

Policy No. & Title: A204: COPYRIGHT*Effective:* 2015-06-11*Next Review:* 2020-06-11*Policy Sponsor:* Vice-President, Student Services*Approvals:* 1984-02-20/SA-83-11, 2007-12-05/AC-07-03, 2011-04-27/SLC-10-18.

1. PURPOSE

Copyright legislation places an obligation on the College to ensure that the provisions of the law are respected in the conduct of its various functions. The purpose of this policy is to provide guidance to administrators, contractors, faculty, staff, students and visitors concerning the expectations of the law with respect to adapting, attributing, communicating, distributing, exhibiting, performing, and reproducing copyright-protected material. This policy works in conjunction with Standard 4: Intellectual Property under College policy A201: Research and Innovation.

2. DEFINITIONS

Copyright Act: The Canadian law that protects the economic, moral, and neighbouring rights of creators of works and other subject matter.

Protected Works and Other Subject Matter: Artistic, dramatic, literary, and musical works, including broadcast signals, performers' performances, and sound recordings, that are original in nature and fixed in format.

Copyright Clearance: Authorization from the copyright owner(s), in the form of formal permission, to adapt, communicate, distribute, exhibit, perform, or reproduce copyright-protected material.

3. POLICY**3.1. Principles**

Fanshawe College respects the rights of copyright owners. The College adheres to the Canadian *Copyright Act*. With this intent, the College hereby adopts the 'Association of Canadian Community Colleges Fair Dealing Guidelines' (attached as Standard 1: Fair Dealing Guidelines).

College facilities and equipment are not used in activities, such as reproducing or communicating copyright-protected material that would contravene copyright legislation, license agreements, or guidelines. The reproduction and communication of copyright-protected material by College staff or students that is not permitted by this policy is not authorized by the College.

3.2. Implementation

The College reserves the right to take any appropriate measures deemed necessary in order to ensure compliance with this policy. Managers shall ensure that employees in their area have sufficient knowledge of this policy to enable the employees to comply with and achieve the objectives of this policy.

Employees whose job function is to provide reproduction or reprographic services in any medium are authorized by the College to ask for evidence that a request for service will not contravene copyright

legislation, license agreements, or guidelines and may decline to perform a service in the absence of such evidence.

Notwithstanding the above, the end user, administrators, contractors, faculty, staff, students, or visitors, is responsible for compliance with copyright legislation.

4. REFERENCES

[College policy A201: Research and Innovation, Standard 4: Intellectual Property](#)

5. ADDENDUM

Standard 1: FAIR DEALING GUIDELINES

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Policy No. & Title: A204: COPYRIGHT

Addendum: **Standard 1: FAIR DEALING GUIDELINES**

Issued by: Vice-President, Student Services

Effective: 2015-06-11

The fair dealing exceptions under sections 29, 29.1, and 29.2 of the Canadian *Copyright Act* outline the purposes for which the use of a copyright-protected work without the authorization of a copyright owner or the payment of copyright royalties is likely to be considered fair. These Fair Dealing Guidelines apply reasonable safeguards for copyright owners and users of copyright-protected works in accordance with the Canadian *Copyright Act* and judicial decisions from the Supreme Court of Canada in copyright-related cases. In order for the dealing with a copyright-protected work to be considered fair, two tests must be passed.

First, the dealing with a copyright-protected work must be for one of the following purposes outlined within the fair dealing exception of the Canadian *Copyright Act*: research, private study, criticism, review, news reporting, education, parody, or satire. The dealing with a copyright-protected work for educational purposes passes this first test.

Second, the manner in which the copyright-protected work is dealt with must be determined to be fair. The judicial decision in the 2004 Supreme Court case: *CCH Canadian Ltd. v. Law Society of Upper Canada*, outlined the following six factors that are to be considered when determining whether the dealing with a copyright-protected work is fair:

- 1) The Purpose of the dealing.
- 2) The Character of the dealing.
- 3) The Amount of the dealing.
- 4) The Availability of Alternatives to the dealing.
- 5) The Nature of the copyright-protected work.
- 6) The Effect of the dealing on the copyright-protected work.

The judicial decision in the 2012 Supreme Court case: *Alberta (Education) v. Canadian Copyright Licensing Agency (Access Copyright)* further informed the following guidelines as to how fair dealing may be interpreted and implemented within educational institutions.

Guidelines

1. Teachers, instructors, professors and staff members in non-profit educational institutions may reproduce, distribute, and communicate, in paper or electronic form, short excerpts from copyright-protected works for the purpose of research, private study, criticism, review, news reporting, education, parody, or satire.
2. Reproducing, distributing, and communicating short excerpts of copyright-protected works under these Fair Dealing Guidelines for the purpose of research, private study, criticism, review, news reporting, education, parody, or satire must mention the source of the short excerpt and, if mentioned in the source, the name of the creator of the short excerpt.

3. A single copy of a short excerpt from a copyright-protected work may be reproduced and distributed or communicated to each student enrolled in a class or course:
 - a. As a paper handout.
 - b. As a posting to a learning or course management system within a secure network that is password-protected or otherwise accessible only by teachers, instructors, professors, staff members, and students of an educational institution.
 - c. As part of a coursepack.
4. A 'short excerpt' means:
 - a. Up to 10% of a copyright-protected work (literary works, musical scores, sound recordings, and audiovisual works are considered 'copyright-protected works').
 - b. A single chapter from a book.
 - c. A single article from a periodical.
 - d. An entire artistic work (paintings, prints, photographs, diagrams, drawings, maps, charts and plans are considered '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. Reproducing and distributing or communicating multiple short excerpts from the same copyright-protected work, with the intention of reproducing and distributing or communicating substantial portions of the copyright-protected work, is prohibited.
6. The circumvention of technological protection measures, in order to reproduce, distribute, or communicate short excerpts of copyright-protected works, is prohibited.
7. Reproduction, distribution, and communication that exceeds the limits outlined in these Fair Dealing Guidelines may be referred to the Copyright Services Officer or Manager, Library & Media Services for evaluation. An evaluation of whether the proposed reproduction and distribution or communication is within the scope of fair dealing will be based on all relevant circumstances.
8. Any fee charged by the educational institution for reproducing, distributing, or communicating short excerpts of copyright-protected works must be intended to cover only the costs of the institution, including overhead costs.

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