Disclaimer

Note that the UM Copyright Guidelines are provided to the University of Manitoba community for informational and educational purposes, and are not to be construed or relied upon as professional or legal opinion or advice.

Introduction to Copyright

Copyright is a type of intellectual property. Copyright exists in every original literary, dramatic, musical and artistic work, as well as in performers' performances, sound recordings and broadcast signals. Copyright protects the way an idea is expressed, but it does not protect the idea itself. In some cases, copyright does not apply at all. For example, copyright does not protect facts, statistics, data (except in limited circumstances), equations, news, simple drawings, methods, plots, characters, titles, names, short phrases or slogans, although trademark protection may be applicable in some of these examples.

In Canada, copyright protected material is governed by the Copyright Act. A work is automatically copyright protected in Canada as soon as it is created, whether or not a copyright statement or the © copyright symbol is used. The copyright owner is usually the creator of the work, but it may also be a publisher, an inheritor, an employer, or another entity. In general, a work is protected by copyright for 50 years after the death of the creator.

All works are subject to Canadian copyright law when used in Canada, even works that were created outside of Canada. When works are used outside of Canada, they will be subject to other legal jurisdictions.
University of Manitoba community members are frequently creators of works that are subject to protections under the Copyright Act. Community members are also users of copyright protected materials as they study, research and teach at the University. The Copyright Act aims to strike a balance between creator rights and user rights. In an educational environment, it is important to understand copyright limits and allowances.

Copyright is taken seriously at the University. All UM community members are legally and ethically obligated to comply with copyright law.

The UM Copyright Guidelines include information about fair dealing, other exemptions in the Copyright Act, library licences, infringement, permission, attribution, modifying, course packs, the public domain, open access, protecting your own copyright, as well as other relevant copyright topics.

The Copyright Office offers a variety of copyright services, including the one-on-one Copyright Solutions service, group information sessions and a Copyright Tutorial.

For clarification on the UM Copyright Guidelines or any copyright matter, contact the Copyright Office at um.copyright@umanitoba.ca, or call 204-474-7277 or 204-474-9607.

Your Copyright

Copyright not only protects other people’s works – it also protects your own original creations.

Copyright is automatic as soon as you create a work, and registration is not required. A copyright owner is usually the creator of a work, but it may also be a publisher, an inheritor, an employer, or another entity. When publishing, creators often assign (give) copyright to a publisher as part of the publication agreement.

The Copyright Act states that the copyright in works created by an employee carrying out their normal work duties belongs to their employer unless there is an explicit agreement to the contrary.

UM faculty members, for example, own the copyright in their own works (such as lecture slides, tests, manuscripts) under the UMFA Collective Agreement. For UM academic and administrative staff who are not members of UMFA, copyright in works created as part of their employment is owned by the University. See the UM Intellectual Property Policy and the UMFA Collective Agreement for details about creator rights at the University.

Students own copyright to their own papers, essays, theses, etc, although the rules around software can deviate. A student who is also a sessional instructor may retain the copyright in works produced as a student, while the University may own the copyright in works produced in the course of their sessional employment. Sometimes it can be difficult to determine copyright ownership based on differing roles and types of creative works produced by UM community.
Knowing what you are allowed to do with other people’s copyrighted material will help you understand what others are allowed to do with yours. Copyright provides you with certain rights as a creator—including the right to sell or distribute the work, to licence the use of your work, to assign the copyright, or to bequeath it to someone in your Will. Copyright lasts for the duration of the author’s life plus an additional 50 years following their death.

As the copyright owner in the work you created, you can determine how you would like this work to be shared. For example, you may choose to restrict all rights (meaning your explicit permission is required every time your work is reproduced unless a Copyright Act exemption applies), to make the work freely available (such as through Open Access publishing), or to apply a licence with specific terms (such as a Creative Commons licence). See Public Domain, Creative Commons, and Open Access for more information about publishing options.

Writers often transfer copyright ownership to a publisher. However, retaining some rights (such as the right to use and distribute the complete work for teaching purposes) might be possible by negotiating the agreement. Contact the Copyright Office for guidance.

Your copyright and moral rights are distinct. Unless you waived (gave up) your moral rights, you will continue to own moral rights to the work you created even if you no longer own the copyright to it. Moral rights include the right of attribution (to be associated with the work as the author, to remain anonymous or to use a pseudonym). Moral rights also protect the integrity of the work by preventing others from distorting, modifying or mutilating the work, and lets you control circumstances where the work may be used. For example, a photographer for Dog Lovers magazine may only want her photographs to be associated with no-kill animal shelters and to limit association with any shelter that did not follow this policy because it could affect her reputation as a no-kill shelter advocate.

While moral rights may be waived or given to an heir, they cannot be transferred to someone else in the same way that copyright can.

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**Attribution and/or Citation**

The Copyright Act requires that the user copying or communicating short excerpts from a copyright protected work for the purpose of news reporting, criticism or review to mention the source (for example, the name of the author or creator). Beyond the requirements in the Copyright Act, academic integrity obligations require the user to provide proper attribution or citation when copying any work.

