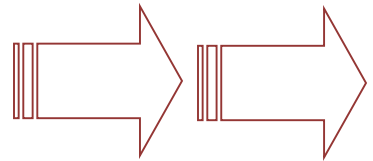


August, 2017

PEOPLE MAKE IT HAPPEN



Copying Right



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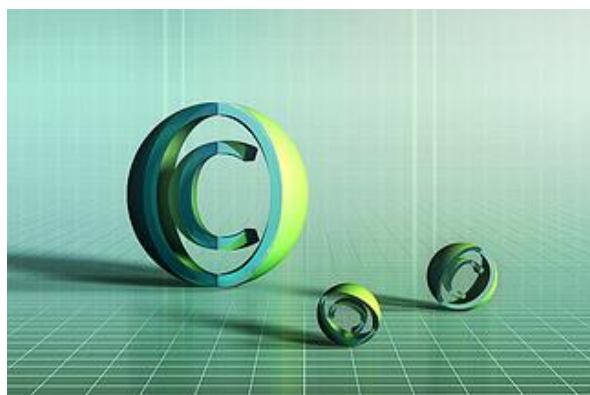
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1. Copying Right: What does that mean for me?

Every day, college instructors, staff and students make thousands of photocopies. Books, journal articles, speeches, sections from plays — they're all being copied. The copies help students learn, assist instructors in their teaching and research, and facilitate the smooth running of the college.

But is that copy you're making legal? The answer lies in the rules in the Copyright Act, in Fair Dealing and in individual or college wide permissions brokered with authors and publishers.

This document will help guide you through the law and processes so that you can be sure you are copying right.



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1.1 Who should use this guide?

ALL members of the college community including students, faculty and staff of ALL Assiniboine Community College campuses, who are making copies, and alternate format copies. This also includes sending copies electronically or those who are authorizing others to make or send such copies.

1.2 WHY should YOU use this guide?

- You must familiarize yourself with college policy and regulations
- You have an ethical and legal obligation to respect copyright.

You need to protect yourself and the college against legal action that could be taken against you by copyright holders or their agents for infringing copyright under the terms of the Copyright Modernization Act.

1.3 What is Canada's copyright law?

Canada's Copyright Act, originally enacted in 1924, is complex. It was revised in 2012. (As of this revision, it is under review). The current revisions include:

A large range of uses for copyrighted material by teachers, students and schools, as their pursuits promote the broader public good. In light of this contribution, the Copyright Act already recognizes certain uses by educational institutions that are permitted, in many cases, without payment to the copyright holder.

An important aspect of these changes is the addition of education as a purpose under Canada's fair dealing provisions. Fair dealing is not a blank cheque. It is a long standing feature of our copyright laws that permits individuals and businesses to make certain uses of copyrighted material in ways that do not unduly threaten the interests of copyright owners, but which could have significant social benefits — but only if they are fair. Extending this provision to education will reduce administrative and financial costs for users of copyrighted materials that enrich the educational environment.

The law also creates a new exception allowing educational institutions to record a news

program or a news commentary program for later viewing by the students.

As with all exceptions in the Bill, these activities are subject to clear common-sense rules to respect the interests of right holders, such as limitations on how long digital copies can be kept. These kinds of safeguards are an essential part of the balance between enabling uses and respecting the legitimate interests of copyright owners, and to maintain conformity with Canada's international obligations.

2. Permissions

2.1 Permission granted for Educational Institutions: Video/DVD/Blue Ray



In Canada, fair dealing as defined by the Copyright Act has changed, especially in regards to education and teaching. Section 29.5: EDUCATIONAL EXCEPTIONS

The performance in public of a cinematographic work is not an infringement of copyright, as long as the work is a legal copy or the person responsible for the performance has no reasonable grounds to believe that it is not a legal copy. For example, in the United States, showing films or videos in a classroom without special permission or performance rights is permitted, now that the copyright act is passed into law, this is the case in Canada as well.

A new amendment in the Copyright Act allows a movie to be shown in class, providing that it is a legally obtained copy. The work must be shown

on the premises of the educational institution for education or training purposes and must be shown to an audience that is composed mainly of students of the institution.

2.2 Internet Rules:

AS OF NOVEMBER 7, 2012 PUBLICALLY AVAILABLE INTERNET MATERIALS ARE AVAILABLE FOR EDUCATION USE AS LONG AS THERE IS NO INFORMATION TO THE CONTRARY.

THE INFORMATION IS AVAILABLE FOR EDUCATORS USE UNLESS THE WEBSITE DECLARES THAT THEIR INFORMATION IS NOT FOR USE TO EDUCATIONAL INSTITUTIONS.

Note: you must cite your sources on the documents or within the online documents.

In recent years, printed material that used to be purchased in quantity often has been reproduced with photocopiers, depriving the publisher and author of any incentive to offer more material. Single copies of audio, video, or still images have been burned onto CDs, posted to the Web and transmitted around the world.

While the distribution medium has changed, the principle of copyright has not. Authors and publishers have web sites with interactive permission forms, order forms, and contact information. Even when a work is offered to the public without charge and without obligation to contact or notify the author, the author retains a moral right not to have the work defaced, taken out of context, or used to sell a product or service. Many authors want to know, before they give permission for the reprinting of their work what other material is accompanying their work, or how it may be used.

