

# Copyright Questions and Answers

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**Disclaimer:** This work is meant as a **guide** to help answer some questions and is not intended to serve as Kwantlen Polytechnic University policy nor as legal advice. Although stringent efforts have been made to make the information as accurate and as current as possible, errors may be present and/or as Canadian copyright law is in a state of change, the information may have become outdated.

The Kwantlen Polytechnic University Copyright Policy, C.19, can be found at:

<http://www.kwantlen.ca/policies/C-LearnerSupport/c19.pdf>

**Thanks:** I would like to acknowledge the use of the BCIT and Langara Copyright guides as resources when creating this guide. Thank you.

# Copyright Questions and (some) Answers

## Scope

This guide for students, faculty and staff has been prepared to provide an overview of copyright at Kwantlen and to answer some commonly asked questions regarding the complex and changing world of copyright. Kwantlen Polytechnic University and its employees are obliged to adhere to copying restrictions and to the terms of the agreement between Kwantlen and ACCESS COPYRIGHT. If you have any questions beyond the scope of this guide or if you are unsure of whether you can legally copy or not, there is a list of contacts at Kwantlen at the end of this guide and also some addresses of copyright Web sites.

## Historical Highlights

The Copyright Act affirms the basic rights of the creator and provides penalties for violating these rights. This Act can be found in the Statutes of Canada, accessible through the Library Home Page, government sites section. The Copyright Act was originally passed in 1924 and was based on the U.K. Copyright Act of 1911. Phase I (Bill C-60, the Act to Amend the Copyright Act) received royal assent June 8, 1988. It included protection for computer software, established a new Copyright Board and set up the framework for copyright collectives. Phase II, An Act to amend the Copyright Act (Bill C-32) was given Royal Assent on April 25, 1997 and provides exceptions to certain user groups such as educational institutions, libraries, archives and museums. Changes also included rights to provide royalties to producers and performers of sound recordings, a levy on recordable blank cassettes and tapes and provisions to give exclusive distributors of books in Canada greater protection in the Canadian market. In June 2001, Industry Canada and Canadian Heritage released A Framework for Copyright Reform, a process for reforming Canadian Copyright legislation that will include review of the Act, consultation and legislative amendments where necessary. The first step in the process is the release of two discussion papers for public consultation: Consultation Paper on Digital Copyright Issues, which examines issues such as a new exclusive right in favor of copyright owners, including performers and record producers, to make their works available on-line to the public; prevention of the circumvention of technologies used to protect copyright material, and liability issues for Internet Service Providers, and Consultation Paper on the Application of the Copyright Act's Compulsory Retransmission Licence to the Internet, which examines the issue of whether a compulsory licence should apply to retransmission of broadcast programs over the Internet.

## What Does Copyright Mean?

Copyright is the sole right to reproduce or allow others to reproduce a literary or artistic work or any substantial portion of it for any purpose. Under copyright law, no one may make a copy of a substantial part of a work without the consent of the copyright owner, *even for educational purposes*. Included in 'making a copy' are photocopies, mimeographs, offset prints and also the reproduction of a work in an information storage or retrieval system. Scanning a print document is considered the same as photocopying. Copyright applies to all original literary, dramatic, musical, and artistic works and includes books, writings, musical works, sculptures, painting, photographs, motion picture films, dictionaries, encyclopedias and computer programs. Copyright also applies to records, cassettes, tapes and compact discs. Slogans, names and mere titles are not protected by copyright. Copyright begins immediately upon creation rather than upon publication.

The creator owns the copyright on his or her work unless he or she is employed by some other person, company, or educational institution to create the work. In such cases the employer is the owner. Consultants retain ownership of their works, unless stated otherwise in their work contract. Copyright law is international. When a work is protected in Canada, it is also protected

in more than 100 countries. Copyright lasts for the life of the author plus at least 50 years. After that time the work generally falls into the public domain and may possibly be copied without permission. However, if a work that was originally published more than 50 years ago is reproduced from a source published within the last 50 years, copyright clearance must be obtained from that publisher. Under Copyright Law, there are stiff penalties for copyright infringement, including substantial fines and even criminal prosecution.

