



## Using Copyrighted Material in Courses NAIT Library

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**These guidelines are provided as a resource to assist our staff to comply with copyright law, but do not constitute a legal opinion. If in doubt, staff members are encouraged to consult NAIT's legal advisor for a legal opinion with respect to a proposed usage of copyrighted materials.**

NAIT does not sanction or authorize any infringement or violation of copyright. Any unauthorized use or reproduction in any form of copyrighted print or non-print works constitutes an infringement or violation of copyright.

### Copyright

Copyright is the legal protection for artistic, dramatic, musical or literary works, and performance, sound recording and communication signals. It is defined and regulated by the federal [Copyright Act](#) and [Regulations](#). The [Canadian Intellectual Property Office](#) (CIPO), a Special Operating Agency (SOA) associated with Industry Canada, is responsible for the administration and processing of the greater part of intellectual property in Canada. The Canadian Copyright law applies to uses of copyrighted works in Canada regardless of where the works may have originated.

Copyright protects the expression of information not the information itself and is automatically in place upon creation of a work. It is not necessary to register with the CIPO for copyright to exist and it is not necessary for the © symbol to appear for copyright to exist. It provides protection for all "expressions" including but not limited to text writings, business documents, course materials, photographs, translations, speeches, architectural plans, paintings, drawings, computer software and games, web pages, emails, digital images, computer-assisted drawings, music, videos, films and compilations such as databases of articles. To use works covered by copyright, permission must be obtained from the copyright holder - usually but not always the creator of the work. In order to obtain permission royalties may have to be paid.

Works in the public domain are not covered by copyright and may be freely used without asking for permission. Public domain works are those where the copyright has expired, where no copyright existed or where the copyright owner has given the copyright to the public.

The *Copyright Act* allows **individual** users to use copyrighted material for actions relating to research, private study, criticism, review, or news reporting as long as the use falls under "fair dealing". The *Act* does not define fair dealing but there are six principles that guide decisions of whether or not a use falls under fair dealing.

1. **The Purpose of the Dealing** Is it for research, private study, criticism, review or news reporting?
2. **The Character of the Dealing** How were the works dealt with?
3. **The Amount of the Dealing** How much of the work was used?
4. **Alternatives to the Dealing** Was a "non-copyrighted equivalent of the work" available to the user?

5. **The Nature of the Work** Is it published or non-published? Confidential?
6. **Effect of the Dealing on the Work** Is it likely to affect the market for the original work?

The *Copyright Act* includes limited exceptions for educational institutions. By and large these exceptions apply to classroom situations although there are some provisions for using copyrighted works and communicating them by “telecommunication” to students for the purposes of examination. Instructors wishing to use works in this manner should seek advice for their particular situation.

The Council of Ministers of Education Canada has developed several useful publications that cover using copyrighted material in the classroom:

[Copyright Matters. Some Key Questions and Answers for Teachers](#)

[Copying Internet Resources in Schools](#)

[Copying Print Materials in Schools](#) \*

[Playing Music, Radio and Television Programs in Education](#)

\*This document refers to CANCOPY. The current name for this is Access Copyright. Please see the section on Access Copyright below.

### **Access Copyright**

NAIT is participating in the *Access Copyright Interim Post-Secondary Education Institutions Tariff 2011-2013*. Access Copyright is a collective that collects fees on behalf of copyright holders, and NAIT pays a fee based on our FLE. The *Interim Tariff* allows for the making of photocopies within specified limits for classroom use. NAIT reports the number of copies made with third party copyrighted material in them for sale in coursepacks and remits fees for this to Access Copyright. An exclusions list itemizes publishers and material not covered by the *Interim Tariff*.

The *Interim Tariff* only applies to a defined set of published **print** materials and only provides for making **print** copies of these materials. Anytime the format of a resource is changed (e.g. scanning a print document into a digital file) the action is not covered by the *Interim Tariff* and permission must be obtained from the copyright holder. Please note that NAIT has **not** opted into Schedule G that deals with digital copies of published works.

### **Digital Resources**

The licensing agreements for resources in digital format vary from vendor to vendor. The use of resources licensed by the Library is restricted to current NAIT staff and students. They can only be used to support NAIT courses, programs and business and contain copyrighted material covered by the Copyright Act. There may be other restrictions as well.

## **Using Copyrighted Works in Online Courses or Course Related Websites**

When using works created by others it should be assumed that the works are copyrighted unless there is clear indication that the works are in the public domain. Some resources such as aggregator databases are licensed by NAIT Libraries on behalf of NAIT. Many of these licenses include permission to link to articles, books, audio files and video clips within the databases from online courses and course related websites. Other works are created under a GNU General Public License (GNU GPL) or a Creative Commons license which specify allowed uses. When works are not in the public domain, are not covered by existing licenses or have not been created under GNU GPL or Creative Commons licenses that allow use in a course then permission to link to or use the works in courses must be sought from copyright holders.

### **Frequently Used Resources**

#### **1. Journal Articles**

Check with the Library.

You may be able to link to articles through a licensed resource. If you can identify an article within a database the Library may be able to provide you with a persistent URL to the article which will reduce link maintenance. You may also link to a database search screen and have students search for the most recent articles on a topic. This also cuts down on link maintenance and helps students develop information literacy skills.

If you cannot identify a suitable article in a licensed database then you must get permission to use articles you have identified for your course. (Note: For linking to websites see below.) The institution on whose website an article in electronic format is posted may or may not be the copyright holder for the article. If they are not, they will not be able to grant permission to include the article in an online course. If an article is in print format you need to contact the copyright holder asking for permission to change the format of the article to include it in an online course or course related website.

#### **2. Videos**

Check with the Library.

Permission to use videos in online courses must be obtained from the distributor of the video. The Library may already have or be able to negotiate streaming rights for inclusion of videos in online courses. If the Library does not have or cannot obtain streaming rights on behalf of NAIT then permission to stream, and if necessary create a streaming file, must be obtained from the copyright holder.

#### **3. Books**

Check with the Library.

The Library may already have licensed access to an online version of the book you want to link to from your course or be able to arrange access to it. If the book is only available in print format permission must be obtained from the publisher to change the format of the book to include it in an online course. Permission must also be obtained to include excerpts from books in print course notes or course packs unless the use falls under the "fair dealing" exemptions in the Copyright Act.

Schools/programs must obtain permission/licenses for using online textbooks in online courses and administer any licenses and payments.

#### **4. Web sites**

A notice must be sent to the website administrator for the website to which you want to link notifying them of the intent to link and the specific page to which a link will be established.

#### **5. Emails**

Permission must be obtained from the copyright holder to include in a course.

#### **6. Student essays**

Permission must be obtained from the copyright holder to include in a course.

**7. Photographs**

Permission must be obtained from the copyright holder to include in a course and digitize where necessary.

**8. Graphics**

Permission must be obtained from the copyright holder to include in a course and digitize where necessary.

**9. Digital Files**

Permission must be obtained from the copyright holder to include in a course.