To find information about copyright restrictions of websites look at the home page notices under Copyright, Legal Notices, About Us, Permissions, Rights, Terms and Conditions, etc. **before**

copying, modifying, adapting, distributing or using content. If the site does not specifically declare that the content cannot be used for educational purposes, then you are free to use it.

2.3 Copyright notice and notice regime to come into force

(Used with permission of Stéphane Caron, Kevin Sartorio & Julia Werneburg, Gowlings International)

The Government of Canada has announced that the “Notice and Notice” regime established by Bill C-11, “An Act to Amend the Copyright Act”, is expected to come into force in January 2015. The amendments will provide for a mandatory notification scheme for online copyright infringement.

Once the Notice and Notice provisions come into force, an Internet intermediary, such as an Internet service provider (ISP), web hosting service, or Internet search engine, will be required to forward any notice of claimed copyright infringement to the allegedly infringing subscriber. The intermediary will also be required to alert the copyright owner once the notice has been forwarded – or to explain the reason it was not possible to forward the notice – and to retain records identifying the alleged infringer for a minimum of six months. In the event that the copyright owner brings an action against the alleged infringer, the intermediary will be required to retain these records for twelve months from the date the notice was received. The stated intent of the government is to provide copyright owners with an opportunity to seek a court order that would then mandate disclosure of the alleged infringer’s identity.

Copyright owners wishing to take advantage of the Notice and Notice regime must provide the relevant intermediary with a written notice of claimed infringement containing the following information:

- a) The claimant’s name and address;
- b) The work or subject matter being infringed;

- c) The claimant’s interest with respect to the work or subject matter being infringed (e.g., if the claimant is the owner, author, or licensee);
- d) The electronic location (e.g., website address) where the infringement is taking place; and
- e) The date and time of the infringement.

An intermediary who fails to comply with the Notice and Notice scheme could be ordered to pay damages of \$5,000 to \$10,000. Further, if a search engine receives a notice of claimed infringement after the infringing work or subject matter has been taken down from the original location identified in the notice, it may be liable if it does not remove any cached version of the infringement from its search results within 30 days of receiving the notice.

The new Canadian Notice and Notice regime is notably different from its American equivalent, commonly called “Notice and Takedown”. Under the American *Digital Millennium Copyright Act*, once an online service provider has received a notice of claimed infringement it must expeditiously remove or disable access to the allegedly infringing material.

The coming into force of the Notice and Notice regime was initially postponed to allow for the adoption of regulations to further particularize the procedure for providing notice. However, following consultation with stakeholders, it now appears that the government has opted to bring the regime into force without adopting any regulations.

2.4 Permissions from Library Databases

The college pays for the use of several databases available for use in the library. Check them out first. These resources do not need to be listed on the copyright log.

- EBSCOhost
 - eBook Collection (EBSCOhost)
 - Academic Search Premier
 - Vocational Studies Premier

Cont'd – permissions from Library

MasterFILE Premier

Canadian Reference Centre

CINAHL with Full Text

Child Development & Adolescent Studies

GreenFILE

Primary Search

Middle Search Plus

Military & Government Collection

Library, Information Science &
Technology Abstracts

Funk & Wagnalls New World
Encyclopedia

[Canadian Points of View](#)

[Teacher Reference Center](#)

- Science Direct: Physical Sciences
- MSDS Online
- Auto Electric Pro
- CICA Handbook
- ALLDATA
- Mitchell1 OnDemand 5
- Global Road Warrior
- CICA Handbook



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Individual permission will be necessary in several circumstances. **If your copying falls outside of the realm of Fair Dealing, you will need permission!**

- Individual arrangements can be made with individual copyright holders.
- Permissions must be in writing. E-mail permission is acceptable.
- Permission **MUST** be in place before the document is copied.
- Permission documents must be sent to the copyright office. A copy should be kept in the school office.
- Electronic versions of the permission request forms are available on the staff intranet/college resources/copyright manual, forms, other information.
- Citing is not a substitution for permission when permission is required!

2.5 Ask for permission directly from Copyright owner

A. Process for seeking permission

Step 1 Start well in advance. There are no rules or expected timelines for receiving a response for your permission request.

Create a list of works with full citation information.

Step 2

Determine who the copyright owner is:

Publisher, author, creator, photographer,

Employer, copyright collective or rights organization (e.g., SOCAN, www.copyright.com)

Step 3

Find contact information.

Search Web (Permissions, About Us, Rights, Copyright, Legal Notices, Terms and Conditions, etc.)

Apply for permission from Copyright Board of Canada (\$\$\$) if you cannot locate copyright owner.

Step 4

Prepare request in writing (verbal agreements are not valid).

Use form on publisher's Web site

See appendix for link to letter or email copyright@assiniboine.net for a sample permission letter or use your own wording. Letter template is also available on intranet.

Include full citation information.

Explain intended use of copyrighted work (research, educational, student, non-profit).

Step 5

Email, fax or mail out request to copyright owner

Wait for response (1 day – 1 month, etc...)

