



Policies & Procedures Manual

Section: LIBRARY - COPYRIGHT	# Pages: Page 1 of 8	Policy Number: LI-04-01
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POLICY STATEMENT

The University College of the North community will abide by the Copyright Act and all duplication and use of materials must meet the criteria of: approval; contract; or fair dealings. The section of this policy called "Details of Procedures" will provide both procedures and expand on the policy definitions as well as including supporting documents for this policy.

The Dean of Library and Instructional Services is designated as the individual responsible for dealing with Copyright issues.

DEFINITIONS

APPROVAL: The copyright holder must give permission to make duplicate copies of their work. In some cases, materials have fallen into the "public domain" either by failing to file for copyright of dated materials, or other reasons.

CONTRACT: A legal agreement allowing use or access of materials for a specified amount of time, or specifying the rights to use materials (see sample in supporting documents).

FAIR DEALINGS: Allows for individual study, educational purposes, research, and/or criticism (see ACCC recommended policy in supporting documents as modified for UCN).

PURPOSE OF POLICY

Ensure all duplication of materials meet the legal standards.

DETAILS OF PROCEDURES

Fair Dealing Policy

The fair dealing provision in the *Copyright Act* permits 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*: research, private study, criticism, review, news reporting, education, satire, and parody. Educational use of a copyright-protected work passes the first test.

The second test is that the dealing must be "fair." In landmark decisions in 2004 and in 2012, the Supreme Court of Canada provided guidance as to what this test means in schools and post-secondary educational institutions.

This Fair Dealing Policy applies fair dealing in non-profit K-12 schools and post-secondary educational institutions and provides reasonable safeguards for the owners of copyright-protected works in accordance with the *Copyright Act* and the Supreme Court decisions.

Some license agreements that universities have with publishers that provide access to publications in electronic format restrict or enlarge the making or dissemination of copies. Where there is a conflict between the terms of a license agreement and the fair dealing policy, the terms of the license agreement apply.

The Dean of Library and Instructional Services will be or will appoint a person who will make decisions on whether copying outside the scope of the copying guidelines are for one of the fair dealing: purposes of research; private study; review or criticism; and in all the circumstances, whether the making of the copies is fair. Paragraph 10 of this document sets out the factors to be considered in determining whether the making of a copy for one of the fair dealing purposes is fair. If the copying is for one of such purposes and the making of the copy is fair, the copying can be made under the fair dealing exception without the permission of the copyright owner.

A. Copying Guidelines

1. Teachers, instructors, professors and staff members may communicate and reproduce, in paper or electronic form, short excerpts from a copyright-protected work for the purposes of research, private study, criticism, review, news reporting, education, satire and parody.
2. Copying or communicating short excerpts from a copyright-protected work under this Fair Dealing Policy for the purpose of news reporting, criticism or review should mention the source and, if given in the source, the name of the author or creator of the work.
3. A single copy of a short excerpt from a copyright-protected work may be provided or communicated **to each student** enrolled in a class or course:
 - a) as a class handout;
 - b) as a posting to a learning or course management system that is password protected or otherwise restricted to students of a school or post-secondary educational institution;
 - c) as part of a course pack.
4. A short excerpt means:
 - a) up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work);
 - b) one chapter from a book;
 - c) a single article from a periodical;
 - d) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works;
 - e) an entire newspaper article or page;
 - f) an entire single poem or musical score from a copyright-protected work containing other poems or musical scores;
 - g) an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work.
5. Copying or communicating multiple short excerpts from the same copyright-protected work, with the intention of copying or communicating substantially the entire work, is prohibited.
6. Copying or communicating that exceeds the limits in this Fair Dealing Policy may be referred to the Dean of Library and Instructional Services or designate for evaluation. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on all relevant circumstances (see section 9).

