



Background

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:

- The fair 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.
- 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.

The following guidelines apply to fair dealing in non-profit K-12 schools and 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:

1. Teachers 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.
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 are to 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:
 - 3.1 As a class handout;
 - 3.2 As a posting to a learning- or course-management system that is password protected or otherwise restricted to students;
 - 3.3 As part of a course pack.
5. A short excerpt means:
 - 5.1 Up to ten percent (10%) of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work);
 - 5.2 One (1) chapter from a book;
 - 5.3 A single article from a periodical;

- 5.4 An entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works;
 - 5.5 An entire newspaper article or page;
 - 5.6 An entire single poem or musical score from a copyright-protected work containing other poems or musical scores;
 - 5.7 An entire entry from an encyclopedia, annotated bibliography, dictionary, or similar reference work.
6. 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.
 7. Copying or communicating that exceeds the limits in these Fair Dealing Guidelines will be referred to a supervisor or other person designated by the Superintendent for evaluation. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on all relevant circumstances.
 8. Any fee charged by the School for communicating or copying a short excerpt from a copyright-protected work must be intended to cover only the costs of the School, including overhead costs.

Procedures

1. The Principal shall post the *Fair Dealing Guidelines* in locations at the school where photocopying or other reproductions of copyrighted materials are most likely to occur.
2. School staff shall follow the *Fair Dealing Guidelines* which are located at: http://www.cmec.ca/docs/copyright/Fair_Dealing_Guidelines_EN.pdf

Additional guidance is available by consulting *Copyright Matters* located at http://cmec.ca/publications/lists/publications/attachments/291/copyright_matters.pdf and by using the *Copyright Decision Tool* <http://www.copyrightdecisiontool.ca/DecisionTool/>
3. School staff will guide students' decisions regarding use of Copyrighted Materials. When school staff or students wish to use copyrighted materials that exceed the uses defined by the Fair Dealing Guidelines, they must:
 - 3.1 Obtain permission to copy from the copyright holder, and
 - 3.2 Where requested, a royalty must be paid to the copyright holder.
4. All staff are responsible for the appropriate use of copyrighted materials and for "fair dealing."

Reference:

Copyright Act (1976)

Copyright Modernization Act (2012)

Council of Ministers of Education (CMEC)

Copyright (see CMEC online Fair Dealing Guidelines & Copyright Decision Tool & Copyright Matters!)