(Have a plan B, C, and D. You may not receive permission in your expected timeline or you may not receive permission at all.)

Once you have permission include a citation and a "Used with permission" statement above or below *each* copyrighted work. Follow copyright owner's instructions if provided.

Forward the original signed permission document or e-mail to the Copyright Officer.

2.6 Televisions & News Shows

- Show a television show **at the time of broadcast** or through telecommunication by the Internet
- Record a television show and review it for **up to thirty days**
- Record a news program and use in a classroom

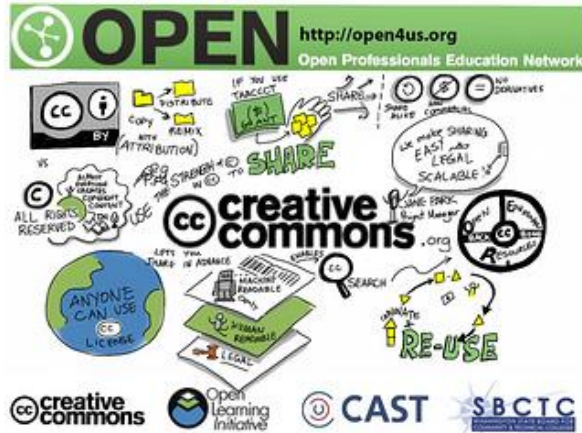
You may not:

- Record a television show other than a news program and then show in classroom
- Show an audiovisual work that is an illegal copy (downloaded from a pirated copy from the Web or if any technological protected measures have been disabled, etc.)

Cinematographic works that are being shown for entertainment or conference purposes **will not be covered by the educational exception** and require licenses prior to viewing, Assiniboine Community College does not have such a license.

3. “Copy Left” (AKA no permission needed)

3.1 Public Domain and other sources



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Copyright exists in most work in fixed form for 50 years after the death of the creator. After this time, the work goes into the public domain and may be freely used.

A Google search under “public domain” for example will give you a great deal of information about free sources of information you can use in the classroom.

Some Web sites offer public domain works mixed in with copyrighted works (e.g., Flickr, Creative Commons).

- Check out these resources:

A. Free sites for ‘educational use’

These sources may be free for Educational use. However, you must check the “terms of use” on each site as some resources have restrictions (i.e. non-commercial, attribution), or terms may change without notice.

B. Books

[Project Gutenberg](#) - Free electronic books (Ebooks or Etexts)

[The Online Books Page](#) - 25,000+ free books

C. Educational Materials

[Open Educational Resources](#) - meant for students, teachers and self-learners. Check terms.

<http://creativecommons.org/education/> - Creative Commons is a nonprofit that enables the sharing and use of creativity and knowledge through free technologies and licenses. It includes textbooks, lesson plans etc.

Creative Commons Allows:

- Make better use of existing resources without onerous permission seeking, complex decisions or reporting (consider decision tree for copyright, vs. fair dealing, vs. Creative Commons)
- Save faculty students, parents, & government time and money
- Easily localize, translate, and update education resources – higher quality
- Transform teachers and students into active creators and producers of knowledge that persist

- Reuse, revision, remix and redistribution enable pedagogic innovations – “open pedagogies”
- Leverages digital and the Internet
- Open Access - By “open access” to [peer-reviewed research literature], we mean its free availability on the public internet, permitting users to read, download, copy, distribute, print, search, or link to the full texts of these articles, crawl them for indexing, pass them as data to software, or use them for any other lawful purpose.
- There are two roads to OA:
 1. the "golden road" of OA journal-publishing, where journals provide OA to their articles (either by charging the author-institution for refereeing/publishing outgoing articles instead of charging the user-institution for accessing incoming articles, or by simply making their online edition free for all)
 2. the "green road" of OA self-archiving, where authors provide OA to their own published articles, by putting them up online or in an institutional repository where all can access.

<https://p2pu.org/en/schools/school-of-open/>

[MIT Open Courseware](#)

<http://www.codifi.info/projects/mukurtu/>

open source platform for indigenous communities and traditional knowledge

Open access is a model of scholarly communication that improves access to research. Open access research is made available online without access restrictions and with limited usage restrictions.

Visit the [SPARC](#) website for more details about open access.

D. Films/Video

<http://www.archive.org/details/prelinger> - Public Domain Videos

http://www.archive.org/details/opensource_movies

<http://creativecommons.org/video/>

www.youtube.com/creativecommons

<http://vimeo.com/creativecommons>

E. Images/Photographs

<http://www.bigfoto.com/>

<http://www.flickr.com/creativecommons/> - "Some Rights Reserved"

<http://www.imagescanada.ca/>

<http://www.pics4learning.com/> - copyright friendly images for education

<https://www.google.ca/img/ghp>

F. Music

[Public Domain Music](#) - Links to sheet music, music downloads etc.

<http://www.freeplaymusic.com/>

<http://www.mutopiaproject.org/>

<http://creativecommons.org/audio/> - Links to a variety of music licensed with "Some Rights Reserved"

<http://soundcloud.ca>

<http://www.jamendo.com>

But remember - just because something is posted on the Web does not mean it is always free to use!

