

Copyright for ESL Professionals

TESL Ontario Webinar

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The information provided in this webinar does not constitute legal advice.

It reflects the state of Canadian copyright law as of November 2020.

Poll #1

How do you feel about copyright?

Ambivalent

Anxious

Confident

Unconcerned

1. Copyright Basics

Copyright is...

- ▷ the right to copy
- ▷ a type of intellectual property
- ▷ a federal law
- ▷ technology neutral
- ▷ automatic upon fixation

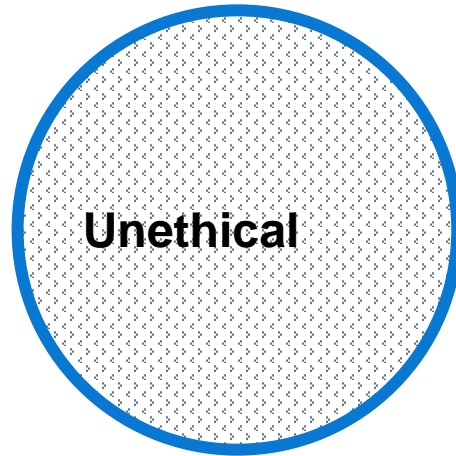
What does copyright protect?

The original expression of ideas or facts fixed in a tangible medium

Plagiarism or copyright infringement?

Plagiarism:

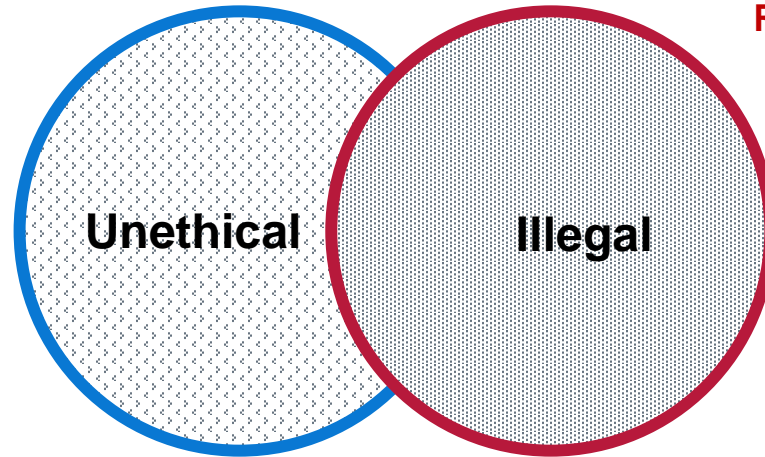
Using someone else's
work without crediting
the author



Plagiarism or copyright infringement?

Plagiarism:

Using someone else's work without crediting the author



Copyright infringement:

Reproducing or distributing someone else's work without permission



Even if not making \$ from reproduction

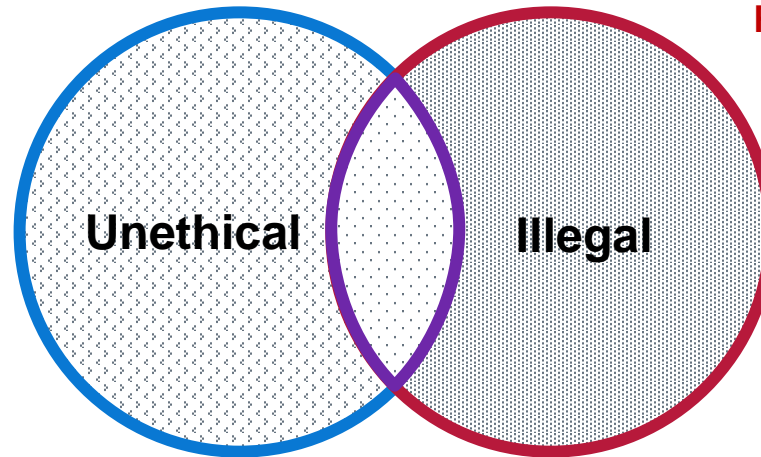
Plagiarism or copyright infringement?

