Copyright FAQ:
Using Copyrighted Materials in Your Teaching

Fair dealing, licensed library e-resources and other educational exceptions provide great flexibility to instructors. It is possible to create courseware that is copyright compliant yet virtually free for students enrolled in your courses, provided you follow UNBC’s copying guidelines.

If you need to use a substantial portion of a copyright-protected work, you can have UNBC’s Copyright Office secure a license on your behalf.
Can I make copies of copyright-protected works to distribute to students in class, by email or on UNBC’s Learning management system (Blackboard)? Can I include copies of another person’s images and materials in my PowerPoint presentations?

Yes. Under fair dealing you may make copies of short excerpts of another person’s works, or an entire journal article or single book chapter and hand them out to students enrolled in your course, or post them on Blackboard provided a contract does not prevent such use. Under fair dealing you may also include short excerpts of 3rd party copyright-protected materials, including images, in your lectures, lessons and exams that you display to students enrolled in your course. In both cases, you must adhere to the amount that may be copied under fair dealing. Please see UNBC’s Fair Dealing Guidelines for the copying limits. If you wish to exceed the Fair Dealing limits, you can usually get a permissions license to allow substantial copying, which typically involves a contract and fees.

Note however that in some instances a copyright-protected work is made available under a license that prohibits certain uses. Any such contractual restrictions will take precedence over fair dealing.

Is there any difference between posting something on my own website versus posting something on Blackboard?

Yes. Posting something on your own website means you are making the work available world-wide. Wide distribution tends towards the conclusion that the dealing is not “fair” and such uses may not be covered by any University licenses. By contrast, UNBC’s learning management system (Blackboard) is a password protected, secure website accessible only by students enrolled in university courses. In many cases, posting material on Blackboard will be covered by one of the University’s electronic subscriptions. The key thing to remember is just because you may post a copyright-protected work to Blackboard doesn’t mean you have permission to post the work on your own personal website.

If you want to scan a copyright protected work for inclusion on an open website, you will need to obtain permission from the right’s holder.

May I upload a PDF of a journal article I obtained through the library’s e-journals to Blackboard for my students to read?

In some instances the journal article is made available under a license that prohibits posting to Blackboard. Consult UNBC’s Copyright Office for information about such restrictions.

The licenses for many e-journals provided by the Library allow instructors to upload articles into secure course management systems such as UNBC’s Blackboard. While there may be good reason to upload articles to Blackboard, it is important to consider that doing so may mean that your students do
not have the most recent version of the article. It is not unusual for publishers to make corrections or changes, such as adding supplementary material, to articles after initial publication. If such changes are made after a copy has been uploaded they will not be reflected in that copy. A direct link is the best way to ensure access to the most recent version of an article. Linking to the article also allows the Library to track use and obtain data about the importance of a particular journal to the campus.

You can create a direct link yourself, or you might want the Copyright Office to do this for you. As well as saving you time, this will ensure that authentication is taken care of so that your students don’t need to remember to log-in to the Library’s proxy server before going into Blackboard. They will also prepare a “persistent” URL. The publisher’s URL for many articles can change from day to day; a persistent URL will ensure that your students get to the right articles quickly and without frustration.

Even in cases where uploading and linking to articles in Blackboard is permitted by the licenses, it is important to remember that licenses generally do not permit you to upload to a website, or create links on a website that is not part of the University’s secure network and that is open to the world at large. None of the licenses that the Library has with publishers allows for uploading to, or linking from, websites that allow access without authentication.

Can I copy, post or distribute government reports and documents?

It depends. Federal government documents made available on the internet are now generally published with permission to reproduce for non-commercial use. Always cite according to the instructions, and ensure you are using the current version of the document. BC Provincial Government documents are copyright protected by the Queen’s Printer, and permission must be requested prior to copying and distributing. Documents and reports produced by other levels of government, agencies, health authorities, consulting companies and such will require a permissions license unless otherwise granted.

Can I use third party materials like photos, artwork, charts, graphs and maps in my lessons?

Yes, with certain restrictions. You can copy an entire artistic work from a copyright-protected work containing other artistic works. You can make a copy of a work in order to display it in a lesson (provided it’s not available for purchase in the format you need). For example, you could display a stand-alone map in a lesson, but you would need permission to copy and distribute it. If you’ve adopted a textbook, your agreement with the publisher may allow you to use substantial material from the text, teacher materials and related third party materials in your lectures, lessons, exams, handouts and assignments.

