

Copyright and Research Data at uOttawa - FAQ

The copyright ownership of collected data and the conditions of use of third-party data are crucial to research data management (RDM): they are important indicators of whether data can be shared and reused, and if so, how and by whom.

This handout presents a general overview of the topic based on Canadian copyright law, current uOttawa policies and practices, as well as applicable collective agreements. It does not constitute legal advice.

What is protected by copyright?

Copyright protects original expressions of content that are fixed in a tangible medium (either physical or digital). “Original” means that a certain level of skill or judgment was involved on the part of the creator – names, titles, or short phrases would generally not be protected as they are too simple. Copyright is automatic upon fixation and does not require the presence of the copyright symbol © or a copyright notice.

Is data protected by copyright?

It can be! Under Canada’s *Copyright Act*, raw or factual data that is not interpreted is not protected by copyright. However, a compilation of data could be protected by copyright if there was judgment or skill applied in the arrangement of the data and/or in the choice of which data to include (e.g., a table). Datum and raw data are just facts: by themselves, they are not protected by copyright, but the way they are presented in a table is an exercise of skill or judgement.

Not protected by copyright	Could be protected by copyright
Datum/raw data (i.e., a number or measurement)	Data representations (e.g. tables and graphs)
	Data sets
	Data compilations
	Databases
	Purchased data (with conditions of use)
	Datum that in itself is a literary, musical, dramatic, or artistic work (e.g., photos)

If the data is protected by copyright, who owns it?

Do not assume it is you. Copyright ownership can vary by type of data, as described in the following table:

Primary data	Data collected for your own purposes, from an experiment or research you have conducted, and which you have fixed in a tangible medium
If copyright exists, you are probably the owner, but you should check the agreements or contracts related to your research project to confirm	
Secondary data	Data collected for other purposes from experiment(s) or research conducted by others
If copyright exists, it is likely owned by others	
Tertiary data	Synthesis of data from experiment(s) or research conducted by others
Articles, reports, etc. written by others for which you do not own the copyright	

There may be factors external to your research team or project that could determine whether the data is protected by copyright and who owns it, including:

- policies or contractual arrangement between researchers and affiliated institution(s) (e.g. employment contracts, collective agreements)
- disciplinary conventions or practices in authorship attribution
- policies of the agency or organization that is funding the research in whole or in part
- licence conditions/terms of use of purchased data: acquiring data from a third party does not mean that copyright has been transferred to you or that you are authorized to share it further

Therefore, we recommend that all parties involved clarify data and copyright ownership issues in the early stages of a project. The various, and sometimes overlapping, status of data collectors or researchers, even within uOttawa, are significant factors in determining who owns the copyright on research data.

Who owns the copyright on research data collected in the course of employment at uOttawa?

Members of the APUO and members of the APTPUO generally own the copyright on what they create in the context of their work, as per Section 35.2 of the [APUO collective agreement](#) and Section 10.14 of the [APTPUO collective agreement](#). One exception is if “the work original was produced as a result of a specific written request of the Employer”. An employee’s duties as outlined in their job description do not, in themselves, represent a specific written request.

However, other uOttawa employees, such as support staff, usually do not own the copyright to their work. Rather, the default situation in the *Copyright Act* applies, meaning that the copyright on work created in the course of employment is owned by the employer.

Do students who participate in data collection own the copyright to the data?

Students own the copyright to the work they create in the context of their courses or in a volunteer position at the University.

However, if they are employees, either through a CO-OP placement, a research assistantship, or a work-study position, copyright will depend on whether they are employed in a CUPE 2626 position. If they are, then section 21.2 of the [collective agreement](#) could apply. The default under this section is that the copyright belongs to the employer, with two possible exceptions:

(i) For internally funded CUPE 2626 positions where the contract or job description “calls for the preparation of materials, including but not limited to notes, audio-visual aids, software, experimental data, review and synopses of literature,” both supervisor and employee retain co-ownership and copyright of these materials.

