



**BRANDON
UNIVERSITY**

Founded 1899

Fair Dealing Policy

I. Copying Guidelines

1. Except where otherwise stated, these guidelines apply to the making by a university a single copy from a work protected by copyright for the purposes of private study or research in circumstances in which the consent of the owner of copyright has not been secured and is not required by reason of the fair dealing exception in the *Copyright Act*. Permission from a copyright holder may be required where the copy falls outside of these guidelines.
2. Single copies that are permitted to be made pursuant to this policy must be made only from publications, namely book, journals and other periodical publications, newspapers, magazines ("Published Works") and only if the copy is made from a lawful copy of the work in the possession of the university, and if the lawful copy is in electronic form, the contractual terms relating to the copy do not prohibit the doing of the act sought to be done pursuant to these guidelines.
3. No copying may exceed 10 per cent of a Published Work, other than a textbook produced primarily for the post-secondary education market, or the following, whichever is greater:
 - a) an entire chapter from a book provided that it does not exceed 20 per cent of the book;
 - b) an entire article from a periodical publication;
 - c) an entire short story, play, poem or essay from a book or periodical publication;
 - d) an entire entry from an encyclopedia, dictionary, annotated bibliography or similar reference book;
 - e) an entire reproduction of an artistic work from a book or periodical publication; and
 - f) a single musical score from a book or periodical publication.
4. No copying may exceed 5 per cent of a textbook produced primarily for the post-secondary education market, or the following, whichever is greater:
 - a) an entire chapter from a textbook provided that it does not exceed 10 per cent of the textbook;
 - b) an entire short story, play, poem or essay from the textbook provided that it does not exceed 10 per cent of the textbook; and
 - c) an entire reproduction of an artistic work or a single musical score from the textbook provided that it does not exceed 10 per cent of the textbook.
5. Notwithstanding any of the other provisions of these guidelines, no copies may be made of the following:
 - a) any of the works referred to in paragraph 3 of these guidelines where the publication containing the work does not contain other works;
 - b) unpublished works;
 - c) workbooks, work cards, assignment sheets, tests and examination papers;
 - d) instruction manuals;
 - e) newsletters with restricted circulation intended to be restricted to fee paying clientele; or
 - f) business cases which are made available for purchase.

6. All copies made pursuant to these guidelines shall contain on at least one page the copyright symbol ©, the name of the author or artist (where known), the title of the publication from which the copy was made, the name of the publisher of that publication and the following statement:

This copy is made solely for the use by a student or faculty member for research or private study. Any other use may be an infringement of copyright if done without securing the permission of the copyright owner.

7. If a fee is charged for making a copy the fee is set at an amount to cover the actual cost of making and delivering the copy.
8. University staff shall use reasonable efforts to guard against systematic, cumulative copying from the same work and to ensure that the number of copies made complies with this policy. If university staff suspects that a student or faculty member is engaged in systematic, cumulative copying the matter must be referred to the university staff member responsible for administering this policy or his or her delegate for review, and any further requests from that student or faculty member for a copy may be refused.
9. Requests for the making of copies which fall outside these copying guidelines may be referred to the university staff member responsible for administering this policy or to his or her delegate for evaluation of all the circumstances relating to the requests and may ultimately be refused.

II. Interlibrary Loan

10. This policy on interlibrary loan applies to a loan from one university library in Canada at the request of another university library in Canada for delivery to that library or for transmission to a student 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

11. 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 private study or research and that the patron is a student or faculty member of the university 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 destroyed immediately after the electronic copy is made.

Electronic Copies

12. A single copy may be made in electronic form pursuant to the Copying Guidelines 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 private study or research, that the patron requiring the copy is a student or faculty member of

¹ This policy has been written to clarify fair dealing for access to university library resources. Fair dealing of course has wider application and is legitimately and reasonably called upon in other contexts and circumstances. While this particular policy does not specifically address all such circumstances it can, as noted in clause 10 of the policy, apply by analogy in certain situations. It is not unreasonable to expect for example that, subject to a consideration of the facts, fair dealing would apply in the context of an ILL request from a local public library to a university library.

- the university 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.
13. 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 or faculty member of the university 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 private study or research, that the patron will only use that copy for private study or research 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.

III. University Library Reserve

Paper Copies

14. Up to two copies may be made onto paper pursuant to the Copying Guidelines for each ten students enrolled in a course of instruction for library reserve subject to the following safeguards:
- a) the copies are made at the request of a faculty member in respect of a specific course of instruction offered by the university;
 - b) the copies are made principally as a supplementary source of information for students and must be a small proportion (less than 20 per cent) of the total assigned reading for a particular 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 copy to a student the library receives from the student a written acknowledgement in paper or electronic form that he or she is a student enrolled in the course of instruction for which the copy was made, that the student requires the copy for private study or research and that the student will not use the copy for any other purposes;
 - e) the copy is loaned to the student for a period of limited duration;
 - f) the copy is destroyed once the course of instruction for which the copy was made has come to conclusion; and

- g) where the purpose of making the paper copy is to use it to make an electronic copy for use for library reserve, the paper copy is destroyed immediately after the electronic copy is made.

Electronic Copies

15. A single copy may be made in electronic form pursuant to the Copying Guidelines and may be transmitted to a student from a university server as electronic library reserve subject to the following safeguards:
- a) the copy is made at the request of a faculty member in respect of a specific course of instruction offered by the university;
 - b) the copy is made principally as a supplementary source of information for students and must be a small proportion (less than 20 per cent) of the total assigned reading for a particular 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 copy the library receives from the student a written acknowledgement in paper or electronic form that he or she is a student enrolled in the course of instruction for which the copy was made, that the student requires the copy for private study or research, that the student will not use the copy for any other purpose and that the student will not transmit the copy to any third party;
 - e) the 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 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 copy is only downloaded by the student once during the course of instruction for which the copy was made; and
 - h) the copy made by the university is deleted once the course of instruction for which the copy was made has come to conclusion.

IV. Document Delivery

16. This policy on document delivery applies to copies made by the university library from Published Works for a patron of the library.

Paper Copies

17. A single copy may be made onto paper pursuant to the Copying Guidelines, for a patron of the university library who is a student or faculty member of the university subject to the following safeguards:
- a) the library has received written confirmation in paper or electronic form from the patron that is a student or faculty member of the university and that the patron requires the copy for private study or research; and
 - b) where the purpose of making the paper copy is to use it to make an electronic copy to provide to the patron, the paper copy is destroyed immediately after the electronic copy is made.
18. A single copy may be made onto paper pursuant to the Copying Guidelines, for a patron who is not a student or faculty member of the university subject to the following safeguards:
- a) the library has permitted the patron to have access to its premises and the patron requests the copy while on the premises of the library; and
 - b) the library has received written confirmation in paper or electronic form from the patron that the patron requires the copy for private study or research.

Electronic Copy

19. A single copy may be made in electronic form pursuant to the Copying Guidelines for a patron of the university library subject to the following safeguards:
- a) the library has received written confirmation in paper or electronic form from the patron and the patron is a student or faculty member of the university and that the patron requires the copy for private study or research, that the patron will only use that copy for private study or research and that the patron will not transmit the copy to any third party.
 - b) 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;
 - c) 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
 - d) 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.