Can I play music in class?

Yes! The Copyright Act allows you to play a sound recording or live radio broadcasts in class as long as it is for educational purposes, not for profit, on University premises, before an audience consisting primarily of students. However, if you want to use music for non-educational purposes, for example, for background music at a conference or in an athletic facility, a license must be obtained from the copyright collectives the Society of Composers, Authors and Music Publishers of Canada (SOCAN) and Re:Sound.
Can I play videos in class?
You may play videos in class in the following circumstances:

You may show a film or other cinematographic work in the classroom as long as the work is not an infringing copy, the film or work was legally obtained, and you do not circumvent a digital lock to access the film or work.

If you want to show a television news program in the classroom, under the Copyright Act, educational institutions (or those acting under their authority) may copy television news programs or news commentaries and play them in class. This provision doesn't extend to copying documentaries, movies, TV series or other content off cable TV for showing at a later time.

Can I show YouTube content in class?
You may perform a work available through the Internet, e.g. YouTube, videos, except under the following circumstances:

- The work is protected by digital locks preventing their performance
- A clearly visible notice prohibiting educational use is posted on the website or on the work itself.
- You have reason to believe that the work available on the internet is in violation of the copyright owner’s rights.

Can I put an entire video on Blackboard for streaming?
While current Canadian copyright law allows you to show videos in the classroom to your students without further licensing (provided you have a legitimate copy), and also allows you to record lessons for students and communicate those lessons for distance students, you do not have copyright permission to format-shift more than 10% of a video for streaming on Blackboard. A license from the distributor (copyright owner) is required to rip a DVD to MP4 (or other) format for the purpose of streaming on Blackboard. The cost and licensing terms vary widely for digital rights – the Copyright Office can help you secure these rights.

Can I record video programming from Netflix or other sources and show it to my students later, or place on Blackboard for streaming?
You can record off-air and show up to 10% of film works – a license is required for showing more than 10% of a work that you copied from another source. Note that Netflix, HBO and other content providers have contractual agreements that consumers digitally sign which forbid content sharing. Fair dealing does not supersede these contracts.

Can students include copyright materials in their assignments and presentations?
Generally yes. Since fair dealing now includes education, students may include limited amounts of material in their assignments and presentations. See UNBC’s Fair Dealing Guidelines for details about amounts allowable under fair dealing.
Are there any databases of copyright materials that I can use for free without worrying about copyright?

Yes. There's a wealth of material out there which is either in the public domain or available under Creative Commons licensing, which generally means the work is available for free, subject to certain limited conditions, such as non-commercial use only and acknowledgment of the author.

For Creative Commons materials, visit the Creative Commons website for more information or check out their content directories which list audio, video, image and text materials available under Creative Commons licensing. For public domain material, simply search online for "public domain" and the type of material you're interested in. Google search allows you to search for images by type of license (e.g. noncommercial reuse with modification).

Some useful sites include: Project Gutenberg (the largest collection of copyright-free books online) and Wikipedia, which has an entire page dedicated to public domain resources.

For other online materials, a recommended best practice is to check the website's Terms of Use, or "Legal Notices" section to confirm what conditions apply to use of the website's material. In many cases, you may be able to use the material for free for non-commercial and educational purposes.

Is it okay to use images or other material from the Internet for educational purposes?

Materials on the Internet are treated the same under copyright law as any other copyright materials, so if you want to use them, they either have to fall within one of the Copyright Act's exceptions (such as fair dealing or the educational use of the Internet exception), or be open access or in the public domain. If what you want to use isn't from an open access or public domain source and does not fall into one of the Act's exceptions you will have to obtain permission from the copyright owner. Note: the person who posted the material may not be the copyright owner and may not have the right to grant you permission to use the material. If this is the case, you should not use the material unless you can identify and obtain the copyright owner's permission.

Even if your use is non-infringing under the Copyright Act, your use may represent a breach of a website's "Terms of Use", "Legal Notices" or similar section. You should check those sections to confirm what conditions apply to use of the website's material, and whether additional consents are required.

Do I need to ask permission to link to a website?

