

# COPYRIGHT

## Background

The Division recognizes the rights of creators and expects staff members to be aware and uphold all copyright-protected policies as required by the Copyright Act and outlined in the Fair Dealing Guidelines. The Division also recognizes the need for students to have access to a wide range of educational resources. Accordingly, there exists a need to clarify both the creator's and the user's rights with respect to use of copyright material.

Division staff members shall not duplicate print materials, computer software programs, video or audio materials that are protected by copyright; nor shall schools store or use duplicated materials that are in violation of copyright laws.

The Division will not accept responsibility for any staff member who contravenes the Copyright Act or who copies materials, without permission of the author or publisher, which are excluded from the Fair Dealing Guidelines.

## Procedure

1. School Principals are to ensure their staffs are aware of their responsibilities under the Copyright Act. This should occur at the start of the school year and throughout the school year as appropriate and when new staff are employed.
2. Division staff are to refer to the Fair Dealing Guidelines outlined in Appendix A for further clarifications of copyright-protected materials. Additional information is available at [www.CopyrightDecisionTool.ca](http://www.CopyrightDecisionTool.ca).

Reference: Section 33, 53 Education Act  
Copyright Act,  
[CopyrightDecisionTool.ca](http://www.CopyrightDecisionTool.ca)



# 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.

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.

The second test is that the dealing must be "fair." In landmark decisions in 2004 and 2012, the Supreme Court of Canada provided guidance as to what this test means in schools and postsecondary educational institutions.

These 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.

## Guidelines

1. Teachers, instructors, professors, and staff members in non-profit educational institutions 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 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 postsecondary educational institution;
  - c) as part of a course pack.
4. A short excerpt means:
  - a) up to 10 per cent 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;
  - d) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works;
  - e) an entire newspaper article or page;
  - f) an entire single poem or musical score from a copyright-protected work containing other poems or musical scores;
  - g) 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 a supervisor or other person designated by the educational institution for evaluation. 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.