For information about correct citation and style guides, see the University of Manitoba Libraries website.
For information about academic integrity, see the Academic Integrity website.

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**Modifying/Adapting**

Being inspired by an idea expressed by another individual and creating a new work as a result is acceptable without permission.

However, modifying or adapting a copy of a work may require permission. If in doubt, obtain permission. As in all cases, ensure first of all that copying the work is permitted by a Copyright Act provision or with permission of the copyright owner before modifying or adapting.

Creating a derivative work, such as a revision, translation, condensation, elaboration, fictionalization, dramatization, art reproduction, musical arrangement, or any new version of a work, will likely require permission.

Whether modifying, adapting, creating a derivative work, or using a work as inspiration, attribution or proper citation is required.

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**Copyright Infringement and Notice-and-Notice**

Copyright infringement is using a work in a way that only the copyright owner is entitled to use it. It is an infringement to copy or communicate more than an insubstantial portion of a copyright protected work, either physically or digitally, without the permission of the copyright owner, unless an exemption in the Copyright Act applies.

The definition of insubstantial will vary depending on the length of the work. For example, an insubstantial amount from a book might equal to a few paragraphs.

Copyright Act exemptions that allow a University community member to copy more than an insubstantial amount are described in the Guidelines below.

Copyright infringement can carry serious consequences, including civil or criminal proceedings. It can also be subject to consequences under the University's Use of Copyright Protected Materials Policy. Whether copies are made for commercial or non-commercial purposes, the copyright infringer can be liable for damages in the thousands of dollars.

Be aware that you may be liable for copyright infringement even if you made an infringing copy on someone else’s behalf. Likewise, if a University employee made an infringing copy during the course of their normal duties of employment, the University itself could also be liable for the infringement.
Everyone needs to take responsibility to ensure the legality of their copying, and consider how copying can impact the wider University community. Copyright compliance is a legal, academic and professional responsibility.

Notice-and-Notice

“Notice-and-Notice” is the name of the rules put into place by Sections 41.25 and 41.26 of the Copyright Act. The Notice-and-Notice provision requires the University, as an internet service provider, to forward notices sent by copyright owners regarding possible copyright infringement by users. The University takes no position on the validity of notices received, and simply complies with its obligation to forward the notices.

University of Manitoba internet users are generally not identifiable by copyright owners. Copyright owners can identify IP addresses provided by the University of Manitoba, and the University cross checks its records for the specific student or staff member who has been assigned to a specific IP address. The notice sent to the University by the copyright owner is then forwarded to the identified user.

Torrent clients, applications and programs installed on a device may continue running in the background even when not directly using them. Deleting or disabling torrent programs can help ensure you are not engaging in practices that infringe copyright.

University of Manitoba internet users should protect their passwords and must not share their UM account information with others. If you receive notices when you are certain you have not engaged in any copyright infringing activities, consider changing your password and securing your internet access.

For FAQs about the Notice-and-Notice rules, see the Copyright Office website.

Library Licences and Other Licences

A licence is a binding contract between parties, and thus supersedes other considerations including the Copyright Act's exemptions (such as fair dealing).

The University has entered into numerous licence agreements with publishers and suppliers to obtain access to published works in electronic form. Digital licence information, including copying allowances, is included with the library record and should be verified every time an e-resource is used because licence terms may change from time to time. Note that specific library titles may be offered by more than one supplier, and that holdings or dates may vary from one supplier to another. Select the supplier which has copying allowances and holdings best suited to your needs.

A licence may prohibit the use of excerpts in a learning management system (such as UM Learn) or in a course pack. Licences will generally limit the amount of a journal or book that can be
copied, who the material can be shared with, or how the licenced material can be used (for example, only for non-commercial purposes).

Using permalinks to library-licenced resources is generally preferred under licence terms and by the Libraries because linking helps monitor resource use. However, some library licences prohibit linking, so library licences must always be consulted prior to resource use.

Both the licence terms and conditions, as well as the UM Copyright Guidelines, must be considered. In the case of conflict, the terms and conditions of the licence take precedence over the UM Copyright Guidelines. In most cases, library licences will permit linking to the library record even when the licence otherwise prohibits copying.

It is important to be familiar with and to follow the terms of licences for UM resources. Failure to do so can result in the suspension of the resources for the entire University Community.

For information about restrictions imposed on licenced electronic library resources, see the University of Manitoba Libraries Conditions of Access.

Some resources have other types of licences, such as Creative Commons works. All resources with a Creative Commons licence may be shared freely for non-commercial purposes without permission, provided attribution is given. Some Creative Commons resources have licence restrictions regarding adapting, cropping, commercial use, etc. See the Creative Commons website for more details.