Content on the web is copyrighted in the same way as print and other formats, even if there is no copyright symbol or notice. However, an educational exemption permits use of work available through the Internet, limited by certain conditions. Linking directly to the web page containing the content you wish to use is almost always permissible, although you should check the website's "Terms of Use", "Legal Notices" or similar section to ensure linking is not prohibited. You should always include the full details of the author, copyright owner and source of the materials by the link. This will avoid any suggestion that the website is your own material or that your website is somehow affiliated with the other site.

Regardless of whether you obtain (or do not need) permission to link to a website, if you
have reason to believe that the website contains content posted without the permission of the copyright owner, you should avoid linking to it.

I gave a PowerPoint presentation in class which includes figures, charts, diagrams and other images from a textbook. Can I post it on Blackboard?

As long as you adhere to the amounts that may be copied under fair dealing you may post charts and diagrams from textbooks, or other works, on Blackboard. If for example, you wish to post multiple images from a book, you may do so as long as those images amount to no more than 10% of the book (see UNBC’s Fair Dealing Guidelines). It’s important to note that if you wish to post such material to a website that website must be password protected or otherwise restricted to students enrolled in your course. Adopted textbooks often have licenses that permit broad usage of the content and ancillary materials, but this needs to be verified with the publisher.

Please note that just because you acknowledge the author and source of a work doesn’t mean you won’t be liable for copyright infringement. Acknowledging the source is no defense if the way in which you’ve used the work is not permitted under the Copyright Act. So make sure you either fall within an exception or have the copyright owner’s permission.

Do I need to obtain permission to use copyright material in my course packs?

Under fair dealing, short excerpts of copyright-protected material may be included in course packs without permission. See UNBC’s Fair Dealing Guidelines for details. In addition some material covered by licenses that the Library has for electronic resources may be included in course packs.

Any materials that you would like to include in courseware are assessed by the Copyright Office for copyright clearance requirements. This includes materials from the Internet, government publications, and unpublished works, not just books and journals. Providing details such as book/journal title, web address, author name, ISBN/ISSN number, page range and total number of pages in a book will help to confirm permission more quickly. If you have any questions about copyright materials you would like to include, call the Copyright Office at 250-960-6057.

May I post examples of my students’ work on Blackboard or on my personal website?

Only if you have the student’s permission. Students own the copyright in the works they create. The University does get the right to make copies of the work for academic purposes, but this right does not extend to making it available online. Accordingly, you should ask students in advance whether they consent to having their work posted online and keep written records of the permissions given.

Do I need to obtain permission if I want copyright protected material printed on campus?

It depends. If the amount and purpose of the copying is covered by fair dealing, or another exception, or a license that the Library has for electronic resources, you will not need express permission. If, for example, you want copies printed for
classroom handout, and the amount to be copied is consistent with fair dealing, you will not need permission. If, however, what you want to copy is not covered by fair dealing, or another exception, or a Library license, permission will be needed. Any material submitted for printing is checked for copyright clearance. If you have permission to copy the item from the copyright owner, please provide documentation for the permission when submitting your order. If you do not have permission, the Copyright Office staff will obtain permission where required.

When you place your order, the Copyright Office can assess what copyright clearance may be required. If you have any questions regarding copyright, call the Copyright Office at 250-960-6057.

**Why is there sometimes a fee for copyright material used in courseware?**

Copyright holders and creators of works have the right to charge a fee for the use of their materials unless the use is otherwise covered by fair dealing, another exception, or a Library license. These fees vary, usually based on the number of pages or excerpts copied and the number of copies made. All copyright charges are collected on behalf of the copyright holders and remitted to them.

**If my course materials were licensed in a previous semester are they still licensed for subsequent semesters?**

Copyright clearance is granted on a semester basis, typically for the duration of the course and exam period. Most licenses require the material to be removed from servers at the end of the term. Content needs to be re-licensed each semester.

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**To protect yourself and the University:**

- Record your use of third party materials and your justification for using (license, fair dealing, public domain, open source, other educational exemption) or have the Copyright Office do this for you
- Get a license if you are using more than a short excerpt of unlicensed copyright protected content
- Cite/credit where possible, understanding that acknowledgement is not a substitute for copyright clearance
- If you are in doubt, ask permission of copyright owner
University of Northern British Columbia Fair Dealing Guidelines
Reproduction and Communication of Copyrighted Works by Faculty
and Staff for Students

Summary

These Fair Dealing Guidelines (“Guidelines”) apply to all faculty members and staff persons of the University of Northern British Columbia (UNBC). These Guidelines are in place to provide guidance on the use of copyright-protected works under fair dealing and to provide reasonable safeguards for the owners of copyright-protected works in accordance with the Copyright Act and Supreme Court decisions. These Guidelines have been adapted from AUCC, ACCC and Grant McEwan’s Fair Dealing Guidelines.

