

Fair Dealing Guidelines

PREAMBLE:

The **Copyright Act** contains a **Fair Dealing** exception, which permits the use of copyright-protected works without permission from the copyright owner or the payment of royalties. To qualify for Fair Dealing, two tests must be passed:

- i) The **dealing** must be for one of the following purposes enumerated in the *Copyright Act*: research, private study, education, parody, satire, criticism, review or news reporting; and
- ii) The dealing must be **fair**. The fairness of the dealing is assessed in accordance with a number of specific factors set out by the Supreme Court of Canada.

The purpose of these Guidelines is to provide a simple and straightforward approach to making determinations of the application of the Fair Dealing exception in particular circumstances. While the Guidelines are not intended to be a replacement for the full analysis outlined by the Supreme Court of Canada, use of the Guidelines is expected to yield a result consistent with such a full analysis in the vast majority of applicable cases.

GUIDELINES:

These Guidelines apply to all reproductions of copyright-protected works under the university's **Use of Copyright Materials Policy** and **Procedure**. They are not intended to apply to reproductions made outside the scope of that Policy. Additionally, these Guidelines are not intended to limit reproductions of works in which the university holds the copyright nor reproductions made in accordance with the terms of licence agreements that apply to specific resources.

Under these Guidelines:

1. Course instructors, faculty, researchers and university employees (**users**) may reproduce and communicate short excerpts from a copyright-protected work for the purposes of **research, private study, education, parody, satire, criticism, review or news reporting**.
2. Reproductions or communications of short excerpts for the purpose of news reporting, criticism or review must mention the source and, if given in the source, the name of the author or creator of the work.
3. Users may reproduce the following "short excerpts" from copyright-protected works:
 - a) up to ten (10) percent of a copyright-protected work (including a literary work, musical score, sound recording or an audiovisual work) [Note: In cases where the work is an anthology or collection that includes complete works that are otherwise available in separate volumes, this may not be applicable. In such cases, please contact the Copyright Office for clarification];
 - b) an entire chapter from a book;
 - c) an entire article from a periodical publication;
 - d) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart or plan) from a work containing other artistic works;
 - e) an entire article or page from a newspaper or magazine;
 - f) an entire single poem or musical score from a work containing other poems or musical scores; or
 - g) an entire entry from an encyclopedia, annotated bibliography or similar reference work;

provided that, in each case, no more of the copyright-protected work is reproduced than is required in order to achieve the allowable purpose.

4. Users may NOT reproduce the following:

- a) unpublished works;
- b) proprietary workbooks, work cards, assignment sheets, tests and examination papers;
- c) instruction manuals;
- d) newsletters with restricted circulation intended to be restricted to a fee paying clientele;
- e) business cases which are made available for purchase; or
- f) multiple short excerpts from the same copyright-protected work, with the intention of reproducing or communicating substantially the entire work.

The **Copyright Office** can provide assistance with questions about the implementation or interpretation of these Guidelines.

DEFINITIONS

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use. [▲Top]	
Copyright Act	The federal <i>Copyright Act</i> , RSC 1985 c C-42, including the regulations thereunder and any amendments made thereto.
Copyright Office	A division of Learning Services, the Copyright Office centralizes the oversight and management of copyright issues for the University community, providing information and guidance related to copyright laws, policy and procedures. The role of the Copyright Office is the review, development and implementation of best practices related to the use of copyright materials at the University, as well as the review, development and implementation of a communication and education plan to enhance awareness and “copyright literacy” across the University community.

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