3.2 Permission may be granted already: Institutional Permission List

The College has a list of blanket college-wide permissions on the intranet. This list is updated as permissions are granted. The list can be found on the college intranet at College Resources/Copyright Manual, Forms, Other Information.

4. At A Glance

SUMMARY CHART OF ACCEPTABLE USES

CAN I?	From a required textbook	From a supplementary textbook	From a licensed work	From a non-licensed work	From a website
IN CLASS					
Project a copy	YES	YES	YES	YES	YES
Project an image or figure	YES	YES	YES	YES	YES
Project a video	N/A	N/A	YES	MAYBE Check with librarian* or Copyright officer	YES
FOR AN EXAM/TEST					
Project images	YES	YES	YES	YES	YES
Post scanned material	YES	YES	YES	YES	YES
Handout photocopied material	YES	YES	YES	YES	YES

CAN I?	From a required textbook	From a supplementary textbook	From a licensed work	From a non-licensed work	From a website
COURSE MGMT SYSTEMS					
Post a persistent link	YES	YES	YES	YES	YES
Post a PDF	MAYBE Check agreement with textbook company	MAYBE Check license	MAYBE Check license	NO* Supply link if possible or get permission	MAYBE Supply link (preferable) or check terms of use on site
Post a figure or chart	YES - FAIR DEALING ANALYSIS	YES - FAIR DEALING ANALYSIS	YES - FAIR DEALING ANALYSIS	YES - FAIR DEALING ANALYSIS	YES - FAIR DEALING ANALYSIS
COURSEPACKS					
Include a figure or chart	YES - FAIR DEALING ANALYSIS	YES - FAIR DEALING ANALYSIS	YES - FAIR DEALING ANALYSIS	YES - FAIR DEALING ANALYSIS	YES - FAIR DEALING ANALYSIS
Include PDFs	N/A	N/A	MAYBE Check license	NO* Usually permission is required unless in public domain or Open Access	MAYBE Supply link (preferable) or check terms of use on site

5. The Details

5.1 Fair Dealing and why it was expanded

What is fair dealing, and why is it being expanded?

Fair dealing is a long-standing feature of Canadian copyright law that permits certain uses of copyright material in ways that do not unduly

threaten the interests of copyright owners, but which could have significant social benefits — but only if they are fair.

Fair dealing is not a blank cheque. Until the copyright law and fair dealing provisions were expanded, we were limited to five purposes: research, private study, news reporting, criticism and review. To recognize the important societal benefits of education, parody and satire, the current bill has added three elements as new purposes to which fair dealing applies.

Fair dealing is an exception in the Copyright Act that allows an individual to make a copy for the purpose of research or private study, criticism, review or education and for news reporting, parody and satire. **The original source must be credited.**

Although fair dealing is detailed in section 29 of the Copyright Act, in the CCH judgment the Supreme Court argued that fair dealing constitutes the user's rights balanced against the rights of the copyright holder; and that fair dealing should be broadly not narrowly interpreted.

The following information provides rules of thumb for adhering to copyright law and fair dealing standards. The information provided here is neither legal advice nor a complete guide. For more detailed information, see the Copyright Act and the CCH Supreme Court Judgment from 2004.

The Supreme Court provided six factors for deciding whether a reproduction is fair dealing:

Purpose of the dealing	Must be for the purposes of research, private study, criticism, review, education or news reporting.
Character of the dealing	Single copies are fine, multiple copies tend to be unfair.
Amount of the dealing	Use the least amount possible, though it may be necessary to copy the entire article.
Alternatives to the dealing	Find another way to access the information — e.g. links. The user cannot always be expected to conduct work on site, so a copy may be needed.
Nature of the work	Reasonable limits should be placed on the work by the Fair Dealing Policy.
Effect of the dealing	The market for the publisher's work should not decrease as a result of copies being made.

 [Some rights reserved](#) by [Saad.Akhtar](#)

1. Don't post copyrighted material to the open web.
2. Link to existing materials whenever possible. Linking to copyright material does not violate copyright — when you are linking you are not making a copy. Ensure a new window is opened to display linked material (do not frame linked information within your web pages).
3. Don't re-digitize material.
4. Reproduce the minimum amount of copyrighted work needed. Don't use more than one article from a single issue of a journal or more than one chapter from a book.
5. Don't use an entire copyrighted book without getting permission — even if it is out of print. Ask for advice if you are not sure.

5.2 A short excerpt in Fair Dealing terms:

One of the following:

- a) up to 10% 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

Strategies to avoid copyright infringement:



- g) an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work

For more detailed information, see the [Copyright Act](#).

See Appendices Fair Dealing Policy

5.2 Course Packs & Multiple Single Copies



All rights reserved by [loupiote \(Old Skool\) pro](#) /

A course pack is more than one item or page from two or more documents stapled or otherwise bundled together.

In order to meet our copyright compliance obligations, **each course pack must have a file that includes:**

1. The original
2. [Print shop request](#)
3. The copyright log ([going forward we will use this to log your copyright permissions](#))
4. Any special permission requests (copied to the copyright officer)
5. Or the CSPI documentation

We currently have two options for Course Pack completions.