7. Any fee charged for communicating or copying a short excerpt from a copyright-protected work must be intended to cover only the costs of the institution, including overhead costs.
8. University college staff shall use reasonable efforts to guard against systematic, cumulative copying from the same work which in total exceeds the portion of the work that may be copied pursuant to these guidelines and to ensure that the number of copies made complies with this policy. If university college staff suspects that a student, other staff member or faculty member is engaged in systematic, cumulative copying, the matter must be referred to the university college staff member responsible for administering this policy or his or her delegate for review, and any further requests from that student, staff member or faculty member for a copy may be refused and/or the individual taking such actions disciplined. UCN Library and IT staff are not responsible for monitoring and enforcing compliance.
9. Requests for the making of copies which fall outside these copying guidelines and requests for making of copies of unpublished works may be referred to the Dean of Library and Instructional Services or to his or her delegate for evaluation. A determination will be made as to whether the proposed copies are permissible in all the circumstances relating to the requests and may ultimately be refused. The evaluation will examine all relevant circumstances, including:
 - a) the purpose of the proposed copying, including whether it is for research, private study, review or criticism;
 - b) 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;
 - c) the amount or proportion of the work which is proposed to be copied and the importance of that work;
 - d) alternatives to copying the work, including whether there is a non-copyrighted equivalent available;
 - e) the nature of the work, including whether it is published or unpublished; and
 - f) the effect of the copying on the work, including whether the copy will compete with the commercial market of the original work.

B. Interlibrary Loan

This policy on interlibrary loan applies to a loan from one academic library in Canada at the request of another academic library in Canada for delivery to that library or for transmission to a student, staff member, or faculty member of that other university. This policy does not apply to a loan from a university library to a public or commercial library or to a library located outside of Canada.

Depending on the circumstances surrounding the request for the loan, this policy may apply by analogy. Specific consideration of all the circumstances would have to be given to determine whether this policy would apply by analogy.

1. Paper Copies

A single copy may be made onto paper pursuant to the Copying Guidelines for interlibrary loan subject to the following safeguards:

- a) the library making the copy has previously received written confirmation in paper or electronic form from the library requesting the copy or from the patron of that library that the patron requires the copy for research, private study, review or criticism, and that the patron is a student, staff member or faculty member of the university college requesting the copy; and
- b) where the purpose of making the paper copy is to use it to make an electronic copy for use in interlibrary loan, the paper copy is promptly destroyed after the electronic copy is made.
- c) it will be assumed if the request is from a post secondary educational institution library that section 1 (a) and (b) are met.

2. Electronic Copies

A single copy may be made in electronic form pursuant to the Copying Guidelines for interlibrary loan and may be transmitted to the library requesting the copy using Ariel or similar technology subject to the following safeguards:

- a) the library making the copy has previously received written confirmation in paper or electronic form from the library requesting the copy that the patron of that library requires the copy for research, private study, review or criticism, that the patron requiring the copy is a student, staff member or faculty member of the university college requesting the copy, and that once that library received the electronic copy and makes a copy onto paper it will delete the electronic copy;
- b) the library making the copy has received written acknowledgement from the library requesting the copy that it will only use the electronic copy transmitted to it for the purpose of making a copy onto paper for the patron of that library that required the copy and will delete the electronic copy once it has furnished the paper copy to its patron; and
- c) the Ariel or similar technology used to transmit the copy is set or configured so that the copy is deleted once the transmission is completed.

It will be assumed if the request is from a post secondary educational institution library that section 2 (a), (b), and (c) are met.

A single copy may be made in electronic form pursuant to the Copying Guidelines for interlibrary loan and may be transmitted to a patron of the library requesting the copy in electronic form by desktop delivery subject to the following safeguards:

- a) the library making the copy has previously received written confirmation in paper or electronic form from the library requesting the copy that the patron of that library is a student, staff member or faculty member of the university college requesting the copy;
- b) the library making the copy has, before transmitting the copy, received written confirmation in paper or electronic form from the patron of the library requesting the copy that the patron requires the copy for research, private study, review or criticism, that the patron will only use that copy for research, private study, review or criticism, and that the patron will not transmit the copy to any third party;
- c) the electronic copy is made available to the patron requesting the copy either by email sent directly to the patron, or from a secure server protected by a technological protection measure that ensures that the copy is only made available to the patron requesting the copy;
- d) the electronic copy is transmitted to the patron requesting the copy in PDF format or a similar format that restricts the copy from being altered by the patron; and
- e) if transmitting the copy by email, the library deletes its sent email once the email has been transmitted, and if making the copy available from a secure server, the library deletes the copy stored on its server once the patron requesting the copy has downloaded one copy from the server and is not transmitted to another patron requesting a copy.
- f) it will be assumed if the request is from a post secondary educational institution library that section 2 (a) and (b) are met.