Other Library Resources and Equipment

Document Delivery / Interlibrary Loan

The UM Copyright Guidelines apply to copying and communicating a short excerpt of a copyright protected work made available from library services such as document delivery and interlibrary loan. With certain safeguards in place, University Libraries may apply fair dealing or other Copyright Act exemptions in distributing material to clients.

Do not re-distribute material received through Document Delivery that originated from another library’s electronic resource because their licence likely prohibits sharing a Document Delivery copy. However, a chapter from a paper-based book or an article from a paper-based journal that was scanned and sent via Document Delivery can be shared if it qualifies as a fair dealing copy.

See also Library Licences and Other Licences.

Library Copiers, Scanners and Other Equipment

Library clients are responsible for their own use of library photocopiers, scanners and other equipment. The University has posted a notice near photocopiers or scanners in the Libraries
advising that copyright law governs the copying and distribution (in any format) of copyright protected works, and that the University is not responsible for infringing copies made by clients.

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Course Pack/Custom Courseware

A course pack, or custom courseware, is comprised of a compilation of excerpts of different works to be used either as required or supplementary readings by students enrolled in a course of study.

All course packs must be processed by the University BookStore and sold by the BookStore directly to students. Cost recovery is a guiding principle behind the production and sale of course packs to ensure that no profit is made.

Material for a course pack is carefully reviewed for copyright compliance by a University copyright expert. Fair dealing is sometimes applied to material in a course pack to help facilitate students’ access to copyright protected materials, but does not substitute for the purchase of the work copied. Transactional copyright permission is sought when fair dealing or other exemptions do not apply.

To give students the choice of how to access course materials, the same short excerpt may be made available to students in a course pack, an email, a class handout, or through UM Learn. However, no more than a short excerpt from a work from across all editions and formats of a copyright protected work may be copied and made available to students during a specific course of study.

For more information about course packs, contact the University BookStore.

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Digital Locks

Some copyright owners use a digital lock (also known as a technological protection measure) to restrict access to a copyright protected work and/or to limit the use that can be made of such a work. The Copyright Act prohibits the circumvention of digital locks in most cases. If the circumvention is needed to accommodate a disability, see Exemption for Persons with Perceptual Disabilities in the Guidelines below for guidance.

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Permission

If copying or communicating a copyright protected work falls outside the UM Copyright Guidelines or the Copyright Act exemptions, permission from the copyright owner must be secured. In some cases, there may be multiple copyright owners for one work.
Obtaining permission via a fillable form, email, or other written method is strongly recommended. The Copyright Office can provide advice or assistance in obtaining permission.

Once permission has been obtained, it is advisable to note on the copy that permission was secured (for example, “Copied with permission”), and to retain a copy of the permission in the event that copying or communicating the work is ever challenged. If permission cannot be secured, consider using an alternative work (see below for a list of alternatives).

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**Fair Dealing Exemption in the Copyright Act**

The fair dealing exemption in sections 29, 29.1 and 29.2 of the *Copyright Act* is a user right which permits the use of a copyright protected work without permission from the copyright owner or the payment of copyright royalties.

To qualify for fair dealing, two tests must be passed. First, the “dealing” must be for a purpose stated in the *Copyright Act*, as listed below:

1. Research;
2. Private study;
3. Criticism;
4. Review;
5. News reporting;
6. Education;
7. Satire; and
8. Parody.

Instructors, professors and staff members may communicate and reproduce, in paper or electronic form, short excerpts from a copyright protected work for the purposes noted above. The *Copyright Act* requires that when copying or communicating short excerpts for the purpose of news reporting, criticism or review that the source, and the name of the author or creator of the work if provided in the source, must be mentioned.

Beyond the requirements of the *Copyright Act*, proper attribution or citation when copying any work is required to meet academic integrity obligations.

Fair dealing can apply in a number of circumstances, as long as it is for one of the above allowable purposes (e.g., education) even if the allowable purpose is not the sole purpose of the copying. Fair dealing copies for commercial purposes should be avoided.

The second test is that the dealing must be “fair”. The UM Copyright Guidelines permit faculty members, instructors, and staff members to copy and communicate, in paper or electronic form, short excerpts from copyright protected works for any of the eight fair dealing purposes noted above. The Supreme Court of Canada, in the 2004 *CCH v. Law Society* case, considered the following factors in determining whether a dealing is fair:
1. The purpose of the proposed copying. For example, it would likely be fair for students to perform a scene from a modern play in class as part of a literature course, but it would not be fair for the same scene to be performed for the general public in a campus theatre where admission is charged.

2. 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. For example, making more copies than the number of students in a class might not be fair, and retaining a copy might be less fair than destroying it after use.

3. The amount or proportion of the work which is proposed to be copied and the importance of that work. Consider the value of the excerpt in relation to the whole work. For example, it might not be fair to use the integral or central portion of a work, or to copy the complete conclusion from an article. It is advised to copy the minimum amount necessary to serve the fair dealing purpose.

4. Alternatives to copying the work, including whether there is a non-copyrighted equivalent available. See below for a list of alternatives to consider.

