



## Copyright Roadmap

It can be easy to get overwhelmed by the complexity of copyright regulation, but here are some basic steps to consider as you analyze copyright issues. Each step needs to be considered before copying material for teaching and research activities. If you need further support, please contact [copyright@library.utoronto.ca](mailto:copyright@library.utoronto.ca).

### 1. Is the material “in copyright”?

Consider whether copyright applies at all, although, it’s highly likely much of the content you will use in your research and teaching will fall within Canadian copyright protection.

The Copyright Act provides that copyright subsists in every original literary, dramatic, musical and artistic work, in most cases for the life of the author plus 50 years from the end of the year of his or her death. There are some exceptions to this term, such as for the works of anonymous and pseudonymous authors, or for works of Crown copyright. After this point, the material is said to be in the public domain.

Copyright also subsists in certain “non-traditional” subject matter, such as performer’s performances, sound recordings, and broadcast signals where the clock starts running from the first performance. Refer to the Copyright Act for further details on the term of copyright.

References:

- [Term of Copyright](#) (Copyright Act, s. 6)

<b>No</b>	The work is no longer “in copyright.” You may use the material without seeking permission.
<b>Yes</b>	The work is still protected by copyright protection. <b>Proceed to step 2.</b>

## 2. Does permission exist in the form of a license?

Determine if the material in question is covered by a license. If the material is licensed, and the use that you propose is permitted by the license (two separate questions), then you will be able to use the material without further permission or payment of fees or royalties.

Here are some examples of licenses you may come across in your teaching and research:

### University of Toronto Licensed Resources

The University of Toronto has licensed an extensive e-Resources collection available to University faculty, staff and students. Permitted uses are indicated in the terms of each license, and what is permitted may not be uniform across all subscription packages and resources.

Look for the **'Permitted Uses'** information in the Library Catalogue for information on how you can use a particular resource. If the material is licensed, and your proposed use falls within the scope of what is permitted by the license, it is not necessary to inquire further.

If uploading a copy of an item directly to your course web page (in a password protected space like Portal or Quercus) is not a permitted use, consider linking to the material.

imprint	Long Beach, CA : Western Society of Criminology, 2014-
description	1 online resource
format(s)	Journal

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#### Permitted Uses

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  - Yes Linking
  - Yes Blackboard or course web pages
  - Yes Printed course packs

### Openly licensed material

An open license grants permission to share and reuse a work with few or no restrictions. The licenses offered by the [Creative Commons](#) are examples of this.

The presence of an open license alerts the user what they are permitted to do with the material. Be sure to always review the terms of a license to ensure that your anticipated use is permitted.

There are now approximately 1.1 billion works marked with a Creative Commons License. Search some of the material in the Commons here: <https://creativecommons.org/use-remix/>

<b>Yes</b>	The usage is permitted by the license. You may copy and use the material in accordance with the license.
<b>No</b>	The usage is not permitted by the license. <b>Proceed to step 3.</b>

### 3. Is the proposed use “substantial”?

Copyright only applies to the reproduction of a work “or a substantial part thereof”. Copying that is not substantial does not require permission or further payment. This is complicated because what is deemed “substantial” is not defined in the Copyright Act, rather, it is a matter of degree and context.

A small amount copied from a much larger work will often not be viewed as substantial depending on the nature of the work, and the proportion of what is copied to the underlying work as a whole. The analysis is not purely quantitative: even a relatively short passage may be viewed as substantial in some circumstances, especially if it is of particular importance to the original work.

For more guidance on how to ascertain if the proposed reproduction is substantial, please refer to the [University of Toronto Fair Dealing Guidelines](#).

References:

- [Copyright in Works](#) (Copyright Act, s. 3(1))

<b>No</b>	The copying is not substantial. You may copy the material without seeking permission.
<b>Yes</b>	The proposed copying is substantial. <b>Proceed to step 4.</b>

4. Is the copying permitted by “fair dealing” or any of the other exceptions to copyright?

The Copyright Act provides for certain exceptions to copyright infringement that can be relied on in order to use works without first obtaining consent from the copyright owner.

### **Fair Dealing**

According to the Supreme Court of Canada, the fair dealing exception is “always available” to users, provided that its legal requirements are met. When these legal requirements are met, there is no need to look further at the more specific exceptions that follow in the legislation.

To qualify for fair dealing, two broad tests must be passed:

First, the “dealing” must be for an allowable purpose: research, private study, education, parody, satire, criticism or news reporting.

Secondly, the “dealing” itself must be “fair,” having regard to:

1. the purpose of the dealing;
2. the character of the dealing;
3. the amount of the dealing;
4. the nature of the work;
5. available alternatives to the dealing;
6. the effect of the dealing on the work.

This is obviously a fact-specific, nuanced assessment. Please refer to the [University of Toronto Fair Dealing Guidelines](#) for further guidance.

## Specific Educational Exceptions

In addition to fair dealing, the Copyright Act also contains several exceptions that apply specifically to not-for-profit educational institutions such as the University. Even though the fair dealing exception is “always available,” and recourse to a specific educational exception will not be necessary where fair dealing applies, faculty and staff may wish to consider whether one of the specific educational exceptions applies to their proposed use.

Please refer to the University of Toronto’s [Copyright Basics and FAQ](#) for further guidance on applying these exceptions.

<b>Yes</b>	The copying is consistent with conditions and limitations in the “fair dealing” or other educational exception. You may copy the material without seeking permission.
<b>No</b>	The usage is not consistent with any of the above exceptions. Permission from the copyright holder is required and must be received before reproducing the content further. <b>Contact <a href="mailto:copyright@library.utoronto.ca">copyright@library.utoronto.ca</a> for more information and guidance.</b>

### 5. Do you need to secure permission from the copyright holder?

If you are unable to utilize any of the above options, permission from the copyright holder must be sought and received before reproducing the material.

The Scholarly Communications and Copyright Office can help you with this. Visit <https://onesearch.library.utoronto.ca/copyright/permissions> for more information. Obtaining permission from a rights holder can be a lengthy process; copyright clearance can be immediate, or take anywhere from 6-10 weeks. It is possible that permission may not be granted or cannot be secured in a timely manner. We can work with you to select an alternative resource if necessary.

Please contact us with any questions you may have: [copyright@library.utoronto.ca](mailto:copyright@library.utoronto.ca)

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