### **Fair Dealing**

There is a provision called “Fair Dealing” in the Copyright Act that allows reproduction of copyrighted materials, within limits, without permission from the copyright owner for the purpose of research or private study. However, the line between ‘fair dealing’ and infringement is difficult to define as there are no guidelines as to the number of words or passages that can be used without permission from the author. Only the courts can rule whether fair dealing is involved and there have been noteworthy court cases including one where “frankly my dear I don’ t give a damn” - 8 words out of an entire movie - was judged infringement. CAUT (Canadian Association of University Teachers) put out the following Intellectual Property Advisory on Fair Dealing:

<http://www.caut.ca/uploads/IP-Advisory3-en.pdf>

Note: Fair Dealing (Canada) is much more restrictive than the Fair Use provision in American Copyright Law. This means that your colleagues in American institutions can do things you cannot.

### **If in Doubt**

*Assume that any item is copyrighted and therefore its use is restricted.*

When in doubt it is safer to assume that you need to secure written permission from the copyright holder prior to copying or reusing in any manner.

At Kwantlen, copyright clearances of published **print** material have been simplified by our agreement with ACCESS COPYRIGHT.

### **What is ACCESS COPYRIGHT (CANCOPY)?**

ACCESS COPYRIGHT, formerly known as CANCOPY, is a non-profit organization that represents the reproduction rights of Canadian creators and publishers. Through licensing agreements, it provides legal access to published works for copyright users in the non-profit, business and public sectors, including educational institutions and libraries. For an annual fee, in our case paid for by Kwantlen, an ACCESS COPYRIGHT licence provides advance permission for a large portion of copying, and pays royalties to copyright owners on behalf of licensees. ACCESS COPYRIGHT licensing simplifies copyright clearance and reduces the number of times an institution has to contact individual copyright owners for permission to copy their published works. The licence contains a comprehensive indemnity that protects members of the Kwantlen community to a significant degree from liability for copying that falls within the parameters of the licence. Kwantlen has had a licence with ACCESS COPYRIGHT since 1995.

*A copy of the ACCESS COPYRIGHT licensing agreement is kept on Reserve at each Campus Library.*

## ACCESS COPYRIGHT Licence

The purpose of the licence is to facilitate access, not to act as a substitute for the purchase of books and other published materials. The licence does not permit repeated, systematic and cumulative copying from the same published work (copying that would eventually result in a majority of the work being copied).

What type of material does the ACCESS COPYRIGHT Licence cover?	What type of material does the ACCESS COPYRIGHT licence not cover?
<ul style="list-style-type: none"> <li><input type="checkbox"/> Books, folios, magazines, journals and newspapers</li> <li><input type="checkbox"/> Copying onto slides, microfiche, transparencies and into alternate formats<sup>1</sup> for the visually impaired, subject to specific provisions laid out in the ACCESS COPYRIGHT agreement.</li> </ul> <p><sup>1</sup> Alternate format does <b>not</b> include large print</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Works for which our institution holds the copyright</li> <li><input type="checkbox"/> Government publications*</li> <li><input type="checkbox"/> Original artistic works</li> <li><input type="checkbox"/> Photographic Negatives</li> <li><input type="checkbox"/> Instruction manuals</li> <li><input type="checkbox"/> Newsletters</li> <li><input type="checkbox"/> Letters to the editor</li> <li><input type="checkbox"/> Advertisements</li> <li><input type="checkbox"/> Most print music</li> <li><input type="checkbox"/> Workbooks and other consumables</li> <li><input type="checkbox"/> Copying into a computer for storage, networking or copying</li> <li><input type="checkbox"/> Copying of any publications that are on the exclusions list of publishers and titles not represented by ACCESS COPYRIGHT. These exclusions can be found in the ACCESS COPYRIGHT licence., a copy of which is on Reserve at each campus library.</li> <li><input type="checkbox"/> Items in the public domain*</li> <li><input type="checkbox"/> Non-print media</li> <li><input type="checkbox"/> Digital material</li> </ul>

**\*Note:** For more information about copyright and government publications and for a definition of public domain see the Notes section at the end of the guide.