5. The nature of the work, including whether it is published or unpublished. For example, copying an unpublished work such as a private journal might not be fair.

6. The effect of the copying on the work, including whether the copy will compete with the commercial market of the original work. For example, copying all the images from a work when those images are available for sale as a group by the publisher might not be fair.

Note that insubstantial amounts (as defined in the Copyright Infringement and Notice-and-Notice section above) do not need to go through the two-step test nor the fair dealing assessment. For example, copying a few sentences or a few paragraphs from a book is likely not a copyright issue. However, it is advised to use the minimal amount and to provide attribution in all cases.

Applying the fairness factors for more than an insubstantial amount can prove challenging. As such, in consultation with universities across Canada, Universities Canada established guiding principles in relation to defining a short excerpt and applying fair dealing as described below.

_A short excerpt in the context of fair dealing means:_

i. Up to 10% of a copyright protected work (including a literary work, musical score, sound recording, and an audiovisual work);
ii. One chapter from a book;
iii. A single article from a periodical;
iv. An entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright protected work containing other artistic works;
v. An entire newspaper article or page;
vi. An entire single poem or musical score from a copyright protected work containing other poems or musical scores; or
vii. An entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work.
provided that in each case, no more of the work is copied than is required in order to achieve the allowable purpose.

When considering copying or communicating a short excerpt, the most advantageous of sections (i) through (vii) may be selected. For example:

- If a book is 200 pages long, up to 20 pages may be copied.
- If one chapter of a book is more than 10% of the total book, the one chapter may be copied.
- If two journal articles from a journal issue make up 10% or less of the total journal issue, the two articles may be copied.

Copying or communicating multiple short excerpts from the same copyright protected work (cumulative copying) with the intention of copying or communicating more than a fair amount, is prohibited. If more than a fair amount is desired, consider seeking copyright permission or purchasing the work.

The following resources may not be reproduced under these fair dealing guidelines:

- Unpublished works;
- Consumables;
- Proprietary workbooks, cards, assignment sheets or test and examination pages;
- Instruction manuals;
- Business cases (unless expressly permitted); and
- Newsletters with circulation restricted to fee paying clients/members.

Alternatives to consider when fair dealing might not apply:

- Use material for which you own the copyright.
- Direct your readers to resources available from the UM Libraries.
- Use a link instead of copying electronic resources from the UM Libraries or from any internet-based source.
- Use electronic material that has liberal terms of use.
- Select a book as a required textbook for a course.
- Use a copyright-friendly equivalent, such as a work in the public domain, a work with a Creative Commons licence, or an open access work.
- Contact the BookStore to create a course pack.
- Create a list of references and ask readers to locate the sources independently in the library or online.

Fair dealing is determined on a case-by-case basis. For assistance in evaluating what is fair, or to copy or communicate beyond the limits in the UM Copyright Guidelines, contact the Copyright Office. An evaluation will be made based on all relevant circumstances. If necessary, assistance will be provided in considering alternatives or obtaining permission.

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Teaching and Fair Dealing

**Fair dealing** allows a faculty member or instructor, or his or her proxy, to:

1. Provide a copy of a **short excerpt** to students enrolled in a course of study as a handout;
2. Email a copy of a short excerpt to students enrolled in a course of study;
3. Post a copy of a short excerpt on a learning management system (such as UM Learn) stored on a secure server or other device that is only accessible by students enrolled in a course of study, unit or program of instruction (e.g., password protected);
4. Include a copy of a short excerpt in a course pack sold to students enrolled in a course of study; or
5. Distribute a copy of a short excerpt used in a lecture or classroom presentation to students enrolled in a course of study.

In each case, a copy of the short excerpt may also be provided or made available as required to another faculty member, instructor or to University staff.

As a safeguard to protect the interests of copyright owners, the work from which the copy of the short excerpt is made must be in the lawful possession of the University, faculty member or instructor. This would include a physical work in the collection of the UM Libraries or faculty member or instructor. It would also include a borrowed work or a copy that was made based on the fair dealing exemption (for example, through the Libraries’ Document Delivery service).

When a work has been obtained through Document Delivery, refer to the terms included with the requested document. For example, the terms may allow private use only, or prohibit reproducing copies of the document.

For electronic resources, the licence details must be consulted before copying a short excerpt (see [Library Licences and Other Licences](#)).

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Research and Fair Dealing

According to **fair dealing**, a copy of a **short excerpt** from a print copyright protected work may be made by a UM academic staff member to use in conducting research or to include in a personal collection of research resources. The member may share a copy of the short excerpt from the print copyright protected work with other members and students both within the University and within another educational institution with whom the member is engaged in collaborative research. In sharing a copy of the short excerpt, the member may email the copy to the students and other members, or post the copy to a website on a secure server or other device, provided the website is secured (e.g., password protected) and is only accessible by those members and students with whom the member is conducting collaborative research.