(ii) For externally funded CUPE 2626 research assistant positions, the contract may specify who owns the copyright, otherwise the default will apply: copyright will belong to the employer.

For non-CUPE 2626 positions, if no other arrangement states otherwise, the default in the *Copyright Act* will apply and the employer will own the copyright to works created within the scope of the student’s job.

Why is it important to determine whether data is protected by copyright and who owns it?

The ability to share research data, and the level of openness with which this can be done, depend on the answers to these questions. If the data is protected by copyright but you do not own that copyright, the data generally cannot be shared further or made more open without the permission of the copyright owner.

What is a licence?

A licence is a permission from the copyright owner to allow someone else to use their work for certain purposes and under certain conditions. The copyright remains with the copyright owner.

What are open licences and which ones are used for data?

Open licences are used by copyright owners to indicate which rights they wish to keep, while communicating which types of use others can make of their work without having to ask for permission every time. When a copyright owner decides to apply an open licence to their work, they keep their copyright but make their work free of some of the usual constraints to facilitate sharing, remixing, and reusing the work legally so long as the conditions of the licence are

respected. These open licences are a simple and legal way to communicate that permission to potential users.

Two [Creative Commons licences](#) are often used for data:

- CC BY 4.0 ([Creative Commons Attribution 4.0 International License](#))
- CC0 ([Public Domain](#))

Note: Creative Commons licences apply to both the contents of a database as well as the database itself.

Creative Commons does not recommend using licences with the NonCommercial (NC) or NoDerivatives (ND) conditions for data because they severely restrict scholarly and scientific use.

See Creative Commons [Frequently Asked Questions about data and CC licences](#)

While not available in all data repositories, the Open Knowledge Foundation offers three open licences used specifically for databases:

- ODbL 1.0 ([Open Data Commons Open Database License](#))
- OCD-BY 1.0 ([Open Data Commons Attribution License](#))
- PDDL 1.0 ([Open Data Commons Public Domain Dedication and License](#))

Note: These Open Data Commons licences apply to databases only and not to the individual contents within a database.

Software licences are also used in data repositories. They can be applied to the software or to the code, as well as to the associated documentation files:

- [MIT License](#)
- [GNU General Public License version 3](#)
- [Apache License, Version 2.0](#)

What is the public domain and the CC0 designation?

Public domain means that copyright has expired, the work was not eligible for copyright protection in the first place, or the copyright owner is waiving their rights to recent content. When something is in the public domain, there are no restrictions on its use and attribution is not required. In some data repositories, such as [Dataverse](#), CC0 is the licence by default.

How do these open licences compare?

Licence ¹	Distribution	Modification	Sublicensing	Attribution
CC BY	Allowed	Allowed	Allowed	Required
CC0	Allowed	Allowed	Not allowed	Not required
ODbL	Allowed	Allowed	Not allowed	Required
ODC-BY	Allowed	Allowed	Not allowed	Required
PDDL	Allowed	Allowed	Allowed	Not required
MIT	Allowed	Allowed	Allowed	Required
GNU GPL	Allowed	Allowed	Allowed	Required
Apache	Allowed	Allowed	Allowed	Required

- All eight licences allow for commercial use
- Sublicensing means that derivatives can be shared under a different licence

Is it possible to make data openly available but not for commercial use?

While it is not encouraged to limit the reuse of data to non-commercial purposes (because it can significantly restrict scientific research), a [Creative Commons Attribution-NonCommercial licence](#) could be applied. However, it is important to note that this condition generally applies to the *use* as opposed to the *user*. It would likely not prevent a commercial entity from using the data if it does not resell it or use it as the basis for a product or service that will be sold for profit. We remind you that this document provides only a general overview. If you have specific questions, please contact the Copyright Office at ddac@uottawa.ca.

¹ Comparison table licensed [CC BY-SA 4.0](#), based on [Comparison of free and open-source software licences](#), Wikipedia, [CC BY-SA 3.0](#).

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