## What, When and How of Copying

Even when the type of material is covered by the ACCESS COPYRIGHT licence, there are **limits on the amount** of a work that may be copied.

- For copies made for library reserve and interlibrary loan and handouts for classroom distribution you may copy Up to **10%** of a publication **or** an entire essay, poem, article or short story, whichever is greater **or** a chapter that is 20% or less of a book.
- The rule when copying is ‘whichever is greater’. For example, you can copy 10% of a published work when making multiple copies for free distribution, or an entire article from a periodical, whichever is the greater. You can copy 15% of a published work when making multiple copies for sale or an entire short story from a book, whichever is the greater.

### A. Single Printed Copies from a Printed Source Document

You can make a single copy without permission if:	You cannot copy without permission if any of the following apply:
<ul style="list-style-type: none"><li>❑ The copy is for research, private study, criticism, review, or news reporting <b>AND</b></li><li>❑ The copy is no more than 10% of a published work, <b>OR</b></li><li>❑ You are copying:<ul style="list-style-type: none"><li>• An entire article from a periodical</li><li>• An entire article from a set of conference proceedings</li><li>• An entire article from a book containing other works</li><li>• An entire chapter, if it is not more than 20% of the book</li><li>• An entire newspaper article or page</li><li>• An entire entry from an encyclopedia or similar reference work</li><li>• A single item of print music from a book or periodical containing other kinds of work</li></ul></li></ul>	<ul style="list-style-type: none"><li>❑ The work is unpublished (i.e. copies have not been made available to the general public) <b>OR</b></li><li>❑ You have previously copied 10% or more, of the same publication for the same course or program during the same academic year <b>OR</b></li><li>❑ You have changed the work in any way* <b>OR</b></li><li>❑ The work is an original of an artistic work, e.g. a pencil drawing</li></ul>

\* See the Notes section for further explanation.

## B. Multiple Copies for Free Distribution and Multiple Copies for Sale

You can make multiple copies for free distribution or multiple copies for sale without permission if:

- ❑ The copies are for the use of students, faculty or staff of Kwantlen, **AND**
- ❑ You make only enough copies to provide one for each student, two for each faculty member and such numbers as are required by the Institution for administrative uses, **AND**
- ❑ You are copying no more than **10% of a published work (in the case of multiple copies for free distribution) OR**
- ❑ You are copying **no more than 15% of a published work (in the case of multiple copies for sale)**
- ❑ **OR**, (whether the copying is for free distribution or for sale) you are copying:
  - An entire article from a periodical issue containing other works
  - An entire single essay, short story, play, or poem from a book or periodical containing other works
  - An entire article from a set of conference proceedings
  - An entire article from a book containing other works
  - An entire chapter, if it is not more than 20% of the book
  - An entire newspaper article or page
  - An entire entry from an encyclopedia or similar reference work
  - A single item of print music from a book or periodical containing other kinds of work
  - An entire reproduction of an artistic work from a book or periodical issue containing other works

You cannot make multiple copies for free distribution or multiple copies for sale without permission if any of the following apply:

- ❑ The work is a crown publication (some exceptions for federal statutes apply).
- ❑ The work contains a notice expressly prohibiting copying under licence with a Reproduction Rights Organization such as ACCESS COPYRIGHT
- ❑ The work is unpublished (i.e. copies have not been made available to the general public).
- ❑ The work is available as a separate publication and can be obtained at a reasonable price and within a reasonable period of time.
- ❑ You have previously copied **10% (in the case of copies for free distribution) or 15% (in the case of copies for sale)** or more of the same publication for the same course or program during the same academic year
- ❑ The work is an original of an artistic work (e.g. a pencil drawing)
- ❑ You have changed the work in any way.
- ❑ You have collected excerpts from more than one publication and you plan to copy these and distribute them as a collection (Refer to Course Packs)
- ❑ You intend to use the work in association with an endorsement
- ❑ The work is published in a country that is NOT covered by the ACCESS COPYRIGHT agreement. (These exclusions can be found in the ACCESS COPYRIGHT Licence).
- ❑ The work is published by a publisher NOT covered by the ACCESS COPYRIGHT agreement. (These exclusions can be found in the ACCESS COPYRIGHT licence).
- The work is one of the following UNLESS it contains a notice specifically authorizing copying under licence with ACCESS COPYRIGHT:

	<ul style="list-style-type: none"> <li>• An instructional manual, including teachers' guides</li> <li>• A 'consumable' such as workbooks and tests</li> <li>• Print music for use by choirs, bands, and similar groups</li> <li>• A letter to the editor in a newspaper, magazine or periodical</li> <li>• An advertisement in a newspaper, magazine or periodical</li> <li>• A newsletter restricted to fee-paying clients, which contains commercially valuable information</li> <li>• Business cases which are available for purchase</li> </ul>
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**C. Creating Slides or Overheads from a Printed Source Document for Presentation Purposes**

You can make slides/transparencies without permission if:	You cannot make slides/transparencies without permission if:
<ul style="list-style-type: none"> <li><input type="checkbox"/> The slides/transparencies are for the students, faculty, or administrative staff of Kwantlen, <b>AND</b></li> <li><input type="checkbox"/> You are making only one (1) set of slides/transparencies from the same printed material, <b>AND</b></li> <li><input type="checkbox"/> You are copying no more than 10% of a published work, <b>OR</b></li> </ul> <p>The work is one of the following:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> An entire article from a periodical issue containing other works</li> <li><input type="checkbox"/> An entire article from a set of conference proceedings</li> <li><input type="checkbox"/> An entire single essay, short story, play, or poem from a book or periodical issue containing other works</li> <li><input type="checkbox"/> An entire article from a book containing other works</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> The work you are planning to copy is an artistic work reproduced in a book or periodical and a slide/transparency of the work can be obtained on the Canadian market within a reasonable time and for a reasonable price</li> <li><input type="checkbox"/> The work is a crown publication (some exceptions for federal statutes apply)</li> <li><input type="checkbox"/> The publication contains a notice expressly prohibiting copying under licence with a Reproduction Rights Organization such as ACCESS COPYRIGHT</li> <li><input type="checkbox"/> The work is unpublished (i.e. copies have not been made available to the general public).</li> <li><input type="checkbox"/> The work is an original of an artistic work (e.g. a pencil drawing)</li> <li><input type="checkbox"/> You have previously copied 10% or more of the same publication for the same course or program during the same academic year</li> <li><input type="checkbox"/> You have changed the work you plan to copy to a slide/transparency in a significant way.</li> <li><input type="checkbox"/> You intend to use the slide/transparency in association with an endorsement or advertisement</li> </ul>