When a resource has been accessed electronically through the Libraries, refer to the terms of the licence to determine how, or if, the resource may be shared with non-UM collaborative
researchers. In many cases, electronic resources may only be shared with other UM community members, and only in specific ways (for example, by linking to the library catalogue record rather than providing a PDF copy of an article).

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### UM Learn and Fair Dealing

UM Learn is a learning management system used to share course material. A short excerpt of a copyright protected work may be posted to UM Learn based on the fair dealing exemption if the following safeguards are met:

1. The learning management system must be operated by or under the control of the University.
2. The learning management system must be stored on a secure server or other device (e.g., password protected).
3. The short excerpts posted to the learning management system must only be accessible by students enrolled in the course of study, unit or program of instruction for which the short excerpts have been posted, and by faculty members, instructors or University staff that require access to the learning management system.
4. To give students the choice of how to access course materials, the same short excerpt may be made available to students through a learning management system, an email, a class handout, or in a course pack. However, no more than a short excerpt from a work from across all editions and formats of a copyright protected work may be copied and made available to students during a specific course of study.
5. For research projects located in the learning management system which contain short excerpts, access should be provided only to faculty, staff and students participating in the research or providing assistance for the project.
6. During a specific course of study, multiple short excerpts from the same work which would amount to more than permitted by the fair dealing exemption may not be posted.
7. A short excerpt of a work may not be removed and replaced with another short excerpt from the same work which would have the effect of reproducing more than a fair dealing amount of the total work during a specific course of study.

See other sections in the UM Copyright Guidelines for information about more Copyright Act exemptions, library licences, etc. that might apply to material posted to UM Learn.

Upon request, the Copyright Office can verify all your course material to ensure it meets copyright rules.

Note that UM Learn displays copyright messages regularly and that users must abide by the “Computer Account – Usage Agreement” which includes a copyright component. UM Learn is subject to copyright compliance reviews.

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Audiovisual Work and Fair Dealing

Audiovisual works include motion picture films, television programs and videos. Faculty, instructors and staff may copy short excerpts of a copyright protected audiovisual work and communicate those short excerpts to students for research, private study or education, among other fair dealing purposes.

It is permissible to record a short excerpt from a computer, television or projection screen using a video recording device (e.g., a smart phone) or software when the source content has been lawfully accessed.

Musical Work/Sound Recording and Fair Dealing

Musical works include musical scores and sheet music. Sound recordings include CDs and other media that contain recorded sound. The UM Guidelines permit faculty members, instructors and staff to copy short excerpts of copyright protected musical works and sound recordings and to communicate those short excerpts to students for research, private study or education, among other fair dealing purposes. Remember that when applying fair dealing to sound recordings you need to consider the individual recorded songs, rather than an album as a whole, when assessing the length of a short excerpt.

It is permissible to reproduce a short excerpt of a sound recording using a recording device (e.g., smart phone) or software when the source content has been lawfully accessed.

Evaluating the copyright term of musical works and sound recordings is complex, as is determining who the copyright owners are. Contact the Copyright Office for assistance.

Administrative Copying and Fair Dealing

Administrative copying includes copying copyright protected works made for one of two purposes, namely, the development of a course of study, unit or program offered by the University, and the governance or administration of the University or of a faculty or department of the University.

A short excerpt of a copyright protected work may be copied if the fair dealing purpose of the copying is tied to education. An example would be making a copy of a short excerpt of a copyright protected work and emailing it to members of a faculty or department committee for use in developing a course of study, unit or program. Another example is the making of a short excerpt of a copyright protected work for the purpose of training administrative staff. In both examples, distribution should be limited to participants and assistants.
Administrative copying of a short excerpt of a copyright protected work that is made for the governance or administration of the University or a faculty or department of the University may be made. An example is the copying of a short excerpt of a copyright protected work and providing the copies to members of the board of governors or to members of a faculty or department committee for governance or general administrative purposes relating to the operation of the University.

Students and Fair Dealing

Depending on the circumstances, a student may copy or communicate a short excerpt of a copyright protected work based on the fair dealing exemption in the Copyright Act. However, terms of use may prevent the application of the fair dealing exemption, particularly for electronic resources. For example, the University has entered into agreements for the use of electronic library resources, some of which may have restrictive licence terms. Students need to be aware of these licence terms when using electronic library resources.

The University does not condone copyright infringement by students. Students who copy or communicate copyright protected works should either be satisfied that copying or communicating the works falls within one of the exemptions in the Copyright Act, that licence terms allow its use, or that permission was obtained from the copyright owner.

The University is not liable for any infringing copies made or communicated by students including such copies made or communicated using copiers or scanners made available by the University.

The University does not have control over students who post content to the internet including to UM Learn or who attach content to emails including emails posted to UM Learn. However, students who make or post infringing copies could face disciplinary action for academic misconduct. See the academic integrity website for more information.

For copyright information related to graduate students and their theses, see Your Thesis or Dissertation and the Graduate Students section in the Copyright Office website.