C. University Library Reserve

This policy on library reserve applies to reprographic and electronic copies made by the university library from Published Works for a student of the university college. A contract or license representing multiple copyright holders may supersede this section.

1. Reprographic Copies

One reprographic copy for each 30 students in a course of instruction up to a maximum of 3 may be made onto paper pursuant to the Copying Guidelines for library reserve subject to the following safeguards:

- a) the reprographic copies are made by or at the request of a faculty member in respect of a specific course of instruction offered by the university college;

- b) the reprographic copies are made as an optional and supplementary source of information for students and must be a small proportion (less than 25 per cent) of the required reading for a particular course, and the university library has received, from the faculty member requesting the copies, a written acknowledgement in paper or electronic form confirming that the copies are intended as an optional and supplementary source of information for students and that the copies amount to less than 25 per cent of the required reading for the course;
- c) the use of library reserve must not substitute for the purchase of books, course packs or other published materials;
- d) prior to loaning the reprographic copy to a student, the library receives proof from the student that he or she is a student enrolled at the university college (A official ID card issued by the institution is considered proof);
- e) the reprographic copy is loaned to the student for a period of limited duration;
- f) the reprographic copy is destroyed within a reasonable time once the course of instruction or series of courses it pertains to comes to an end; and
- g) where the purpose of making the reprographic copy is to use it to make an electronic copy for library reserve, the reprographic copy is promptly destroyed after the electronic copy is made.

2. Electronic Copies

A single copy may be made in electronic form pursuant to the Copying Guidelines for library reserve and may be transmitted to a student from a university college server subject to the following safeguards:

- a) the electronic copy is made by or at the request of a faculty member in respect of a specific course of instruction offered by the university college;
- b) the electronic copy is made as an optional and supplementary source of information for students and must be a small proportion (less than 25 per cent) of the required reading for a particular course, and the university library has received, from the faculty member requesting the copies, written acknowledgement in paper or electronic form confirming that the copies are intended as an optional and supplementary source of information for students and that the copies amount to less than 25 per cent of the required reading for the course;
- c) the use of library reserve must not substitute for the purchase of books, course packs or other published materials;
- d) prior to providing a student with access to the electronic copy, the library receives from the student proof that he or she is a student enrolled at the university college; (An official ID card issued by the institution is considered proof);
- e) the electronic copy is made available to the student from a secure server protected by a technological protection measure that ensures that the copy is only made available to the student requesting the copy;
- f) the electronic copy is transmitted to the student in PDF format or a similar format that prevents the copy from being altered by the student;
- g) the electronic copy is only downloaded by the student once during the course of instruction for which the copy was made; and
- h) the electronic copy made by the university college is deleted once the course of instruction or the series of courses it pertains to has come to an end.

Electronic Reserves permission to host:

If the resources are accessible from a source where copyright fees have been paid, copies may be placed on a secure server for download by any student, staff, or faculty of the university college, per the contact agreement.

License for Electronic Resources:

The following is an excerpt from an existing contract that allows authorization of use of Electronic resources representing multiple copyright holders. It is a standard contract allowing usage of the materials or resources contracted for:

D. LICENSE

1. EBSCO hereby grants to the Licensee a non-transferable and non-exclusive right to use the databases made available by EBSCO (the "Databases") according to the terms and conditions of this Agreement. The Databases made available to Authorized User are the subject of copyright protection, and the original copyright owner (EBSCO or its licensors) retains the ownership of the Database(s) and all portions thereof. EBSCO does not transfer any ownership, and the Licensee and Sites may not reproduce, distribute, display, modify, transfer or transmit, in any form, or by any means, any Database or any portion thereof without the prior written consent of EBSCO, except as specifically authorized in this Agreement.
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