

Dalhousie Copyright FAQ

COPYRIGHT BASICS

What are the laws and rules relating to copyright at Dalhousie?

Use of copyrighted materials at Dalhousie is covered by the Canadian Copyright Act and various agreements and licences entered into by the University with copyright owners and representative organizations. The Copyright Act is the legislation in Canada that sets out what you can and can't do with other people's copyright materials. In addition to this, the University has special licensing agreements with various copyright owners which give you additional rights to certain content.

In order to determine whether your intended use is permissible, you need to check that you comply with any agreements or licences covering the work in question and/or the Copyright Act. You should ask yourself:

- Is the work in question covered by an agreement or licence that the University Libraries' have with publishers or a public licence such as a Creative Commons licence? If so, is what I want to do permissible under those agreements or licences?
- If not, is what I want to do covered by the Copyright Act, either under the educational exceptions or under the fair dealing exception?
- If you're not covered by any agreement or licence or an exception under the Act, you'll need to get permission for what you want to do from the copyright owner.

What does copyright cover?

Copyright protects literary, artistic, dramatic and musical works, as well as sound recordings, performances and communication signals. This encompasses a wide range of things, including books, articles, posters, manuals and graphs, CDs, DVDs, software, databases and websites.

How long does copyright last?

How long copyright lasts depends on which country you are in. In Canada, copyright generally lasts for the life of the author, plus 50 years. By contrast, in the U.S. and Europe, copyright generally lasts for the life of the author plus 70 years, though it can differ depending on factors such as the type of work, the manner of publication and the date of creation. Use of a work in Canada is governed by the Canadian rules for the duration of copyright protection.

How do I know if something is protected by copyright?

Copyright protection arises automatically when any one of the above types of works is created and generally continues for 50 years after the author's death, though this can depend on the type of work and where you want to use it. When you want to use a particular work in Canada, the safest approach is to assume that the work is protected by copyright, unless there's a clear indication to the contrary or the author has been dead for at least 50 years.

For more information about duration of copyright protection in Canada see the Government of Canada's About Copyright publication and the Canadian Public Domain Flowchart.

What rights does a copyright owner have?

Copyright gives the copyright owner a number of legal rights, such as the right to copy and translate a work and the right to communicate a work to the public by telecommunication. These rights are qualified by certain exceptions and for certain purposes (such as education and research) which balance the copyright owner's interests with the public interest.

What is meant by 'the public domain'? How do I know if something is public domain?

The term "public domain" refers to works in which copyright has expired.

For example, although the copyright in Shakespeare's plays expired long ago, many of the published editions of his plays contain added original materials (such as footnotes, prefaces etc.) which are copyright protected because the authors have used skill and judgment in creating the new material. This creates a new copyright in the added original material, but not in the underlying text of the original work in which the copyright had expired.

And don't assume that everything you find on the internet is in the public domain just because it is publicly available. Most of the material you find online is protected by copyright, however, you may nonetheless be able to use it for educational purposes because many uses will be covered by fair dealing or the exception for educational use of material publically available through the Internet.

Note: Some copyright owners have made clear declarations that certain uses of their copyright works may be made without permission or payment. The Reproduction of Federal Law Order, for example, permits anyone, without charge or request for permission, to reproduce Canadian laws and decisions of federally-constituted courts and administrative tribunals in Canada.

What is fair dealing and how does it relate to copyright?

Fair dealing is a user's right in copyright law permitting use, or "dealing" with, a copyright-protected work without permission or payment of copyright royalties. The fair dealing exception in the Copyright Act allows you to use other people's copyright 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'. Whether something is 'fair' will depend on the circumstances. Courts will normally consider factors such as:

- 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 intended 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 consult this handy fair dealing [interactive tool](#) available through Athabasca University's Copyright Services website.

If, having taken into account these considerations, the use can be characterized as 'fair' and it is for the purpose of research, private study, criticism, review, news reporting, education, satire or parody then it falls within the fair dealing exception and does 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 Policy prepared by legal counsel for the Association of Universities and Colleges of Canada (AUCC).

Does fair dealing cover teaching?

Yes. While fair dealing doesn't specifically mention teaching it does mention education. The Supreme Court of Canada has also ruled that a teacher may make copies of short excerpts of copyright-protected works and distribute them to students as part of classroom instruction without prior request from the student under the fair dealing exception. See the FAQs for Faculty – Copyright in the Classroom for details about what may be copied as fair dealing by instructors.

How much of a work am I able to reproduce according to the Dalhousie Fair Dealing Policy?

According to the guidelines of the policy a copy of a short excerpt can be provided or communicated to each student enrolled in a class. A short excerpt is defined as:

- up to 10% of a copyright protected work
- one chapter of a book
- a single article from a periodical issue
- an entire artistic work from a copyright protected work containing other artistic works
- an entire newspaper article or page
- an entire single poem or musical score from a copyright protected work containing other poems or musical scores
- an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work

How does copyright work internationally?

Copyright is recognized internationally through 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 protection 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.

I'm from the United States. How is copyright different here in Canada?

In general, the copyright laws in the U.S. and Canada are different. 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 wording of the two exceptions is different. It is important to make sure that you consider the Canadian law and aren’t relying on U.S. information.

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, 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 that 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 collectives such as SOCAN, Canadian Musical Reproduction Rights Agency (CMRRA) or Re:Sound 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 owners 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 the permission.

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.

What are moral rights and what do they have to do with copyright?

Moral rights are additional rights held by authors of literary, dramatic, musical and artistic works. They consist of rights that protect the integrity of a work and the reputation of its author. The right of attribution is the right to always be identified as the author of a work or to remain anonymous. The right of integrity is the right not to have a work modified or associated with goods or services in a way that is prejudicial to the author’s reputation. These rights are important for authors to ensure they get appropriate recognition for their works and for prohibiting any prejudicial changes to their works.

Who owns the copyright in the works I create at Dalhousie?

The University has special arrangements relating to copyright ownership and use with faculty, set out in Article 23 of the DFA collective agreement. Under this article, faculty will generally own the copyright in works they create through teaching and research, with certain exceptions. For specific details consult the DFA collective agreement.

Graduate students retain the copyright in the theses they create. Please consult the Faculty of Graduate Studies Thesis Format Guidelines for more information.

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, 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. Blackboard 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 owner's permission.

Who do I talk to at Dalhousie if I have a copyright question?

Listed below are individuals with copyright expertise. They would be pleased to assist you.

John Yolkowski, Intellectual Property Officer
copyright.office@dal.ca
jyolkowski@dal.ca, (902) 494-4346

Revised January 25, 2013



Adapted from Waterloo Copyright FAQ by University of Waterloo licenced under a Creative Commons Attribution-Noncommercial 2.5 Canada Licence.