

Maggie Benston Student Services Centre 0400
Simon Fraser University
8888 University Drive, Burnaby, BC
Canada V5A 1S6

TEL: 778.782.3261
FAX: 778.782.4047

archives@sfu.ca
www.sfu.ca/archives

Copying Right

What is the purpose of copyright law?

Canada's *Copyright Act* sets the rules by which a person is permitted to copy a "work" created by another person. Copyright law attempts to balance two goals: first, enable creators of works to control the use of their works and be appropriately compensated for their creative efforts and, second, provide reasonable use of such works for the benefit of society as a whole.

What does copyright protect?

Copyright protects only the expression of ideas that are recorded in a fixed form (e.g., an expression of original thoughts written and fixed on paper or a digital storage device). It does not protect:

1. The idea itself or facts and information.
2. Works in the public domain (see below).
3. Uses described as fair dealing (see below).
4. Insubstantial portions of a copyright-protected work. What constitutes an "insubstantial portion" is a subjective judgment decided by considering six factors set by legal precedent. Generally, one must consider both the quantity and the importance of the portion reproduced.

Copyright protection is automatic and begins from the moment a work is created (it does not need to be registered or appear with the copyright symbol ©). It applies to diverse categories of material including published works (e.g., a book), unpublished works (e.g., a personal letter), literary works (e.g., manuscripts, poems, pamphlets, tables and computer programs), dramatic works (e.g., choreography, plays, films, videos, screenplays, scripts), musical works (e.g., a musical compositions), artistic works (e.g., paintings, drawings, maps, charts, plans, photographs, engravings, sculptures, works of artistic craftsmanship and architectural works), performer's performance (e.g., actors, musicians, singers, dancers), communication signals (e.g., television or radio broadcaster), and sound recordings (e.g., makers of recordings on records, cassettes, compact disks).

What are the copyright ownership rules?

Which legal rights apply to which works varies. The general rules regarding copyright ownership are:

1. Physical ownership of a work does not automatically include copyright ownership to that work (e.g., you purchase and own a book but the publisher owns the copyright to that book).
2. The creator of the work is the first owner of copyright. A creator can assign copyright to another person (e.g., a publisher).
3. Only the copyright owner is authorized to permit reproduction, publication, and telecommunication to the public of a work, as well as public performance of an artistic work. These are known as the economic rights of the copyright owner.
4. Only the creator (not the copyright owner) is authorized to exercise the moral rights of attribution (to be known as the creator), association (to prevent use with an unacceptable event), and integrity of the work (to prevent changes to the work that would harm the creator's reputation). The creator can

waive some or all of his or her moral rights but they cannot be assigned to another person (e.g., the copyright owner).

5. Copyright lasts the life of the creator of the work plus an additional 50 years. Copyright protection is for a specified time and is not perpetual.
6. When the copyright term expires, a work passes into the public domain and may be used, modified, adapted or published without permission.

Doing any of the things or exercising any of the rights that only the creator or copyright owner may do, without permission, violates copyright.

What are the copyright use rules?

There are limited exceptions to permit certain uses without the permission of the copyright owner. The general rules regarding copyright use are:

1. Under the “fair dealing” exception a work may be reproduced for research or private study, criticism or review, and news reporting according to specified conditions described in the law.
2. Educational institutions may reproduce works only under specified conditions described in the law:
 - a. Manually by using handwritten material for teaching.
 - b. Using overhead projection for teaching.
 - c. For a test or examination.
 - d. For performances for or by students on university premises if the audience is primarily students and teachers.
 - e. A news or commentary program.
 - f. Using self-service photocopiers under a licensing agreement with a copyright collective.
3. Libraries, archives, and museums may copy works to maintain and manage their collections according to specified conditions described in the law.
4. A work can be copied to an alternate format (e.g., Braille) for a person with a “perceptual disability”.

How are copies made legally at SFU?

At SFU copies are made legally for teaching, research, and administration:

1. Under the “fair dealing” rules in the *Copyright Act*.
2. Under the University’s licensing agreement with Access Copyright.
3. Under the Library’s collective licensing agreements to use on-line published works such as electronic journals and periodicals that permit limited downloading and printing.
4. Under pay-per-use transactional licenses to use works not covered by the above (e.g., sound recordings, film, and digital objects used in course materials developed by or for instructors).
5. With the permission of the copyright owner.

What copying is permitted under SFU’s license with Access Copyright?

