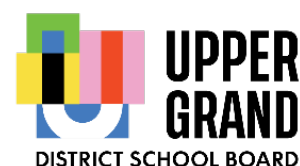


Copyright – Fair Dealing Procedures Manual 321-A



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1. General

All school locations must communicate the Fair Dealing Guidelines to ensure that all staff understand the obligations of the school board, school and its teachers regarding the use of copyright-protected work in accordance with the *Copyright Act*.

2. Terms and Definitions

Council of Ministers of Education Canada (CMEC)

The CMEC is an intergovernmental body founded in 1967 by ministers of education from all 13 provinces and territories. It provides educational leadership in Canada and internationally, undertakes activities, projects and initiatives in areas of mutual concern and interest, and represents the interest of the provinces and territories, serving as a forum to discuss policy issues with other national education organizations and the federal government.

Fair Dealing

Fair dealing means that teachers in Canada may make copies of short excerpts of a copyright-protected work for students in their classes without having to ask for copyright permission or pay copyright royalties.

Short Excerpt

A short excerpt means:

- Up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audio-visual work)
- One chapter from a book
- A single article from a periodical

- An entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart and plan) from a copyright-protected work containing other artistic works
- An entire newspaper article or page
- An entire single poem or musical score from a copyright-protected work containing other poems or musical scores
- An entire entity from an encyclopedia, annotated bibliography, dictionary or similar reference work.

Consumable

A consumable is a workbook or exercise book into which a student records answers and is intended for one-time use only. Copying, scanning, or printing materials intended for one-time use only is strictly prohibited.

3. CMEC Fair Dealing Guidelines¹

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 in 2012, the Supreme Court of Canada provided guidance as to what this test means in schools and post-secondary educational institutions.

These guidelines apply fair dealing in non-profit kindergarten - grade 12 schools and post-secondary educational institutions, and provide reasonable safeguards for the owners of copyright-protected works in accordance with the *Copyright Act* and the Supreme Court decisions.

3.1 Guidelines

- 3.1.1 Teachers, instructors, professors and staff members in non-profit educational institutions may communicate and reproduce, in paper

¹ Council of Ministers of Education, Canada, [Fair Dealing Guidelines](#).

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.

- 3.1.2 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.
- 3.1.3 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:
- as a class handout
 - as a posting to a learning or course management system that is password protected or otherwise restricted to students of a school or post-secondary educational institution
 - as part of a course pack.
- 3.1.4 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.
- 3.1.5 Copying, scanning or printing of consumables is strictly prohibited.
- 3.1.6 Copying or communicating that exceeds the limits in this Fair Dealing Guidelines may be referred to the Supervisor, Library and Media Services, 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.
- 3.1.7 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.
- 3.1.7.1 As per UGDSB Policy 317 Fees for Learning Materials and Activities, a fee may not be charged to any student

enrolled in any regular day school program for photocopied learning materials required for the delivery of a course.

3.2 Examples of Copyright Infringement

3.2.1 Purchasing and reproducing resources accessed from fee-based collaborative websites where the resources were created in violation of copyright and Fair Dealing guidelines.

3.2.1.1 Educators must confirm the resources were created in compliance with copyright and Fair Dealing legislation before reproducing them. *(Note: Collaborative websites are not responsible for vetting content; resources can be produced and sold by individuals who are not acting in accordance with copyright and Fair Dealing legislation.)*

3.2.2 Reproducing images and/or icons sourced from the Internet without providing attribution to their original creator and/or source.

3.2.2.1 Any content reproduced from the Internet must not be protected by a paywall or any other measure to restrict access. The user must believe the content was posted to the Internet legally.²

3.2.3 Making and sharing a recording of the educator reading a book aloud to students without receiving permission from the publisher.

3.2.3.1 Recording a book reading is equivalent to reproducing the book. Express permission from the copyright holder (i.e. publisher) must be obtained first and stated at the start of the recording.³

² Council of Ministers of Education, Canada, [Copyright and Online Learning During the COVID-19 Pandemic](#).

³ Ibid.