Other Copyright Act Exemptions

Should your desired copying exceed fair dealing allowances as described above, see a list of alternatives or consider other exemptions or user rights available in the Copyright Act as noted below.
Exemption for an Educational Institution

Sections 29.4 to 29.7, 30.01 and 30.04 of the Copyright Act provide specific exemptions that can be used by educational institutions or persons acting under their authority for educational training. In particular, exemptions are provided for internet content; displaying a copyright protected work; delivering content for both online and in-person lessons; a test or examination; performing a copyright protected audiovisual work; news and commentary; and reproduction of a broadcast.

Exemption for a Work Available through the Internet

Section 30.04(1) of the Copyright Act provides an exemption from copyright infringement for copying a copyright protected work available through the internet. The exemption applies to educational institutions and their employees and is subject to the following conditions:

1. The copy must mention the source of the work and the name of the author, performer, maker and/or broadcaster of the work;
2. The copyright protected work or the internet site where it is posted must not be protected by a digital lock (also known as a technical protection measure or TPM) that either restricts access to the work or restricts copying, communicating or performing in public the work;
3. There is no clearly visible notice posted on the internet site or on the work that prohibits the copying (note that the use of the copyright symbol by itself does not prevent you from applying this exemption); and
4. The person making the copy must not be aware that the work was made available through the internet without the consent of the copyright owner.

Using the exemption under section 30.04(1) allows for an entire work from the internet to be copied or communicated.

Exemption for Displaying a Work

Section 29.4(1) of the Copyright Act states that it is not an infringement of copyright to reproduce a copyright protected work, or do any other necessary act, in order to display the work on the premises of an educational institution for the purpose of education or training. This exemption extends beyond fair dealing in that the exemption permits the display of more than a short excerpt of a work.

Except for the making of a manual reproduction (e.g., on a white board), the exemption does not apply if copies of the work are available for sale in Canada within a reasonable time, at a reasonable price, and the copies can be located with reasonable effort. For example, if an image bank of artwork is available under a licence, displaying those same images without a licence would likely be infringement.
Exemption for a Lesson

Section 30.01 of the Copyright Act provides an exemption for a lesson, namely a presentation (such as PowerPoint) containing copyright protected material in excess of a short excerpt when presented in a classroom or in an online learning environment.

For this exemption to apply, copies of the lesson must be distributed via a learning management system (such as UM Learn) and must be destroyed within 30 days after students in the course of study receive their final course evaluation.

As this means that all copies of the presentation stored in UM Learn must be destroyed (and not merely rendered inaccessible to students), faculty members and instructors may prefer to apply fair dealing rather than this exemption for a lesson and include a short excerpt only. See the relationship between exemptions below.

Relationship between Exemptions: Fair Dealing, Displaying a Work, Lesson

Fair dealing and the exemptions for displaying a work and a lesson are distinct and separate exemptions in the Copyright Act. Fair dealing may apply in circumstances in which the latter two exemptions also apply.

For example, a faculty member may post to UM Learn a classroom presentation which includes a short excerpt of a copyright protected work. The faculty member can rely on fair dealing for posting the classroom presentation rather than the exemption for a lesson and not have to destroy the classroom presentation within the 30-day period as required by the exemption for a lesson. If, on the other hand, the classroom presentation contains more than a short excerpt of a copyright protected work, the faculty member cannot rely on fair dealing and instead must ensure the exemption for a lesson applies and the classroom presentation is destroyed within the 30-day period as required. Because of the destruction requirement, a faculty member may prefer applying fair dealing rather than the exemption for a lesson and only include a short excerpt in a classroom presentation that is to be posted to UM Learn.

As another example, teaching staff may display in a classroom more than a fair amount. However, no more than a fair amount may be posted to UM Learn. To avoid infringement, teaching staff may choose to remove from the presentation slides copyrighted content that exceeds fair dealing before uploading the presentation to UM Learn.
Exemption for a Test or Examination

Section 29.4(2) of the Copyright Act allows faculty members and instructors to reproduce, translate, perform or communicate a work required for a test or examination as long the material is not available commercially on the Canadian market within a reasonable time, for a reasonable price, and located with reasonable effort. For example, if a bank of exam questions are for sale, the questions should not be copied freely for the exam.

If more than a fair dealing amount of a commercially available text is used for a test or exam, the text must be purchased. For example, it would not be permitted to copy more than a fair dealing amount of a novella to use during an examination if the novella is commercially available for a reasonable price, can be obtained within a reasonable time and located with a reasonable effort. Similarly, an instructor cannot create a translation of a text for examination purposes if a translation can be commercially obtained in a reasonable time, for a reasonable price, and located with a reasonable effort.

