

## Copyright Requirements for Faculty and Staff

In 2004 and 2012, Supreme Court decisions expanded the circumstances under which instructors (and staff) may use copyright-protected material in the classroom without securing permission or paying royalties.

The fair dealing exception in the Copyright Act allows you to use other Copyrighted material for the purpose of research, private study, criticism, review, news reporting, education, satire or parody provided that what you do with the work is “fair”

There are six factors that the Courts will normally consider;

- the purpose of the dealing (Is it commercial or research/educational?)
- the amount of the dealing (How much was copied?)
- the character of the dealing (What was done with the work? Was it an isolated use or an ongoing, repetitive use? How widely was it distributed?)
- alternatives to the dealing (Was the work necessary for the end result? Could the purpose have been achieved without using the work?)
- the nature of the work (Is there a public interest in its dissemination? Was it previously unpublished?)
- the effect of the dealing on the original work (Does the use compete with the market of the original work?)

It is not necessary that your use meet every one of these factors in order to be fair and no one factor is determinative by itself. In assessing whether your use is fair, a court would look at the factors as a whole to determine if, on balance, your use is fair. For more guidance on how to apply the fair dealing factors to your particular circumstances, please review the AUCC Fair Dealing Guidelines.

If, having taken into account these considerations, the use can be characterized as ‘fair’ and it was for the purpose of research, private study, criticism, review, news reporting, education, satire or parody then it will fall within the fair dealing exception and will not require permission from the copyright owner. In addition, if your purpose is criticism, review, or news summary you must also mention the source and author of the work for it to be fair dealing. Note: for further clarity and additional information about limits on the amount and nature of copying permitted under fair dealing in certain contexts, please see the [Fair Dealing Advisory](#) prepared by legal counsel for the Association of Universities and Colleges of Canada (AUCC).

Please note as well; it’s important to distinguish ‘fair dealing’ from ‘fair use’. The fair use exception in U.S. copyright law is NOT the equivalent of fair dealing in Canadian law. The working of the two exceptions is different. It is important to make sure that you consider the Canadian law and aren’t relying on the U.S. information.

### **1.1 How do I get permission to use someone else's work?**

You ask! If your use isn't permitted by a licence, or one of the exceptions in the [Copyright Act](http://laws-lois.justice.gc.ca/eng/acts/C-42/index.html) (<http://laws-lois.justice.gc.ca/eng/acts/C-42/index.html>), you will need to ask for permission. The permission must come from the copyright owner so the first step is to identify who the copyright owner is and whether there is an organization that represents the owner. There are a number of [copyright collectives](http://www.cb-cda.gc.ca/societies-societes/index-e.html) (<http://www.cb-cda.gc.ca/societies-societes/index-e.html>) who can give you permission (in the form of a licence) on behalf of the copyright owner to use their work. So, for example, if you want to use music and your use doesn't fall within any of the *Copyright Act's* exceptions, you may be able to obtain permission from copyright such as [SOCAN](http://www.socan.ca) ([socan.ca](http://www.socan.ca)), [Canadian Musical Reproduction Rights Agency](http://www.CMRRA.ca) ([www.CMRRA.ca](http://www.CMRRA.ca)) or [Re:Sound](http://www.resound.ca) ([www.resound.ca](http://www.resound.ca)) that administer copyright in music.

But if the copyright owner is easily identifiable and locatable, it can sometimes be easier to contact them directly as many copyright owner will give permission to academic users without requiring payment. Usually you'll be able to identify the owner somewhere on the work by looking for the copyright symbol©, which should have the copyright owner's name next to it. You'll often find this at the beginning of a book, at the side of a photograph or at the bottom of a webpage. Once you've located the owner, simply email or write to him/her, explaining how and why you want to use the work and requesting permission. The permission should be in writing. An email will suffice. It is not advisable to rely on verbal permission. You should also keep a file record of who gave the permission, what was permitted, the date, and how to contact the person who gave that permission.

### **1.2 Is copyright recognized internationally?**

Yes, copyright is recognized internationally thanks to international conventions. So, generally, your copyright will be protected in other countries. But it is protected under that country's laws so there may be some differences from the level of protections you would get in Canada. If you're concerned about someone's use of your work overseas, you will need to check the particular jurisdiction's copyright laws to confirm whether they are infringing your copyright.

### **1.3 Are there special rules for scanning?**

If you want to scan something, you may do so only if the use falls within one of the exceptions in the [Copyright Act](http://laws-lois.justice.gc.ca/eng/acts/C-42/index.html), such as fair dealing, or where no permission is required, such as scanning a public domain work. If you want to scan a work that is still in copyright and add it to a website you need to be sure that the website is password protected, e.g. D2L, and restricted to students enrolled in your course. If what you want to do falls outside the exceptions and is not in the public domain, you will need to get the copyright owners permission.

