

Canadian Copyright Act 32(1) (FAQs)

What does the Canadian Copyright Act (CCA) say about alternate format materials and individuals with perceptual disabilities?

- The Canadian Copyright Act (CCA) Section 32(1) allows individuals with perceptual disabilities and those acting on their behalf to create and use alternate formats of copyrighted print materials as long as they are not large print format or available commercially. Further, the act defines “perceptual disability” as a disability that prevents or inhibits the individual from accessing the print material due to a visual impairment, a physical disability, or a comprehension disability. For the specific Section 32(1) language, refer to that section in the Canadian Copyright (CCA) Act, available at: <http://laws.justice.gc.ca/en/ShowFullDoc/cs/C-42//en>.

Who would determine whether or not an individual student has a perceptual disability?

- There is no defined process or set of criteria described in the Canadian Copyright Act (CCA) to help determine who would qualify as having a perceptual disability. Each school district should identify what assessment or documentation is needed to justify such a designation.

Is there similar copyright legislation in the United States?

- In 1997 US copyright legislation was amended to allow production of alternate format materials for the blind and disabled. The Chaffee agreement has similar but somewhat more restrictive language than what is contained in the Canadian Copyright Act (CCA). The US is currently developing and implementing the National Instructional Materials Accessibility Standard (NIMAS) which will guide the production and electronic distribution of digital versions of instructional materials so they can be more easily converted to accessible formats. More information on NIMAS is available at: <http://nimas.cast.org/>. For the specific language outlining the reproduction of alternate formats in the US, go to: <http://www.copyright.gov/title17/92chap1.html#121>

What does it mean when print material is classified as ‘public domain’?

- Print materials are classified as ‘public domain’ if they have no copyright restrictions and are considered to be public ‘property’. They can be classified as such if the owner/author of the material has so declared the work (i.e. included permissions for free copying and distribution) or if the original has passed into the public domain as a result

of age. In Canada, copyrighted material becomes public domain when it is “age of author + 50 years” old. So, any materials written by authors who died in 1957 or earlier, would now be considered ‘public domain’. As such, these materials carry no copyright restrictions for standard or alternate formats and are often available freely on the internet.

How do I determine if an alternate format version of a copyrighted textbook or novel is commercially available?

- As with standard print textbooks, search the title through ERAC (Educational Resource Acquisition Consortium <http://www.bcerac.ca>) where you might be redirected to Alberta Learning Resources or individual publisher’s sites. A good place to start is the ERAC – “Where to Buy” page (<http://www.bcerac.ca/novel/wheretobuy.aspx>).

If I have purchased an electronic copy of a textbook (e.g. on CD) through ERAC or from the publisher, can I use that version with any student in my class?

- Yes – purchase of an electronic version is the same as purchase of a standard print textbook. There are no restrictions on the students who may use that format (i.e. students do not have to have a perceptual disability).

If I have purchased an electronic copy of a textbook (e.g. on CD) through ERAC or from the publisher, can I use that copy with multiple students by installing it on a school server or copying it onto multiple computers or flash drives?

- No – purchase of a publisher’s electronic version is identical to purchase of a standard print textbook. Electronic copying and distribution would be analogous to photocopying the book and distributing it to students. However, check with the publisher’s copyright restrictions as this general rule may vary depending on individual publishers. For example, purchase of an electronic version may entitle you to use it with a set number of students or the school district may have purchased a multiple-user license for the material.

Can I use an alternate format of a textbook or novel with all the students in my class?

- No – the Canadian Copyright Act (CCA) very specifically identifies the restriction that the use of alternate formats is restricted to only those students with perceptual disabilities.

Can I use an alternate format to teach all the students in my class?

- Yes – if you are displaying the alternate format, via a computer projector or interactive whiteboard, and you have students with perceptual disabilities in your classroom engaged in the instruction, you would be observing the copyright limitation.

Do I need to have a physical copy of the textbook or novel from which the alternate format was produced?

- Yes - since alternate formats are created for the purpose of supporting student access to the same curricular materials as their non-disabled peers, it is assumed a standard print copy for each alternate format version has been purchased. The availability of alternate format versions does not preclude the need to purchase enough standard print copies of curricular materials for all students who require them to complete their educational programs.

Can I create a back up copy of an alternate format version of a textbook or novel?

- Yes – creating a back up copy is not necessary but is recommended to safeguard against file deletion or corruption. This back up copy should be kept in a safe, non-accessible or secure location.

Can I make an alternate format version of a textbook or novel available on my school or district network server?

- Yes - but only if access to the alternate format version is limited to students with perceptual disabilities or to those acting on their behalf. While it is certainly technically possible, copyright law prevents you from allowing open distribution of alternate format versions unless you can guarantee which individuals are accessing them.

Who is responsible for ensuring that the Canadian Copyright Act (CCA), as it pertains to alternate format materials, is upheld?

- As with general copyright legislation, the responsibility for understanding and upholding the law lies, ultimately, with the individual creating, acquiring or using the alternate format materials. In addition to the resources listed above, general information on Copyright in Education (including Access Copyright –formally known as CanCopy) can be found at: <http://www.cmec.ca/copyright/indexe.stm>.