<ul style="list-style-type: none"> <li>❑ An entire chapter, if it is not more than 20% of the book</li> <li>❑ An entire newspaper article or page</li> <li>❑ An entire entry from an encyclopedia or similar reference work</li> <li>❑ A single item of print music from a book or periodical containing other kinds of works</li> <li>❑ An entire reproduction of an artistic work from a book or periodical issue containing other works</li> </ul> <p><i>The ‘whichever is greater than’ rule also applies to the making of slides transparencies.</i></p>	<ul style="list-style-type: none"> <li>❑ You intend to use the slide/transparency in association with partisan political activities</li> <li>❑ The work is published in a country that is NOT covered by the ACCESS COPYRIGHT agreement. (These exclusions can be found in the ACCESS COPYRIGHT Licence).</li> <li>❑ The work is published by a publisher NOT covered by the ACCESS COPYRIGHT agreement. (These exclusions can be found in the ACCESS COPYRIGHT licence).</li> <li>❑ The work is one of the following UNLESS it contains a notice specifically authorizing copying under licence with ACCESS COPYRIGHT or an affiliated reproduction rights organization: <ul style="list-style-type: none"> <li>• An instruction manual, including teachers’ guides</li> <li>• A ‘consumable’ such as a workbook or test</li> <li>• Print music for use by choirs, bands, and similar groups</li> <li>• A letter to the editor in a newspaper, magazine or periodical</li> <li>• An advertisement in a newspaper, magazine or periodical</li> <li>• Business cases that are available for purchase</li> <li>• A newsletter restricted to fee-paying clients, that contains commercially valuable information</li> </ul> </li> </ul>
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#### **D. Course Packs**

##### **Copying from Textbooks for Course Packs:**

- Extracts from textbooks, *when included in course packs*, can be no greater than **5%** of the textbook, or a single chapter, whichever is less.
- No more than **2** extracts from a textbook written by the same author and published by the same publisher within any five year period can be included.
- No more than **50%** of the pages in the course pack can be taken from textbooks.
- **What is considered a textbook?** The above limits apply to textbooks published for the university and college market only. They do not apply to other kinds of publications such as scholarly books. The definition of a textbook can be a murky area so please consult the Bookstore Copyright Clearance clerk.

**For Course Packs you can copy without permission if:**

- ❑ You have collected excerpts from more than one publication and you plan to copy these and distribute them as a collection, **AND**
- ❑ The copies are for the use of students, faculty or staff of Kwantlen, **AND**
- ❑ You make only enough copies of the course pack to provide one for each student, two for each faculty member and such number as are required by the Institution for administrative uses,
- ❑ **AND**, for each extract included in the course packs, you are copying no more than 15% of a published work, **OR** the work is one of the following:
  - An entire article from a periodical issue containing other works
  - An entire article from a set of conference proceedings
  - An entire single essay, short story, play, or poem from a book or periodical containing other works
  - An entire article from a book containing other works
  - An entire chapter, if it is not more than 20% of the book
  - An entire newspaper article or page
  - An entire entry from an encyclopedia or similar reference work
  - A single item of print music from a book or periodical containing other kinds of work
  - An entire reproduction of an artistic work from a book or periodical issue containing other works

***The 'whichever is greater than' rule applies to course packs***

**For Course Packs you cannot copy without permission if :**

- ❑ More than 50% of the pages in your course pack are taken from textbooks
- ❑ Your course pack contains more than two extracts from textbooks written by the same author and published by the same publisher within a period of five years
- ❑ For each of the extracts included in the course pack:
  - The extract is from a textbook and is greater than 5% of the textbook or the extract is from a textbook and is more than one chapter of the textbook, whichever is less
  - The extract is from a crown publication (some exceptions for federal statutes apply)
  - The publication from which the extract is taken contains a notice expressly prohibiting copying under licence with a Reproduction Rights Organization such as ACCESS COPYRIGHT
  - The work is unpublished (i.e. copies have not been made available to the general public)
  - The extract is available as a separate publication and can be obtained at a reasonable price and within a reasonable period of time
  - You have previously copied 15% or more of the same publication for the same course or program during the same academic year
  - The work is an original of an artistic work (e.g. a pencil drawing)
  - You have changed the work in any way
- ❑ You intend to use the work in association with an endorsement or advertisement
- ❑ You intend to use the work in association with partisan political activities
- ❑ The work is published in a country that is NOT covered by the ACCESS COPYRIGHT agreement (These exclusions can be found in the ACCESS COPYRIGHT licence).
- ❑ The work is published by a publisher NOT covered by the ACCESS COPYRIGHT agreement. (These exclusions can be found in the ACCESS COPYRIGHT licence).