1. Print Shop

- For course packs using non copyrighted materials,
- Course Packs with copyrighted material that you have previously obtained and have current and written permission
- Course packs written by college faculty/staff (developing material for a college course)

2. Canadian Scholars Press Inc. (CSPI)

- CSPI is generally used when you have copyrighted materials that fall outside the realm of fair dealing.
- Where you have copyrighted material that you have not previously obtained permission.
- CSPI has rules that they must abide by. See 5.4
- for details. Note: no more than 50% of any course pack can come from textbooks.

5.3 Using the College Print Shop



 [Some rights reserved](#) by [vlasta2](#)

B. College Print Shop: Course Pack Checklist

When submitting course packs for printing at the college's print shop, please use the following checklist as a guide:

Compile all originals.

1. If your course pack contains copyrighted material from a source outside of the college, i.e. you or a college staff or faculty member **did not** write the material, you must have signed permissions accompanying your documents.
2. All course packs must include a bibliography or references sited page.
3. Complete the Print Shop Form

5.4 Using Canadian Scholars Press Inc.



Course pack information can be submitted electronically or the traditional paper method to:

Canadian Scholars' Press Inc.

180 Bloor Street West, Suite 801

Toronto, Ontario M5S 2V6

You will then order your course packs through the bookstore as you would order your textbooks. Changes, additions and deletions of materials to your course packs are simple. Just log into your account, pull up the course pack that you want to make the changes to and submit.

You are limited to certain maximums for each extract of copyrighted materials included in the course pack:

- you are copying no more than 15% of a published work, or the copying is more than 15% of a published work but is one of the following:
 - an entire article from a periodical issue or book containing other works;
 - an entire single essay, short story, play, or poem from a book or periodical issue containing other works;
 - an entire chapter, if it is not more than 20% of the book;
 - an entire newspaper article or page;
 - an entire entry from an encyclopedia or similar reference work; or
- a single item of print music from a book or periodical containing other kinds of works;



 Some rights reserved by [I am marlon](#)

Don't include in your course pack if any of the following is true:

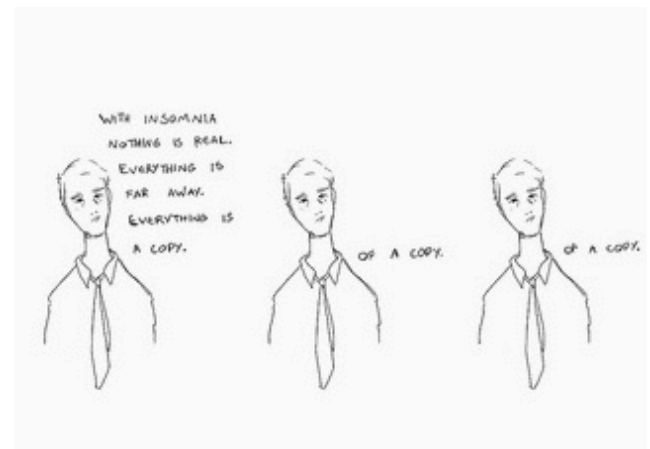
- more than 50% of the pages in your course packs is taken from textbooks; or

- your course pack contains more than two extracts from textbooks written by the same author and published by the same publisher within a period of five years.
- the extract is from a textbook and is more than one chapter of the textbook;
- the extract is from a Crown Publication (i.e., published by the provincial governments of Manitoba, Nunavut or Quebec);
- the work you are planning to copy is unpublished (i.e., copies of the work have not been made available to the general public);
- any extract you plan to copy is available as a separate publication at a reasonable price within a reasonable period of time;
- you have already copied 15% or more of the same publication during this academic year;
- the work you are planning to copy is the original of an artistic work (e.g., a pencil drawing). Do not check this box if you are copying an artistic work reproduced in a book or periodical issue containing other works;
- the work is one of the following and does not contain any notice specifically authorizing copying under license with Access Copyright:
 - an instruction manual, including teachers' guides;
 - a "consumable" such as workbooks and tests;
 - a letter to the editor in a newspaper, magazine, or periodical;
 - an advertisement in a newspaper, magazine, or periodical; or

- a newsletter restricted to fee paying clientele, which contains commercially valuable information;

- **NOTE: THERE CANNOT BE MORE THAN 50% TOTAL AND COMBINED TEXTBOOK CONTENT IN COURSEPACKS. BREACHING THIS LIMIT WILL CAUSE DELAYS AND FRUSTRATIONS DUE TO MATERIAL RETURNS FROM CSPI.**

5.5 Making Multiple Copies for Free Distribution



© All rights reserved by [deds](#). You may if...

- the copies are for use by students, faculty, or staff of the college;
- you are making only enough copies to provide one for each student, two for each faculty member and whatever you need for administrative purposes;
- you are copying no more than 10% of a published work, or the copying is more than 10% of a published work but is one of the following:
 - an entire article from a periodical issue or book containing other works;

- an entire single essay, short story, play, musical score, or poem from a book or periodical issue containing other works;
- an entire newspaper article or page;
- an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work
- a single item of print music from a book or periodical containing other kinds of works; or
- an entire chapter,
- you have included the following information on at least one page of each item copied:
 - the international copyright symbol: ©;
 - a credit to the publisher; the author or authors of the work, where known;
 - the artist or illustrator of any artistic work copied, where known

5.6 Distribution & Alternate Formats



5.7 Email

Do not send copyrighted works via **e-mail** unless you own the right to do so. If you want to share an e-article, Web site or other electronic resource with others, provide a link to the source in your e-mail or the Web address.