The fair dealing provision in the Copyright Act permits use of a copyright-protected work without permission from the copyright owner or payment of copyright royalties. Whether a use of a copyright-protected work qualifies under fair dealing is dependent on an evaluation of all relevant factors in a given situation. Fair dealing will apply to copying and communicating of works made in accordance with these Guidelines. Copying or communicating beyond the quantitative limits in these Guidelines may, or may not, be fair dealing and may require permission from the copyright holder.

To qualify for fair dealing, two tests must be passed.

First, the "dealing" must be for a purpose stated in the Copyright Act: research, private study, criticism, review, news reporting, education, satire or parody. The Supreme Court has determined that educational use of a copyright-protected work passes this first test.

The second test is that the dealing must be "fair." The Supreme Court of Canada has stated that deciding whether a particular instance of copying may be considered to be “fair” requires a consideration of all of the relevant factors, including the following:

   a) the purpose of the proposed copying, including whether it is for research, private study, education, satire, parody, criticism, review or news reporting;
   b) the character of the proposed copying, including whether it involves single or multiple copies, and whether the copy is destroyed after it is used for its specific intended purpose;
   c) the amount of the dealing from the individual user’s perspective, including the proportion of the Work that is proposed to be copied and the importance of that excerpt in relation to the whole Work;
   d) alternatives to copying the Work, including whether there is a non-copyrighted equivalent available;
   e) the nature of the Work, including whether it is published or unpublished; and
   f) the effect of the copying on the Work, including whether the copy will compete with the commercial market of the original Work.

Guidelines

1. UNBC faculty members and staff persons may communicate and reproduce, in paper or electronic form, short excerpts from a copyright-protected work for the purposes of research, private study, criticism, review, news reporting, education, satire or parody.

2. Copying or communicating short excerpts from a copyright protected work under these Guidelines for the purpose of news reporting, criticism or review must mention the source and, if given in the source, the name of the author or creator of the work.
3. A single copy of a short excerpt from a copyright-protected work may be provided or communicated to each student enrolled in a class or course:
   a. as a class handout;
   b. as a posting to a learning or course management system (such as Blackboard) that is password protected or otherwise restricted to students of UNBC; or
   c. as part of a course pack.

4. A short excerpt includes:
   a. up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work)
   b. one chapter from a book
   c. a single article from a periodical
   d. an entire individual artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works
   e. an entire newspaper article or page
   f. an entire single poem or musical score from a copyright-protected work containing other poems or musical scores
   g. an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work

5. Copying or communicating multiple short excerpts from the same copyright-protected work, with the intention of copying or communicating substantially the entire work, is prohibited.

6. If you would like to copy something that you believe falls within the Fair Dealing Exception but does not meet the criteria set out above, please contact the Library Assistant – Copyright at libcopyright@unbc.ca. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on all relevant circumstances.

7. Any fee charged by the educational institution for communicating or copying a short excerpt from a copyright-protected work must be intended to cover only the costs of the institution, including overhead costs.

Please Note: These Guidelines do not restrict copying or communicating of copyright-protected works permitted under an arrangement or contract entered into by UNBC with a publisher, publisher’s representative or under contract arrangements, such as for Library databases (“Third Party Copying Arrangement”). In the event of a conflict between these Guidelines and a Third Party Copying Arrangement, the terms of the Third Party Copying Arrangement will apply.
Example: Can I copy and distribute/post an image (map, photo, drawing, chart, etc.) I found?

1. Is the image licensed already – site license, creative commons, open source?
   - Yes → Use it, according to the terms of the license
   - No

2. Have 50 years passed since the death of the author?
   - Yes → Public domain – use it
   - No

3. Did you find the image freely available on the internet?
   - Yes → Internet Exception for Education – use it, cite/credit it unless clearly forbidden, requires an account to access or you suspect it’s infringing
   - No

4. Is the image less than 10% of the entire original work?
   - Yes → Fair dealing – use it
   - No

5. Is the image in a work containing other images?
   - Yes
   - No

6. Is it a stand-alone image (not part of a larger work)?
   - Yes → Get a license then use it
   - No