	<ul style="list-style-type: none"> <li>❑ The work is one of the following (UNLESS it contains a notice specifically authorizing copying under licence with ACCESS COPYRIGHT or an affiliated reproduction rights organization): <ul style="list-style-type: none"> <li>• An instructional manual, including teachers' guides</li> <li>• A 'consumable' such as workbooks and tests</li> <li>• Print music for use by choirs, bands, and similar groups</li> <li>• A letter to the editor in a newspaper, magazine or periodical</li> <li>• An advertisement in a newspaper, magazine or periodical</li> <li>• A newsletter restricted to fee-paying clients, which contains commercially valuable information</li> <li>• Business cases which are available for purchase</li> </ul> </li> </ul>
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### Requesting Copyright Permission

If the work you wish to copy is not covered by ACCESS COPYRIGHT, this does not mean that you cannot copy. It just means that you have to request permission from the copyright holder.

The Library will check all photocopies submitted for Reserve for clearance within the ACCESS COPYRIGHT licence. In cases where the copyright is not covered by ACCESS COPYRIGHT, it is the responsibility of the individual employee to obtain copyright clearance for photocopies they wish to place on Reserve with the Library.

Please check with your Departmental Secretary for assistance in securing copyright permission when it is necessary.

### Other Formats

#### A. Audiocassettes

Audio CDs or audiocassettes can be played in an educational institution without needing a Public Performance licence. These must, however, be legal, commercial copies.

#### B. Music

In general, printed or recorded music cannot be copied or distributed without the permission of the copyright holder(s). Music is further complicated by often requiring two copyright clearances:

1. Copyright of the written music (i.e. the musical notes and/or words to a song). Written permission is required to copy or distribute in any format.
2. Copyright of the actual performance itself (i.e. the live or recorded performance of the music). Written permission is required to copy or distribute in any format.

#### C. Graphics and Original Artwork

Written permission from the copyright holder must be obtained prior to copying or reuse of any artistic work regardless of their source, including computer graphics and icons, unless there is a clear indication that the work is in the public domain.

### Miscellaneous

The following activities are permissible in an educational institution **without obtaining permission from the copyright holder**:

- ❑ An instructor may copy, translate, perform or communicate by telecommunication a work for an examination or test on the premises of the educational institution, **unless** the work is ‘commercially available’ in a medium or format appropriate for the instructor’s purpose or **unless** a ‘motive of gain’ is involved. See notes section for definitions of ‘commercially available’ and ‘motive of gain’.
- ❑ Live performances, primarily by students are permissible **if** the performance takes places on the premises of the educational institution, is for educational or training purposes, is not for profit, takes place primarily before an audience consisting primarily of students and instructors of the educational institution, and does not involve a ‘motive of gain’.
- ❑ Sound recordings protected by copyright can be played in the classroom with the same conditions as live performances.
- ❑ Radio and television programs can be played in the classroom but only at the same time as the program is aired. For example the movie could be viewed in the classroom at the same time as it was being broadcast by the CBC. However, the same movie could not be rented at the video store and then shown on television in the classroom. The same conditions as for live performances also must exist plus the playing must not be for profit.
- ❑ Manual reproduction (copying a work onto a blackboard or a flipchart or for use on an overhead projector or similar device), without permission from the copyright holder, is allowed **if** the work is not commercially available in a format appropriate for the instructor’s use, and the copy is used on the premises of the educational institution, and is used only for the purposes of education or training, and is not made for a ‘motive of gain’.

### Students’ Work

As students own the work they create, their works cannot be photocopied or reproduced in any way without their permission. Student authors can refuse to share their work with other students. The original work could be circulated in a physical classroom but not reproduced to share. (The above is true unless there is a written agreement to the contrary or there is an employee-employer relationship.)