Plagiarism:

Using someone else's work without crediting the author

Copyright infringement:

Reproducing or distributing someone else's work without permission



Both: When you copy it without permission and pass it off as your work by not crediting the author



Even if not making \$ from reproduction

Who owns copyright?

- ▷ Creator
- ▷ Employer
- ▷ As per contract (employment, commissioned work)
- ▷ Publisher
- ▷ Any other person/entity that has been assigned ©

Rights of a copyright owner

Economic Rights	Moral Rights
Reproduce/make copies	Integrity/Association
Publication/distribution	Attribution
Performance/display	
Make derivatives/translation	
▶ Transferable	▶ Non-transferable

Duration of copyright

(in Canada)

Life of the creator
+
50 years

When copyright term ends = public domain

Poll #2

The copyright symbol © is not necessary
for copyright to exist.

True or False?



True

In Canada, copyright exists as soon as the original expression of an idea is fixed, physically or digitally.

Poll #3

Copyright expires after the death of the author.

True or False?



False

Generally, in Canada, copyright expires *50 years after the death of the author*, at which point the work enters the public domain.

Poll #4

“Plagiarism” is another word for
“copyright infringement”.

True or False?



False

While plagiarism and copyright infringement can occur at the same time, they are two distinct offences.

Poll #5

Copyright of works created in the course of employment belongs to the employer.

True or False?