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Exemption for a Live Performance (e.g., Play or Recital), Performing a Cinematographic Work (e.g., Film), Sound Recording (e.g., Music) or Other Subject Matter (e.g., TV program)

Faculty members, instructors and staff can rely on the exemption in section 29.5 of the Copyright Act for some public performances on the premises of the University for educational or training purposes before an audience consisting primarily of students, instructors, or staff who set curriculum. To use this exemption, the work must either not be an infringing copy or the person responsible for the performance must have no reasonable grounds to believe that it is an infringing copy. The exemption in section 29.5 applies to performing all or any part of a work.

For example, this exemption would allow a class to perform a play, view a film, listen to a musical CD, or watch a television program as it is aired, under the conditions noted above.

For digital streams or digital copies of an audiovisual work, review the terms of use or licence allowances before considering this exemption. Many services such as Netflix and iTunes have contractual terms that limit performing some or all of their content to personal or home use only. In cases such as these, public performance in a classroom setting is prohibited. As an alternative to using a digital service with restrictive terms, an instructor may purchase or borrow a physical commercial copy of the work to take advantage of the exemption.

To use other types of content from the internet (such as a YouTube video), consider embedding the video in the teaching material or providing a link to students.

To play music or show a film on University premises outside of an educational context, tariff or licence fees must be paid. For example, an on-campus wedding social or retirement party with background music would likely incur SOCAN and Re:Sound fees. Similarly, a student group
showing a feature film on campus for non-educational purposes would require a licence from 
Audio-Ciné (ACF), Criterion Pictures or another distributor.

While this exemption applies to public performances it likely would not apply to any recordings 
or broadcasts made of the same public performances. For example, recording the production of a 
play or a musical recital performed by students in class would require the students’ permission 
and that of the copyright owner in the source material. Privacy rights, students’ copyright in their 
performances, and the rights to remuneration of the copyright owner in the composition or 
dramatic work being performed must all be considered prior to recording public performances.

Exemption for News and Commentary

Section 29.6 of the Copyright Act provides an exemption permitting the reproduction of a single 
copy of a news program or news commentary program to show to an audience of University 
students for educational training where the copy is shown on the University premises. Copied 
news and commentary programs must not be used for entertainment purposes.

A documentary does not qualify for the exemption and requires permission to copy.

Exemption for Reproduction of a Broadcast

Sections 29.7 of the Copyright Act allows an educational institution or someone acting under its 
authority to make a single copy of a work at the time it is broadcast, and to keep the copy for up 
to thirty days to determine whether or not to perform the copy for educational or training 
purposes.

If the copy is performed before University students on the University premises, or if the copy is 
retained for more than 30 days, the copy will be subject to royalties and other terms and 
conditions. Contact the Copyright Office in advance of showing a copy of a broadcast, or within 
15 days of the recording being made, to determine the applicable royalties and conditions.

It is never permissible to show a copy of a broadcast obtained through unlawful means.

Exemption for Persons with Perceptual Disabilities

Section 32 of the Copyright Act permits a person with a perceptual disability, or a person acting 
at the request of such a person, or for a non-profit organization acting for the benefit of such a 
person to
1. Make a copy or sound recording of a literary, musical, artistic or dramatic work, other than a cinematographic work (motion picture or film), in a format specially designed for persons with a perceptual disability;
2. Make a fixed copy of a performer’s performance of a literary, musical, artistic or dramatic work, other than a cinematographic work (motion picture or film), in a format specially designed for persons with a perceptual disability;
3. Make a copy of a sound recording, or a copy of a performance made under point 2 above, in a format specially designed for persons with a perceptual disability;
4. Translate, adapt or reproduce in sign language a literary or dramatic work, other than a cinematographic work, in a format specially designed for persons with a perceptual disability;
5. Provide a person with a perceptual disability with, or with access to, a work or other subject matter the above points apply to, in a format specially designed for persons with a perceptual disability, and do any other act that is necessary for that purpose; or
6. Perform in public a literary or dramatic work, other than a cinematographic work, in sign language, either live or in a format specially designed for persons with a perceptual disability.

The exemption does not apply where the work or sound recording is already commercially available in a format specially designed to meet the needs of a person with a perceptual disability on the Canadian market, and can be acquired using reasonable effort within a reasonable time and at a reasonable price.

This exemption allows non-profit organizations to reproduce literary, musical, artistic or dramatic works (but not cinematographic works) in a format specifically designed for persons with a print disability to people outside of Canada in certain circumstances. If you believe this exemption may apply to your circumstances contact the Copyright Office for further information.

Persons with perceptual disabilities may contact the UM Libraries or Student Accessibility Services for information about their services and equipment.

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**Exemption for Non-Commercial User-Generated Content**

Section 29.21 of the *Copyright Act* allows some copying for personal use, with limitations. The Non-Commercial User-Generated Content exemption is sometimes called the “YouTube exception”. For example, recording a friend dancing to copyrighted music and posting the recording to YouTube for non-commercial purposes is likely allowed. As well, creating a musical or video mash-up for non-commercial purposes is also likely allowed. Among other limitations, breaking a digital lock to access the original works is prohibited.

