for its specific intended purpose, this may also favour a finding of fairness. It may be relevant to consider the custom or practice in a particular trade or industry to determine whether or not the character of the dealing is fair.”
- **The Amount of the Dealing:** Using a brief quote is fair dealing. In some cases copying the entire work, for example, a photograph may be considered fair dealing. “The amount taken may also be more or less fair depending on the purpose. For example, for the purpose of research or private study, it may be essential to copy an entire academic article or an entire judicial decision. However, if a work of literature is copied for the purpose of criticism, it will not likely be fair to include a full copy of the work in the critique.”
- **Alternative to the use:** If a non-copyrighted equivalent is available use of the copyrighted material will likely be considered unfair. The dealing should be



necessary to the purpose. “For example, if a criticism would be equally effective if it did not actually reproduce the copyrighted work it was criticizing, this may weigh against a finding of fairness.”

- Nature of the work: “If a work has not been published, the dealing may be more fair in that its reproduction with acknowledgement could lead to a wider public dissemination of the work – one of the goals of copyright law. If, however, the work in question was confidential, this may tip the scales towards finding that the dealing was unfair.”
- Effect of the dealing on the work: “the reproduced work is likely to compete with the market of the original work, this may suggest that the dealing is not fair. Although the effect of the dealing on the market of the copyright owner is an important factor, it is neither the only factor nor the most important factor. . .”

Quoted from the [Judgments of the Supreme Court of Canada](#) (CCH Canadian Ltd. v. Law Society of Upper Canada, 2004 SCC 13, [2004] 1 S.C.R. 339).

Q. Doesn't fair dealing cover educational use?

A. The educational exception is very limited. It permits

- Manual reproduction on a surface designed for handwritten material or projection of an image on an overhead or similar device.
- use of copyrighted material during examinations
- music performance in the classroom
- Showing a live television show.
- showing news programs, excluding documentaries within one year of airing and performances for pedagogical purposes

The educational exception does not cover online uses or use of the material off campus.

Q. Can I show a rented video or DVD?

A. You may show it in class if it is produced by a studio participating in either [Audio Cine](#) or [Criterion](#).

Q. Can my acting class put on a play without permission?

A. Yes. No permission is needed if the play is performed on campus for pedagogical purposes. Admission sufficient to cover the cost, including overhead expenses may be charged. Permission must be obtained if the performance is a fundraiser.

Q. What is public domain?

A. Public domain means that the copyright has expired. In Canada, copyright extends for fifty years after the author's death. Exceptions do occur. See the [Canadian Public](#)



[Domain Flowchart](#) to determine if a work is in the public domain. Works in the public domain can be freely copied.

- Q. Does public domain mean I can copy any work of an author whose material is in the public domain?
- A. Not necessarily. Later editions of the work may be copyrighted. For example, you may freely copy a Shakespeare play from the [Gutenberg Project](#), but not from a recent edition of the same play.
- Q. It's free on the web. Is it copyrighted?
- A. Yes. Copyright exists upon creation whether in print or digital format. However, through [Creative Commons](#) authors may agree to licenses permitting a broader use of their work than allowed under copyright law. Check websites for the symbol indicating how the creator has licensed the work.
- Q. The material I'm using was created in a country other than Canada. How do I determine which copyright law to apply?
- A. Canadian copyright law applies. Canada is a signatory to the [Berne Convention](#) as are most countries. The copyright law of the country in which the copying is done applies. For example, material used in the Canada must be in accordance with Canadian copyright law though the material was produced in the U.S. or some other [signatory](#) to the Berne Convention.

Resources

- [Canadian Association of University Teachers: Intellectual Property Advisory](#)
- [Canadian Copyright Act](#)
- [Canadian Intellectual Property Office](#)
- [Canadian Heritage: Fair dealing in Canada](#)
- [Canadian Public Domain Flowchart](#)
- [Creative Commons](#)
- [Michael Geist's Blog](#)
- [University of Alberta Copyright Administration](#)
- [University of Calgary Copyright and Fair Dealing](#)
- [University of Manitoba Copyright Guidelines](#)
- [University of Waterloo Copyright FAQ](#)