## **2. Copyright In The Classroom**

**2.1 Can I make copies of copyright-protected works to hand out to students in class? Can I include copies of another person’s images and material in my PowerPoint presentations?**

Yes. Under fair dealing you may make copies of another person’s work and hand them out to students enrolled in your course. Under fair dealing you may also include another person’s work, including images, in your PowerPoint presentations 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 the [Fair Dealing Advisory](#) for the copying limits.

**2.2 Can I post copies of copyright-protected works to Laurentian’s D2L? Can I email copies to students enrolled in my courses?**

Yes, you can do both if you adhere to the amount that may be copied under fair dealing. Please see the [Fair Dealing Advisory](#) for the copyright limits.

**2.3 Is there any difference between posting something on my own website versus posting something on D2L?**

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 licences. By contrast, D2L is a password protected, secure website accessible only by students enrolled in university courses. In some cases, posting material on D2L 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 D2L doesn’t mean you have permission to post the work on your personal website.

**2.4 I’ve come across a recent journal article that I want to give out to my students. Can I photocopy it and hand it out to them?**

Yes. The Fair Dealing Advisory permits the copying of an entire journal article. Copies may be handed out to the students enrolled in your course or you may post a copy of the article to D2L.

**2.5 May I upload a PDF of a journal article I obtained through the library’s e-journals to D2L for my students to read?**

The licences for some e-journals provided by the Library allow instructors to upload articles into secure course management systems such as D2L. Please verify the journals in the library’s A-Z e-journal listing for what can be done. If the journal is not there, contact [copyright@laurentian.ca](mailto:copyright@laurentian.ca).

**2.6 May I scan a print journal article or a book chapter into a PDF and post it on D2L?**

As long as you adhere to the amounts that may be copied under fair dealing you may scan and post it on D2L. See the [Fair Dealing Advisory](#) for the copying limits. It’s important to note that fair dealing does not allow you to scan material and add it to a website unless that website is

password protected (e.g. D2L) and restricted to students enrolled in your course. 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.

## **2.7 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 licence must be obtained from the copyright collectives [SOCAN](#) and [Re:Sound](#).

## **2.8 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.
- 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.

If you want to show a video in class and need assistance in obtaining video programming, please contact Instructional Media for more information.

## **2.9 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 the [Fair Dealing Advisory](#) for details about amounts allowable under fair dealing.

## **2.10 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 what is known as 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 [Creative Commons](http://creativecommons.org/) website (<http://creativecommons.org/>) 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. Some useful sites include: [Project Gutenberg](http://www.gutenberg.org) ([www.gutenberg.org](http://www.gutenberg.org)) (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' sections 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.

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

It depends on what you want to do. Materials on the internet are treated the same under copyright law as any other copyright materials, so if you want to use them, they have to either fall within one of the 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. You should check the website's 'Terms of Use', or 'Legal Notices' section to confirm what conditions apply to use of the website's material, including whether educational use is explicitly prohibited. Many websites will allow non-commercial educational use of their materials.

### **2.12 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. Linking directly to the web page containing the content you wish to use is almost always permissible, although you need to make sure the content you are linking to is not in itself infringing copyright. In addition, if the web page does not clearly identify the website and content owner, you should also include the full details of the author, copyright owner and source of the materials by the link. This will avoid any suggestions that the website is your own material or that your website is somehow affiliated with the other site.

If you have reason to believe that the web site may contain content posted without the permission of the copyright owner, you should avoid linking to it. In addition, you must comply with web site statements indicating that permission is required before material is reproduced or that it may be produced at all. Such statements are typically found in sections titled "terms of use" or something familiar.

**2.13 I gave a PowerPoint presentation in class which includes figures, charts, diagrams and other images from a textbook. Can I post it on D2L? I'll be sure to cite where the figures came from.**

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 D2L. 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 [Fair Dealing Advisory](#)). 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.

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 defence 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.

**2.14 May I post examples of my students' work on my D2L course or on my personal website?**

Only if you have the student's permission. The 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.

### **3. Copyright in the Library (Reserves, Interlibrary Loan and Electronic Resources)**

**Can eReserves link to full-text resources that the Library has already paid for, such as e-journals and e-books?**

Generally yes, though there are a few exceptions. Contact [access@laurentian.ca](mailto:access@laurentian.ca) or [copyright@laurentian.ca](mailto:copyright@laurentian.ca) for more information.

### **4. Copyright and Course packs**

**Your contact on the creation of course packs is the Bookstore.**