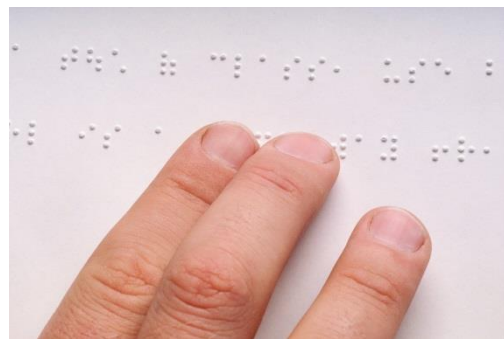
5.8 Internet

AS OF NOVEMBER 7, 2012 PUBLICALLY AVAILABLE INTERNET MATERIALS ARE AVAILABLE FOR EDUCATION USE AS LONG AS THERE IS NO INFORMATION TO THE CONTRARY.

UNLESS THERE IS "A CLEARLY VISIBLE NOTICE PROHIBITING EDUCATIONAL USE WE ARE FREE TO USE INFORMATION ON PUBLICALLY AVAILABLE WEBSITES WITH DUE CONSIDERATION FOR CITING THE REFERENCE.

(SEE NOTICE AND NOTICE ARTICLE AT 4.3, PAGE 10 FOR MORE INFORMATION ON COPYRIGHT AND POSTING COPYRIGHT INFORMATION ON THE INTERNET)

5.9 Making Alternate Formats from Print Materials



Alternate format copy is defined as an audio, Braille, large print (by a reprographic process), electronically encoded, or machine readable reproduction of all or part of a work produced for a person who is blind, visually impaired or unable

to view normal print because of a physical disability

With respect to the making of alternate format copies, the Copyright ACT permits the making of copies for people with perceptual disabilities. Alternate format copies, with the exception of large print books, are covered by this statutory exemption.

NOTE: Electronic formats protected by technological protection measures (TPMs) are specifically mentioned in the copyright act. It is illegal to break TPMs for any reason unless you have a written contract allowing you to do so. This would be unusual and for a specific reason such as migrating formats or for making alternate formats.

5.10 Re:Sound

Individual artists and record companies worldwide mandate music licensing companies, such as Re:Sound, to license their work for public performance. This allows businesses and broadcasters to deal with a one-stop-shop that can grant them a licence to play recorded music and ensure that the licence fees are distributed fairly and accurately to artists and record companies.

Failure to obtain the required licence(s) may result in legal action.

There are several tariffs that resound enforces. The use of music to accompany live events, tariff 5 A-G, sets out royalties to be paid to Re:Sound for the benefit of artists and record companies for the performance in public or the communication in public of published sound recordings at live events. These tariffs are enforceable through the court process for establishments that owe royalties but refuse to obtain the necessary licence.

The tariff's legal basis comes from the Copyright Act and the Copyright Board. The Copyright

Board is a federal tribunal empowered to establish royalties to be paid for the use of copyrighted works.

How does this affect the college?

Whenever we have a special event where music will be played we will need to track that event. This includes all special events, both internal and external events. The college will submit payment to Re:Sound on a quarterly basis. There is an event form available in the appendix and as a link.

For more information: www.resound.ca.

5.11 Other Options Copyright cues

Here are some more tips that can help guide you further through the often perplexing world of copyright:

- Check your dates. Generally, in Canada copyright protection lasts for 50 years following the death of the creator. After that, works are in the public domain and can be copied freely.
- Don't copy letters to the editor or newspaper advertisements without permission. And remember, the individual who wrote the letter or prepared the ad owns the copyright, not the newspaper.
- *ACC has blanket permission for the use of some newspapers - check out the intranet/college resources/copyright manual, forms and other information for details!*
- In electronic documents link to pages instead of copying. Remember, deep links are more likely to be broken than general links.

- With regard to government publications, anyone can copy federal laws and judicial decisions without charge, and without asking permission, provided the copy is accurate and it is not represented as an official version. This also applies to statutes, regulations and judicial decisions of the Province except Manitoba, Nunavut and Quebec.

5.12 Other Copyright Resources

Electronic resources purchased by our library in general, follow relevant contract, license or agreements. Where use is permitted, a statement of attribution should always be displayed on copies.

Check with Library staff for resources available to you for use in the classroom.

Other electronic resources (e.g. DVD, WWW material) provide a URL to the site. If printing material, contact copyright owner for use unless noted otherwise on the material.

Policy G11 Duplication of Copyright Materials and Fair Dealing

Templates available on Intranet:

- ✓ Permissions Form Text

Also on Intranet - *Permissions Logging Form* check here for information regarding college wide permission that have been granted.