SFU’s license with Access Copyright applies only to published works and print materials. It does not apply to digital media; photographs; sound, video and film recordings; sheet music; unpublished works; and authors and publishers on the Exclusions List (see the information circular “Access Copyright Post-Secondary Sector Exclusions List” available from SFU Archives or Access Copyright).

Our Access Copyright license permits:

1. Making a copy using a campus self-service photocopier under specified limits (e.g., in the Library or an academic departmental office). For the copying limits, see the information circulars “Why Copy Wrong? Copy Right” and “Copying Guidelines” available on SFU’s website.
2. Making multiple copies of a print periodical article for every student in a class within certain limits.
3. Making multiple copies of an article to put on Library Reserve.
4. Making multiple copies of custom courseware for sale in the University Bookstore.

Frequently asked questions

Is the information quoted from the Document Solutions Custom Courseware webpage based on the Copyright Act or SFU's Licensing Agreement with Access Copyright?

The information about copying limits is based on the terms of SFU's Licensing Agreement with Access Copyright.

Is it correct that the "fair dealing" provision in the Copyright Act would permit a student or employee of SFU to make a single copy of a work for him or herself for the purpose of research or private study?

Yes, this is correct. For example, students given a course reading list that includes chapters from several books and articles from journals and periodicals are permitted to make a single copy for private study under the fair dealing exception. In addition, the Library has purchased online subscriptions to journals and periodicals that permit viewing, downloading and printing a single copy. Also, copying within specified limits is covered by the "incidental photocopying" component of SFU's license with Access Copyright. The University pays a separate annual royalty fee for this purpose.

I want to copy from a published work and distribute it to the students in my course. Can I do this? Can I charge a fee to recover the cost?

Yes, within specified limits, you can make and distribute one free copy of a published work to each student in your course. You cannot charge a fee to recover the cost. This copying is covered by the "incidental photocopying" component of SFU's license with Access Copyright. The University pays a separate annual royalty fee for this purpose. The specified limits are:

An instructor can copy up to 10% of a published work or the following, whichever is greater:

- A entire chapter from a book, provided it is 20% or less of the book
- 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

Under the terms and conditions of SFU's copyright licensing agreement one copy may be distributed to each student in a course, two copies for the instructor (if needed), and the number of copies required by SFU for administrative purposes (e.g., department course file) subject to the following rules:

1. The copies are made in support of educational purposes only.
2. The copies may be made only onto paper and not in digital form.
3. Systematic, cumulative copying from the same published work for a single course or program in one calendar year beyond the 10% is not permitted.
4. The copies must be distributed free to the students (cannot be sold even for cost recovery).
5. The copies cannot be assembled as part of a coursepack.
6. The first page of each copy must include the following notice:
 - the copyright symbol and date
 - name of publisher
 - name(s) of author(s) where known
 - the statement "This material has been copied under license from Access Copyright. Resale or further copying of this material is strictly prohibited."

Works NOT covered by our license are:

- Works with notices excluding them from copying under a collective license
- Items on the Exclusions List (Some publishers do not permit any copying under our agreement. SFU Archives or Access Copyright have a list of who they are)
- Unpublished works
- Consumable items such as published workbooks, assignment sheets, and tests
- Crown or provincial publications (excluding Quebec)
- Instruction manuals, including teachers' guides

- Musical works in print form and original artistic works including photographs or prints
- Works published in countries with which Access Copyright does not have a bilateral agreement

Can I make enough copies of an article for the number of students in my course and do this every week throughout the semester?

Yes, within the limits described above. However, systematic, cumulative copying of the same published work for a single course in one academic year is not permitted. For example, you cannot copy one chapter each week from the same book to distribute to students until most or all of the publication is copied. See the information circular “Why Copy Wrong? Copy Right” for the copying limits (available on SFU’s website).

Can I leave an article in the department office for the students in my course to borrow to make a copy for his or her use and do this every week throughout the semester?

Yes, within the same limits as described above.

How many articles and copies of articles may I put on Library Reserve?

The number of articles is not defined in SFU’s license with Access Copyright. You can put on Reserve the number of copies that are reasonably required. In one case, one copy may be adequate for a class with a smaller number of students. If you need more reserve copies for a larger class, that is fine. You are better able to make that determination.

For more information, see the information circulars “Frequently Asked Questions” and “Digital Licensing Made Easy” available on SFU’s website.

I want to include links in my course WebCT to on-line journals and books available through the SFU Library. Can I do this?