### Who to Call If You Have Questions?

For questions on Course Packs or Copying for Sale please call:  
Bookstore Copyright Clearance, Surrey Campus **2354**

For general copyright questions please call:  
Colleen van de Voort, Public Services Librarian, Surrey Campus Library **2090**

## Notes

**Changing a Work:** Don't make any changes if you are copying or reusing a work in any way. Copying from the Internet is particularly vulnerable to editing. Creators retain the moral rights to the integrity of their own work, and that means you cannot make changes.

**Commercially available:** a work is commercially available if it is available on the Canadian market within a reasonable time, for a reasonable price, with reasonable effort, or is available under a licence from a collective within a reasonable time, for a reasonable price and with reasonable effort.

**Crown Copyright:** For government documents, both federal or provincial, the Crown generally claims copyright. Copyright on these works lasts for the remainder of the calendar year in which the work was first published, and for 50 years after that. Copyright on unpublished works is perpetual. There are some exceptions, mostly in the area of Statutes. Anyone may, without charge or request for permission, reproduce enactments and consolidations of enactments of the Government of Canada and decisions and reasons for decisions of federally-constituted courts and administrative tribunals, provided due diligence is exercised in ensuring the accuracy of the materials reproduced and the reproduction is not represented as an official version.

In addition, governments usually allow educational institutions to copy Crown publications free of charge. If you have any doubt, contact the government publisher and ask for permission. You may seek permission to use or reproduce federal government works by writing to:

Permissions Officer  
Canada Communication Group  
Publishing Division  
Ottawa, Ontario  
K1S 0S9  
Telephone: (819) 956-4679  
Fax: (819) 997-8863

You may seek permission to use or reproduce B.C. government works by writing to:

Frank Hudson,  
Intangible Property Program  
Product Sales and Services, Queen's Printer  
PO Box 9459 Stn Prov Govt  
Victoria, B. C.  
V8W 9V7

**Educational exemption:** does not exist in Canada

**Moral rights:** Even if the author sells the copyright to someone else, he/she still retains what are called 'moral rights'. This means that no one, including the person who owns the copyright, is allowed to distort, mutilate, or otherwise modify the work in a way that is prejudicial to the author's honour or reputation. In addition, the work may not be used without permission in association with a product, service, cause or institution in a way that is prejudicial to the author's honour or reputation. Moral rights cannot be sold or transferred but can be waived. An example of infringement of an author's moral rights would be when a publisher buys the copyright on a song and then converts it into a commercial jingle without the author's permission.

**Motive of gain:** Not having a motive of gain is defined as when an educational institution does not recover any more than the costs, including overhead costs, associated with doing an act under an educational exception.

**Public domain:** Copyright of a work in Canada usually exists for the life of the author, the remainder of the calendar year in which the author dies, and for 50 years following the end of that calendar year. After that time, the work becomes part of the public domain and may possibly be copied at will. For example, Shakespeare's plays are part of the public domain and anyone can produce or publish them. There are, however, exceptions to the general rule of the life of the author plus 50 years: if a work that was originally published more than 50 years ago is reproduced from a source published within the last 50 years, it must be cleared through that publisher. Also, in the case of photographs, cinematographs, and sound recordings, the term is 50 years from the making of the negative or master respectively.

### **Internet Sites on Copyright**

Some useful sites for copyright information include:

- Canadian Intellectual Property office  
<http://strategis.ic.gc.ca>
- Canadian Library Association  
<http://www.cla.ca>  
good information and links on copyright
- ACCESS COPYRIGHT's home page  
<http://www.accesscopyright.ca>
- <http://www.copyrightlaws.com>  
Web site of Lesley Harris, author of *Canadian Copyright Law, Digital Property: Currency of the 21<sup>st</sup> Century*, and *The Copyright & New Media Law Newsletter for Librarians & Information Specialists*
- World Intellectual Property Organization  
<http://www.wipo.int>
- <http://www.benedict.com>  
good site on U.S. copyright law
- <http://www.copyright.com>  
U.S. Copyright Clearance Center and also provides links to other sources

CV/January 2010