

POLICY GROUP: NCT 300 – General Administrative

POLICY TITLE: Copyright Compliance

A. Background and Definitions

Niagara College – Toronto recognizes the importance of providing a range of quality information resources, both published and unpublished, to further academic teaching, learning and operational objectives of Niagara College – Toronto students and employees.

Copyright: Copyright means the sole right to produce, reproduce and copy a work in which Copyright exists. In Canada, all original creative works are automatically protected by Copyright upon their creation and protection applies whether or not a Copyright symbol appears on the material. Only the Copyright owner or authorized licensees have the right to decide when and how the work is to be copied, altered, or made available. Regardless of format (e.g., print, visual or digital) the use, reproduction and distribution of Copyright protected materials are subject to limits and restrictions.

Course Pack: A Course Pack is a compilation of selected readings created for a specific course.

Ownership: Under Canada’s Copyright Act, the author of the work is generally the owner of the Copyright. The College respects the rights of Copyright owners and shall not knowingly copy, sell, distribute, or use any print or electronic materials, without the express permission by the Copyright owner, or license agreements or as otherwise permitted by law. All employees and students at Niagara College – Toronto are required to abide the Copyright Act, institutional licensing agreements, and related College policies. Employees and students can be held liable for noncompliance.

If a work is created during the course of the author’s employment, the employer holds the Copyright unless there is an agreement to the contrary. The Copyright for works prepared by students in fulfillment of College course requirements is owned by the student. Accordingly, the student has the right to control further uses of their work. A student’s work may not be used for purposes other than that for which was assigned, mainly for evaluation purposes, without written permission of the student. In instances where the College wishes to make use of student work e.g., for marketing, fundraising or other specified purposes, the student will be requested to sign a Student Work waiver authorizing the use of the work for the identified further purposes.

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Short Excerpt: A Short Excerpt can be any of the following:

- 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 single poem or musical score from a Copyright-protected work containing other poems or musical scores; or
- f) An entire entry from an encyclopedia, annotated bibliography, dictionary, or similar reference work.

B. Purpose

This policy provides a framework for permissible use of Copyrighted resources, whatever the format, by informing Niagara College – Toronto students and employees, as users and/or creators of Copyrighted works of:

- a) Their rights and responsibilities with regard to Canadian Copyright law; and
- b) The guidelines which must be followed to use, copy, or distribute Copyrighted materials for educational purposes, so as to prevent infringement and to protect Niagara College – Toronto against legal action.

C. Scope

This policy applies to all employees, faculty, and students at the Niagara College - Toronto (NCT) Campuses.

D. Policy Statements

1. The College's printing/copying equipment and its information technology services, facilities and equipment are the sole property of Niagara College – Toronto. Such facilities and equipment shall not be used to store, copy, display or transmit Copyright material, except

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as permitted for educational/research purposes, as defined in applicable legislation, guidelines, agreements, and relevant College policies.

Guidelines for Copying – Fair Dealing

2. For all materials where separate license or express permission is not secured, it is the practice of Niagara College – Toronto to facilitate access to print, visual and digital resources in accordance with “fair dealing,” compliant with these guidelines.
3. 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:
 - a) 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 this test.
 - b) Dealing must be “fair.” In landmark decisions in 2004 and 2012, the Supreme Court of Canada provided guidance as to what this test means to schools and postsecondary institutions. Although the Canadian Copyright Act does not define fairness of dealing, the following factors are to be considered:
 - i. Purpose of the dealing
 - ii. Character of the dealing
 - iii. Amount of the dealing
 - iv. Alternatives to the dealing
 - v. Nature of the work; and
 - vi. Effect of the dealing on the work.
4. The following guidelines apply fair dealing in postsecondary educational institutions and provide reasonable safeguards for the owners of Copyright-protected works in accordance with the Copyright Act and the Supreme Court decisions.
 - a) 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.

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- b) Copying or communicating Short Excerpts from a Copyright-protected work under “fair dealing” 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. 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:
 - i. As a class handout
 - ii. As a posting to a learning or course management system that is password protected or otherwise restricted to students of a school or postsecondary educational institution; or
 - iii. As part of a Course Pack.
 - c) 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.
 - d) Copying or communicating that exceeds the limits in this Copyright Compliance policy may be referred to a supervisor or other person designated by the educational institution for evaluation. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on all relevant circumstances.
 - e) Any fee charged by the educational institution for communicating or copying a Short Excerpt from a Copyright-protected work must be intended to cover only the costs to the institution, including overhead costs.
5. Any copying which falls outside of these guidelines requires that permission be obtained from the owner or authorized licensee. The student or employee who wishes to use Copyright material will have the responsibility, with the assistance of the College libraries when requested, to obtain clearances and permissions where necessary.
6. **Violations:** The goal of this policy is to prevent and resolve Copyright violations. The policy is supplemental to any other legal right or remedy that the College may have in conducting its affairs. It is understood that the College may continue to exercise its pre-existing legal rights without recourse to this policy and/or may assume the role of complainant where circumstances warrant.

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7. **Reporting:** All students and employees should report any real, perceived or believed infraction of the Copyright Compliance policy. In addition, all students and employees are expected to comply with the directions given to them by staff in performing their regular or delegated duties in regards to this policy, including participating in the investigation/resolution process.
8. It is understood that Copyright material cannot be accessed, used, copied, transformed, used for financial gain, or distributed using College services, equipment, or facilities, except as prescribed by the Copyright Act.
9. Alleged Copyright material cannot be confiscated directly from the person in possession of the material. However, the Copyright owner and/or the College will have the right to prohibit the use of, or restrict access to the material in question, pending the investigation and resolution process.
10. **Consequences of Violations:** For employees, where incidents are found to be in violation of this policy and depending on the severity of the situation and its impact on the institution, the College will exercise its rights and obligations to take appropriate disciplinary action consistent with the principles of progressive discipline, and where applicable, terms and conditions of employment for administrative staff.

For Students, the College will exercise its rights and obligations to take appropriate action as per the Academic Rights and Responsibilities and Academic Honesty policies.

E. Related Documents

Policy: NCT 100 Academic Honesty
NCT 100 Academic Rights & Responsibilities

* NOTE: With the exception of the Section addressing Guidelines for Copying, this policy is largely based, with permission, on Seneca College’s Copyright Policy, September 2012.

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F. Document History

Date	Approval/Review/Key Change(s)
Nov 29, 2023	New