The SFU Library has licensing agreements covering many digital publications for use by students, faculty and staff. Making Required Readings Available to Students (<http://www.lib.sfu.ca/my-library/services-for-you/required-readings>) describes several different ways to make required readings available to students online and suggests the pros and cons of each option. Electronic Collection Information for Librarians and Faculty (<http://www.lib.sfu.ca/collections/ebooks>) describes the growing collection of non-journal electronic resources (e-books, streaming video, music, etc.). Most of these electronic resources are listed in the library catalogue (<http://troy.lib.sfu.ca/>) can be linked to in course listings, electronic reserves and course websites or WebCT.

I want to include links in online course material to works posted on external websites. Does this infringe copyright?

Generally, providing a link to the home page of another web site from which users navigate to the actual content is not a problem. This would be the equivalent of a citation. And, normally, there is no problem linking to the actual content on an external website. Nor is it a problem when the link takes the user to a restricted portal through which they can only pass if he or she is a registered and authorized user, subscriber, or pays a fee, etc. However, be careful. Linking to actual content (i.e., works) on other than SFU web sites is not always a straightforward matter. There are three main reasons:

- The material to which you link may already infringe copyright because the owner of the site did not get copyright permission from the owner of a work in the first instance. This can result in secondary liability on your part.
- The use and copying of content on another site, when linked to from course material may not always be covered by a "fair dealing" provision (i.e., research or private study) and the education exception in the Copyright Act would not apply.
- On rare occasions, the owner of the website to which you link may object to "deep linking," "inline linking" and "framing."

It is best to check the copyright, legal and/or terms of use policy on another web site before linking directly to its content, especially if it involves deep linking, inline linking, and framing. These notices are sometimes by-passed if one does not navigate from the home page. Doing this check demonstrates due diligence on a user's part and would help protect one against a claim of copyright infringement.

I want to post digital copies of material on my course WebCT. Does this infringe copyright?

Making copies of works that are digitized (e.g., scanned) or that are born digital requires the permission of the copyright owner. Generally, digitized articles and book chapters can be posted to a course WebCT only when the person who owns the copyright grants permission. No "fair dealing" exceptions apply in this situation. Digital works are not covered by SFU's licensing agreement with Access Copyright (it applies only to print material). This means that for each digital work either permission must be obtained from the copyright owner or a transactional license obtained from Access Copyright. Contact SFU's Teaching and Learning Centre (TLC) (phone 778-782-3910; email tlcentre@sfu.ca) for further assistance because they are the experts in digital licensing and support the use of WebCT.

How are custom courseware copies made legally at SFU?

You may use the following service providers:

1. Inside SFU there are only two organizations that are authorized under license to reproduce copyright-protected works for sale to students enrolled in SFU academic programs and courses. Internal orders for custom courseware must be submitted to **SFU Document Solutions** and sold through the University Bookstore. Orders for online Distance Education programs and courses must be submitted to the **Centre for Online and Distance Education**.
2. Service providers outside SFU that supply custom courseware **and** that have a licensing agreement with Access Copyright to make legal copies for custom courseware. Placing orders for reproduction and sale of courseware by any organization without a copyright licensing agreement or permission on or off a SFU campus, using copyright-protected works, would result in copyright infringement and increase the risk of SFU and the employees involved being sued. Such litigation would prove costly and require considerable time on the part of the employees who violate the Copyright Act.

Where can you find more information?

A list of SFU's copyright contacts able to answer questions about specific copyright topics is available on SFU's website at http://www.sfu.ca/archives/copyright_contact_list.html

The information circulars mentioned above are available on SFU's website at <http://www.sfu.ca/archives/CopyrightProgram.html>.

For helpful information from the Library about using electronic information resources see:

- Making Required Readings Available to Students describes several different ways to make required readings available to students online and suggests the pros and cons of each option. <http://www.lib.sfu.ca/my-library/services-for-you/required-readings>
- Electronic Collection Information describes the growing collection of non-journal electronic resources (ebooks, streaming video, music, etc.) that are available and can be linked to in course listings, electronic reserves, course websites and WebCT. <http://www.lib.sfu.ca/collections/ebooks>

For information about ordering custom courseware see <http://www.sfu.ca/docsol/courseware/inquires.html>

SFU has an intellectual property rights policy (R30.03) that addresses patents and copyright. Its focus is creator's rights and not user's rights. See <http://www.sfu.ca/policies/research/r30-03.htm>.

A more detailed summary about copyright is available on the Canadian Intellectual Property Office website at http://strategis.ic.gc.ca/sc_mrksv/cipo/cp/copy_gd_protect-e.html#6.