Websites



 [Some rights reserved](#) by [Sean MacEntee](#)

www.cmec.ca/139/Programs-and-initiatives/copyright/overview/index.html

The Council of Ministers of Education, Canada (CMEC) site contains an electronic version of

Copyright Matters! and information about CMEC's copyright activities.

http://cmec.ca/publications/lists/publications/attachments/291/copyright_matters.pdf

The Canadian School Boards Association

www.ctf-fce.ca/The Canadian Teachers' Federation:

www.pch.gc.ca/progs/ac-ca/progs/pda-cpb/index_e.cfm

The Department of Canadian Heritage site on copyright issues and developments

www.2learn.ca/ydp/copyrightabout.aspx

A useful site on obtaining copyright permissions, written from a teacher's perspective

<http://laws-lois.justice.gc.ca/eng/acts/C-42/index.html>

ISBN-13: 978-1118078518, \$39.95.

Canada's Copyright Act

www.ted.com/

Thousands of free video lectures on a wide variety of subject matter that are usable by teachers in the classroom

www.collectionscanada.gc.ca/education/008-1020-e.html

A guide to citing copyright materials, tools for detecting plagiarism, and other copyright-related links for educators from Library and Archives Canada

www.tdsb.on.ca/_site/ViewItem.asp?siteid=41&menuid=16688&pageid=14761

Copyright resource links and links to freely available materials from the Toronto District School Board

www.canadianteachermagazine.com/free_resources.shtml

Links to freely available educational resources from *Canadian Teacher Magazine*

Murray, L.J. & Trosow, S.E. (2007). *Canadian Copyright: A Citizen's Guide*. Toronto: Between the Lines. ISBN-13: 978-1897071304, \$24.95.

Your primary resource for understanding the law and regulations must be the Copyright Act, including various amendments.

Recently, the administration of regulations and dissemination of information about intellectual property in Canada has been brought together within the Canadian Intellectual Property Office, a branch of Industry Canada.

The Canadian Copyright Board has a rich set of resources in English and French. See also material at the site of the National Library of Canada.

The Canadian Copyright Licensing Agency represents many authors and publishers.

Contact Copyright office - ex 6199 or copyright@assiniboine.net

5.13 Print resources

Dryden, J. (2001). *Demystifying Copyright: A Researcher's Guide to Copyright in Canadian Libraries and Archives*. Ottawa:

Canadian Library Association. ISBN: 0-0-88802-298-0, \$21.00.

Harris, E.L. (2012). *Canadian Copyright Law*, Fourth Edition. Wiley.

6 Appendix

6.1 FAQ's



 [Some rights reserved](#) by [Horia Varlan](#)

(These questions have been taken from Copyright Matters, written for schools and colleges, by Wanda Noel and Jordan Snel – 4th edition. They have been renumbered for this manual)

1. Does fair dealing permit the making of a digital copy from a print source?

Yes, as long as the copying is within the rules set out in the Fair Dealing Guidelines:

2. Can music be performed without the copyright owner's permission?

The Copyright Act permits educational institutions to perform music, whether recorded or live, without payment or permission from the owner of the copyright. A person acting under the authority of the nonprofit educational institution can:

- perform a musical work live if the performance is primarily by students of the educational institution;
- play sound recordings containing a musical work; and

- play radio and television programs containing a musical work while the program is being transmitted (over-the-air broadcast, cable, satellite, or over the Internet).

The following conditions apply. The performance must:

- take place on the premises of an educational institution;
- be for educational or training purposes;
- not be for profit; and
- take place before an audience consisting primarily of students of the educational institution, persons acting under its authority, or any person who is directly responsible for setting a curriculum for the educational institution.

The *Copyright Act* permits the public performance of music in schools when it is “in furtherance of an educational object.”

Performances that are not in furtherance of an educational object must be authorized by the copyright owner, or by a collective that represents the owner.

The following uses of live and recorded music are permitted by the *Copyright Act* and therefore do not require permission and payment:

- in school assemblies (*e.g., a recording of O Canada*);
- by a student in a presentation to other students, teachers, assessors, or parents (*e.g., as part of a presentation during music class*);
- in demonstration activities by students, primarily for other students, teachers, assessors, or parents, and for which any admission fee charged covers costs but does not make a profit (*e.g., a concert by the school choir, gymnastic routines, shows by school bands*);
- during school hours for teaching/learning (*e.g., music/dance/ dramatic arts classes*); and
- before and after school, and during recess, if the use is for educational purposes (*e.g., school radio*

operated by students for credit and supervised by a teacher).

The following uses of live and recorded music are not permitted by the *Copyright Act* and therefore require permission and payment:

- at school dances;
- at school sporting events;
- while people are on hold when they telephone the school;
- at an event where the admission fee is intended to make a profit; and
- on school premises for no other reason than as background music (*e.g., in the classroom, cafeteria, halls, over the PA system, at school events such as fairs, carnivals, sociocultural events*).

SOCAN and RE:Sound can provide licenses to schools and school boards across Canada. Applicable rates can be found on the SOCAN Web site at www.socan.ca

RE:Sound Web site at www.resound.ca.