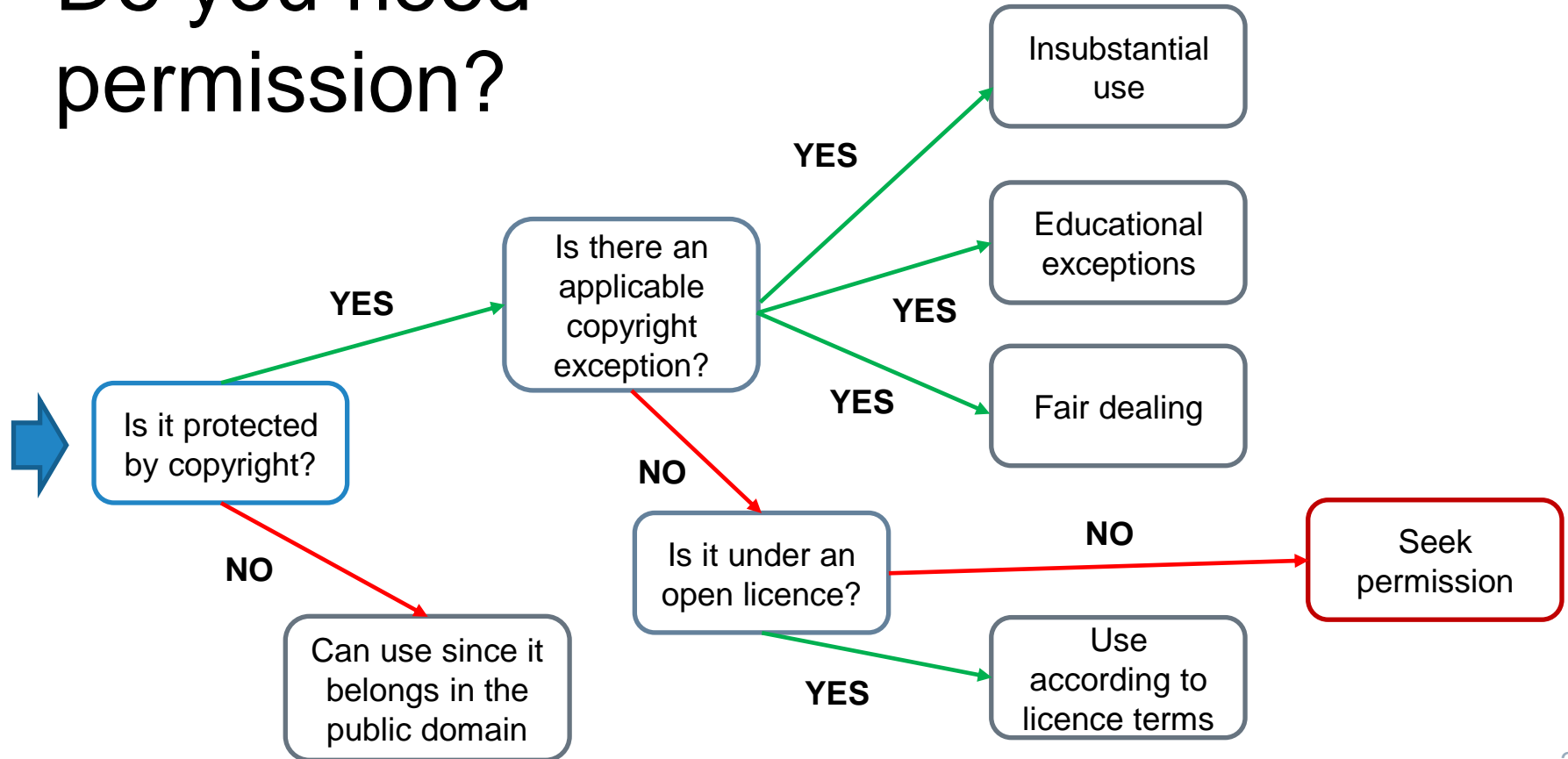


True

The *Copyright Act* stipulates that, unless there is another agreement between the two parties that indicates otherwise (ex. an employment contract or a collective agreement), the copyright of works produced by employees in the context of their work is owned by the employer.

2. Exceptions, Limits, and Alternatives

Do you need permission?



What is an educational use?

- ▷ Teaching and learning
- ▷ Overreliance on “education” as exception
- ▷ “Education” = broader meaning in fair dealing
- ▷ “Education” = narrower meaning elsewhere in the *Copyright Act*
- ▷ “Education” generally does not apply to public distribution
- ▷ Must start with a legal a copy!

Public domain

- ▶ Copyright term has expired
- ▶ Not entitled to copyright protection in the first place:
Ex. titles, names, ideas, facts, data, short quotes, hyperlinks

OR

- ▶ Creator chooses to wave their copyright on a recent work and dedicates it to the public domain:



Fair dealing

Nature of the Dealing	More Fair	Less Fair
Purpose	Education/training	Commercial/for profit
Character	Single copy; limited distribution	Multiple copies; wide distribution
Amount	Least amount	Entire work/significant excerpt
Nature	Published; in the public interest	Unpublished; confidential
Available alternatives	No suitable alternative work	Suitable non-copyrighted work available
Effect	No detrimental effect on original work	Competing with original work; negative impact

Other exceptions and alternatives

- ▷ Insubstantial use (ex. short quote)
- ▷ Linking
- ▷ Your own work for which you own the copyright

Poll #6

Sharing a hyperlink is not a copyright violation.

True or False?



True

Hyperlinks are not protected by copyright. Furthermore, sharing a link directs to the content without reproducing it. However, one should refrain from linking to content that has been posted illegally.

Poll #7

As long as something is reproduced for educational purposes, no permission is required.

True or False?



False

According to the law, reproduction for educational purposes can be considered “fair”, but there are other factors to consider, including the amount of the reproduction.

3. Licences and Terms of Use

What is a licence?

A permission allowing someone else to use a work under certain conditions while the copyright owner retains ownership

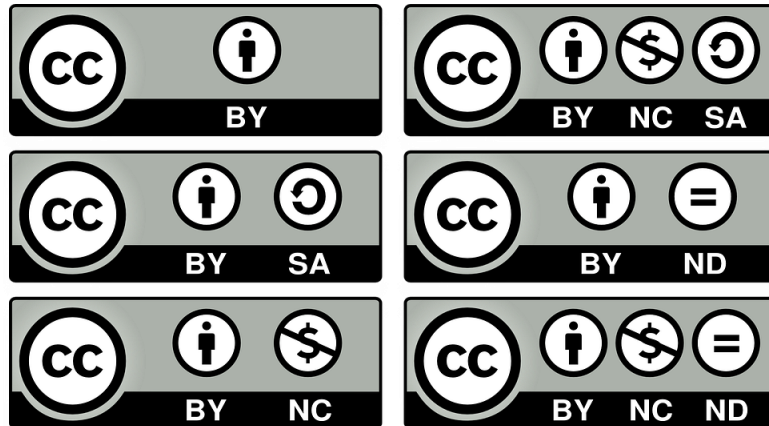
Openly-licensed content

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More about the licences:

<https://creativecommons.org/licenses/?lang=en>



Licence agreements

Ex. Institutional or individual subscriptions

- Legally-binding contract with service provider
- Common conditions: personal, non-commercial use
- Permission to view \neq permission to share or copy

Access Copyright

- ▶ Copyright collective offering institutional copyright licences to various sectors and distributes royalties to authors and publishers (i.e. copyright owners)
- ▶ Licences for education sector: universities and colleges, public schools, independent schools, adult language learning centres, Language Canada Private School Members
- ▶ Check to see if your organization/employer subscribes to an Access Copyright licence already; if it does, follow the terms of that licence when reproducing content for your lessons

See Access Copyright for Educators: <https://www.accesscopyright.ca/educators/>

Websites and platforms terms of use

- Act as licence/permission
- Conditions as user or contributor
- Terms and conditions, conditions of use, rights and permissions, licence, copyright, frequently asked questions...

Poll #8

Even if something is freely available on the Internet, it can be protected by copyright and permission may be required.

True or False?



True

Even if you are able to access content without a cost, it may not necessarily be free of copyright.

Poll #9

Using your personal subscription to a resource to make content available to students or clients does not constitute a copyright violation.

True or False?



False

The terms of service of individual subscriptions to pay-per-view or streaming sites, such as Netflix, generally grant limited access for personal use only. The amount of the copying may exceed what is legally permitted even under “fair dealing”. Furthermore, sharing that content with others is likely a breach of the contract (user agreement) you have with the provider.

4. Best Practices

Citation

- ▶ **Title, Author, Source, Licence (TASL)** at minimum **OR** use any citation style (APA, Chicago, MLA, etc.)
 - with link when content is available online
 - licence if open content (see [Best practices for attribution](#))
- ▶ Images: link to results in Google Images is not sufficient!
- ▶ Where? As close as possible to the content being reproduced or put it in a list at the end

Films and videos in online teaching

- ▷ **Can I upload a film to a learning management system or screen-share its projection through a video-conferencing platform?**

Not recommended without asking permission from the copyright owner. Limit to short excerpts (clips) that respect fair dealing.

- ▷ **Can I screen-share a film from my Netflix account?**

In addition to copyright issues (see above), pay per view sites' terms of service generally grant you limited access for personal use only. Best to avoid using.

- ▷ **Can I show YouTube videos?**

Provide the link or embed using YouTube's functions to make it clear it is not your content.

Trademarks

- ▶ Product or brand names, logos, slogans, jingles, etc.
- ▶ Protection requires registration
- ▶ Can be protected by trademark AND copyright

Brands

- ▶ Look for « Terms/Conditions of Use » on company website
- ▶ Search for name of company and « brand »
- ▶ Do not use in a way that implies endorsement
- ▶ Use official logos (not modified)

Asking for permission

1. Identify copyright owner and contact info
 2. Introduce yourself
 3. Identify item you want to use and where you found it
 4. Confirm recipient has authority to provide permission
 5. Describe proposed use of item (be specific)
- Do not hesitate to ask. Depending on type of use, permission may be free.
 - Give yourself plenty of time.
 - Keep your correspondence.

Poll #10

Brands are not protected by copyright
and can therefore be copied without
permission.

True or False?



False

Brands can be protected by copyright AND trademark. While incorporating a brand logo into a lesson may be permitted, verify the brand's terms of use.

Poll #11

How do you feel about copyright now?

Ambivalent

Anxious

Confident

Unconcerned

Thank you!

Questions?

Credits

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