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More Copyright Act Exemptions

The *Copyright Act* includes a number of other copyright exemptions that may be relevant. For example, the exemption related to reproduction for private purposes (Section 29.22 and 29.23) would allow you to copy songs from a CD you legally own onto your computer, and to record a television program to watch at a later time. Another exemption allows you to create a backup copy of software you legally own (Section 29.24). See the *Copyright Act* for details of all exemptions and limitations.

Public Domain, Creative Commons, Open Access

In general, the term of copyright lasts for 50 years after the death of the creator. The copyright term varies for some types of works, such as anonymous works, photographs, movies and sound recordings. In some cases, the copyright term is 70 years after the date of release. When the copyright term expires, the work enters the public domain. A work in the public domain is no longer protected by copyright and can be copied, distributed, communicated, adapted, modified, translated, etc. without permission. See the University of Alberta’s [public domain flowchart](#) to help determine when copyright expires. Examples of online resources which list public domain works include [Internet Archive](#), [Gutenberg Canada](#), [Project Gutenberg](#) and [Wikipedia](#). The [British Library](#) and the [New York Public Library](#) both host extensive public domain photo collections.

Creative Commons is an organization that offers standard licences that creators can choose to adopt, enabling them to share their works freely with clear licence terms for future users. Creators can choose from a selection of copyright licences, some with very liberal terms of use and others with restrictions regarding adapting, cropping, commercial use, etc. All resources with a Creative Commons licence may be shared freely for non-commercial purposes without permission, provided attribution is given. See the Creative Commons website for more details. The UM Libraries has a variety of images in the UM Digital Collections licenced under Creative Commons licences.

Open access (OA) is a model of scholarly communication that improves access to research. Open access research is made available online without access restrictions and with limited usage restrictions. Visit the SPARC website for more details about OA, the Directory of Open Access Journals to determine which journals are available in this format, and OpenDOAR for a directory of academic open access directories.

Also see the UM Libraries guide Open Access & Scholarly Communications – What you Need to Know for more information about OA publishing.
Government Work

Canadian federal works may be used for non-commercial purposes without permission unless otherwise noted. In most cases, any amount may be used freely. Though most federal works can be used, an exception to this rule is consultant reports, which are copyrighted by the consultant.

For provincial or municipal works, apply the fair dealing exemption or other exemptions in the Copyright Act. To copy more than a Copyright Act exemption allows, seek permission from the provincial or municipal government.

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Out-of-Print Work

An out-or-print work might still be protected by copyright. Fair dealing and other copyright considerations apply to all copyright protected works whether in or out-of-print.

Permission is required to copy or communicate an excerpt of a copyright protected out-of-print work that falls outside the UM Copyright Guidelines and Copyright Act exemptions.

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Your Thesis or Dissertation

A graduate student working on a thesis needs to consider copyright if using someone else’s copyrighted material as part of the research process, or copying material directly in the thesis. For information specific to graduate students, see the links under the Graduate Students section of the Copyright Office website.

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Conferences

The UM Copyright Guidelines may be applied to a conference that takes place on University of Manitoba premises with an audience that primarily consists of UM students and faculty. Copyright exemptions referred to in these Guidelines may not be available for conference presentations before the general public or for commercial purposes.

If your conference presentation contains third-party copyright protected materials, you may only distribute recordings of your presentation or copies of your slides digitally or in print if fair dealing applies, or a licence or permission from the third-party copyright owner has been obtained.

For conferences that take place at the University, remember that presenters retain the copyright in their presentation as well as any materials they created related to the presentation. Copyright
permission and consent to record must be obtained from the presenter prior to broadcasting or recording the presentation, or sharing the recording and any presentation materials.

If the conference is not affiliated with the University of Manitoba, the UM Copyright Guidelines cannot be used as a guide. However, there may be Copyright Act exemptions (such as fair dealing) that apply to your use.

If you are presenting at a conference that is taking place outside of Canada, apply the law of that nation. Laws can differ significantly between countries, and you should not assume that the UM Copyright Guidelines will be applicable.

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### 3D Printing

Several areas of intellectual property law can converge in the process of 3D printing, including copyright, patents, trademarks and industrial designs. As such, when you manufacture something using a 3D printer, consider all areas of intellectual property law. For example, printing a design you created of a popular cartoon character could be an infringement of both copyright and trademark law, or printing a design you created of a commercially available tool could be an infringement of patent law or industrial design.

You may legally print designs only if you created the design, or if written permission has been obtained from the intellectual property owners. Fair dealing or other Copyright Act exemptions do not apply to trademarks, patents or industrial designs.

If an allegation of copyright infringement is made relating to a 3D printed object, the Notice and Notice regime may apply.

Printing objects that contravene University of Manitoba policy is prohibited.

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### How to Get Copyright Help

A wide range of support and Copyright Services are available for faculty and instructors, students, staff and researchers. For assistance or more information about copyright, contact the Copyright Office at um.copyright@umanitoba.ca or 204-474-9607.

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![Remember, use it fairly—keep it legal.](image)