

Policy Title:	Copyright	Policy Version:	2
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Policy Statement

To ensure that copyright legislation and the importance of intellectual property are communicated to ASM community in the access and reproduction of learning materials used at Acsenda School of Management (ASM).

Purpose

- To advise the ASM community on Acsenda School of Management’s compliance with the Copyright Act of Canada and agreements between ASM and licensed reproduction rights organizations;
- To reduce risk to ASM that could result from copyright infringement;
- To clarify roles and responsibilities of ASM community regarding copyright.

Scope

Acsenda School of Management staff, faculty, and students. The Library abides by and upholds all reasonable and technically feasible standards of copyright and fair access and use. The Library must uphold Canadian copyright law and abide by the terms and conditions in licenses. **Ignorance of the law is not a defence.**

1. In accordance with the Copyright Act, it is assumed that, unless otherwise proven, all material is subject to copyright protection. This includes materials published in the foreign countries signatory to the Berne and Universal copyright conventions.
2. Fair Dealing: 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. 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.
 - b. 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. These guidelines apply fair dealing in Acsenda School of Management and provide reasonable safeguards for the owners of copyright – protected works in accordance with the *Copyright Act* and the Supreme Court decisions.
3. Work created in the course of the creator’s employment with ASM will be owned by ASM, unless there is an agreement to the contrary.
4. The copyright in works prepared by learners in fulfillment of ASM course requirements is owned by the learner. The learner has the right to control further uses of his/her work. Learner’s work may not be used for purposes other than for which it was assigned by the faculty member teaching their courses(s) namely, for evaluation purposes, without the written permission of the learner.

5. ASM facilities and equipment will not be used in activities, such as copying, transmitting objects or documents, or breaking digital locks, which would contravene legislation, license agreements, or guidelines.
6. It is the responsibility of the individual using copyrighted material to ensure, if necessary, that appropriate permission has been obtained and/or royalties paid prior to its use.
 - a) Permission to use copyrighted works must be secured in accordance with existing agreements.
 - b) ASM will be supported by the ASM Library who will provide consultation, advice, and training.
7. The policy is “technology neutral”. It applies to all uses of all publication media; print, digital, graphical, Internet, audio, and video.

Fair Dealing Guidelines

1. ASM has adopted the Fair Dealing Policy to provide guidance to faculty members, instructors, and staff members on when copying and communicating a copyright-protected work would fall within the fair dealing exemption. The policy permits faculty members, instructors, and staff members to copy and communicate, in paper or electronic form, short excerpts from copyright-protected works for any of the eight fair dealing purposes - news reporting, research, private study, education, parody, satire, criticism, or review. The most important purposes for ASM are research, private study, and education.
2. Copying or communicating short excerpts from a copyright-protected work under these Fair Dealing Guidelines 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 or “Safe Harbour” 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; an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works;
 - d. an entire newspaper article or page;
 - e. an entire single poem or musical score from a copyright-protected work containing other poems or musical scores;
 - f. 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 these Fair Dealing Guidelines may be referred to the ASM Library at asmlibrary@acsenda.com. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on all relevant circumstances.
7. 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 of the institution, including overhead costs.

Out of print works

Out of print works may be copied only if permission is granted by the copyright holder. Contact the Library to verify a title.

Definition

These definitions apply to terms as they are used in this policy.

Word/Term	Definition
ASM	Acsenda School of Management
Copyright	Defined in the Copyright Act of Canada (R.S.C. 1999 c. C-42) as “the sole right to produce or reproduce the work or a substantial part thereof in any material form whatever, to perform, or in the case of a lecture to deliver the work or any substantial part thereof in public, or if the work is unpublished, to publish the work or any substantial part thereof...” According to the Act, protection of works is automatic and exists as soon as a work is created and in most cases continues until 50 years after the creator’s death.
Incidental Copying	Photocopies, complying within the limits, restrictions and rules as set out in the Fair Dealing provisions, provided free to each student in a class as handouts. Each copy distributed must be clearly marked with the full citation.
Fair Dealing	As stated in the Act, section 29, Fair dealing for the purpose of research, private study, education, parody or satire does not infringe copyright. The source must be clearly cited.
Copy	Any reproduction regardless of the format of the original or the format of the duplicate. A copy (or copies) may apply to reproduction from a variety of format sources, including, but not limited to, books; periodicals, CD-ROM; electronic databases; the Internet; computer software; artwork; written and recorded music; sound recordings; video recordings; illustrations; graphics; and photographs, for instructional or administrative use in any format (print, digital, audio-visual). It includes single and multiple copies and materials produced in foreign countries. It includes materials provided free or at a fee.
Course Collection	Use by an Authorized Person as part of a Course of Study, and whether for required or recommended reading for the Course of Study or otherwise: <ul style="list-style-type: none"> a) Paper Copies of Published Works assembled into course packs; or b) Digital Copies of Published Works that are <ul style="list-style-type: none"> (i) emailed, linked or hyperlinked to, or (ii) posted, uploaded to, or stored, on a Secure Network.
Published Work	A literary, dramatic, or artistic work protected by copyright in Canada, of which copies have been made available to the public with the consent or acquiescence of the copyright owner but excludes a Musical Work.

Related legislation

Copyright Act [C-42] <http://laws-lois.justice.gc.ca/eng/acts/C-42/index.html>

Related policies

Policy Number	Policy Title
6000	Public Performance Rights
9014	Student Rights and Responsibilities Policy

Responsibility

ASM librarians are responsible for updating information about copyright and liaising with Copyright licensing agencies / collectives when necessary, and communicating copyright information. Anyone can report copyright infringement to ASM Librarians. All ASM Faculty, students, and staff are required to observe and abide by Canadian and international copyright laws, regulations, and licenses.

Consequences for Copyright Infringement

There are consequences for breaking any law. Breaking or infringing the copyright law is no different. The consequences of infringing the copyright law can be **civil** or **criminal**, and are set out in the copyright legislation. A civil court may decide that money be paid as compensation for damages caused by unauthorized use of a copyright work.

The courts may also impose an injunction to prevent or stop infringing activities. A court has the authority to order the infringing party to account for the profit made from infringing activities and to order that all infringing copies become the property of the copyright owner.

A unique feature of the civil remedy system in the Copyright Act is a statutory limit on the amount of damages that a court can award to a copyright owner who has not authorized a collective society to license the photocopying of his or her work. Damages are limited to the amount the copyright owner would have received from a collective, either under an agreement or under a tariff set by the Copyright Board of Canada.

Infringement of the *Copyright Act* can also have **criminal** consequences. These remedies in the *Copyright Act* involve fines and possible imprisonment. The Act provides for a maximum fine of \$1,000,000 where the offence is a serious one. The criminal sections in the *Copyright Act* are traditionally used to deal with commercial piracy. Examples most frequently encountered are copying videotapes/DVD in order to rent or sell them, and selling or dealing in illegal copies of books, textbooks, video games, compact discs, computer programs, or music.

Students caught breaking Copyright laws on ASM property or networks may be subject to disciplinary action as outlined in the Student Rights and Responsibilities Policy (9014).

Staff and faculty may be subject to disciplinary actions as outlined in the respective employment contract.