The following uses of live and recorded music are not permitted by the *Copyright Act*, and SOCAN and RE:Sound cannot provide licenses to schools and school boards for music used:

- in a play performed live (*e.g., a drama class's production of *My Fair Lady**). In this case, the educational institution must obtain copyright authorization from a theatrical agent;
- in performances on school premises by outside performers (*e.g., invited singers, magicians, etc.*). In this case, obtaining copyright authorization is the responsibility of the outside performers; and
- in activities held in school facilities that are rented or are provided free of charge to outside groups. In this case, obtaining copyright

authorization is the responsibility of the outside group.

The factors to consider when determining whether music use requires permission include:

- Did the music use occur during school hours?
- Will the student be graded on the activity involving the music use?
- Does the music use involve a demonstration by a student or teacher for other students, teachers, assessors, or parents?
- Is it reasonable to consider the music use to be for educational purposes? The phrase "educational purposes" is not defined in the *Copyright Act* but can be described as an activity that is planned and where the objective is for students to meet one or more subject or program outcomes.
- Was the music used on school premises?
- If admission was controlled, was it free?
- Was the music use for a non-profit purpose?

If the answer to the majority of these questions is "yes," then the performance of the music is most likely permitted by the *Copyright Act*.

3. *Can students and teachers use copyright-protected works to create new works?*

The Copyright Act contains a users' right permitting anyone, not just students and teachers, to use copyright-protected works to create new works. This users' right is referred to in the *Copyright Act* as "non-commercial user-generated content." This user's right can be found in section 29.21 of the *Copyright Act* as amended by the *Copyright Modernization Act*. The following conditions apply to the creation of non-commercial user-generated content:

- a). It can only be used for non-commercial purposes.

- b). The original source must be mentioned, if it is reasonable to do so.
- c). The original work used to generate the content must have been acquired legally.
- d). The resulting user-generated content does not have a “substantial adverse effect” on the market for the original work.

This users’ right permits students to use copyright-protected works to create videos, DVDs, or mash-ups, as long as the conditions above are all met.

The users’ right permits user-generated content created under provision of the *Copyright Act* to be disseminated. Dissemination includes uses such as posting a video to YouTube or website.

4. Can teachers copy news and news-commentary programs from radio or television?

Yes. An educational institution or a person acting under its authority may make a single copy of a news or news-commentary program and show that copy provided the following four conditions are met:

- The Copy must be made at the time the program is aired by the broadcaster or communicated over the internet
- The showing of the single copy must be for an audience consisting primarily of students
- The showing of the single copy must be for educational or training purposes.
- The showing of the single copy must take place on the premises of the educational institution.

5. Can teachers copy programs radio and television ?

Yes. An educational institution, person acting under the authority may make a single copy of a radio or television program and show that copy provided the following conditions are met:

- a) The copy can be made only at the time the program is aired by the broadcaster or communicated over the Internet.
- b) The showing of the single copy must be for an audience consisting of primarily students
- c) The showing of the single copy must be for educational or training purposes
- d) The showing of the single copy must take place on the premises of the educational institution.

6. Can teachers show an audiovisual work (such as a DVD or video) on school premises without infringing copyright?

The *Copyright Act* permits showing an audiovisual work such as a

DVD or video on the premises of an educational institution provided the five conditions are met:

- The showing must take place on the premises of an educational institutional
- The showing must be for an audience consisting primarily of students, instructors or persons directly responsible for setting a curriculum
- The showing must be for educational or training purposes.
- The showing must not be for profit.
- The copy shown must not be infringing or the person responsible for the performance has no reasonable grounds to believe that it is an infringing copy.

If all five conditions listed above are met, an audiovisual work may be shown for educational purposes without permission from the copyright owner and without the payment of royalties pursuant to section 29.5(d) of the *Copyright Act*

Instructors can show audiovisual works purchased or rented from a retail store, a copy borrowed from the library, a copy borrowed from a friend, or a YouTube Video

Showing audiovisual works for non-educational purposes, such as fundraising or a family movie night requires permission and the payment of copyright royalties. (NOTE: Assiniboine Community pay an annual royalty so that

students and staff can watch audiovisual works for entertainment value)

7. Can I show a Netflix, iTunes or other streaming movie or TV show in class?

Section [29.5\(d\)](#) of the Copyright Act allows you to show legally obtained videos in class. However, because you sign a user agreement with Netflix and iTunes to access their content, you should check the Terms of Use to which you agreed to determine whether classroom use is acceptable. Both Terms of Use indicate that content is for "personal use" or "household use", which may not cover classroom viewing.

8. Can teachers copy an audiovisual work at home and show it in the classroom?

No. Teachers cannot copy an audiovisual work at home and then show it in the classroom. Teachers can, however, show a legally obtained copy in the classroom. A legally obtained copy includes a copy purchased or rented from a retail store, a copy borrowed from the library, a copy borrowed from a friend, and a YouTube video.

9. Can lessons be streamed live to students or recorded and made available on-line for students at a time of their choosing?

Yes. Educational institutions can transmit lessons to students in real time over the Internet or make a recording of a lesson available on-line. For example, a student in one school is able to access an on-line course containing copyright-protected material offered in a different school. The student is permitted to make a copy of the lesson and keep the copy until 30 days after the final evaluation (final report card) is received. Both the student and the educational institution are required to destroy any recording of copyright-protected material contained in an on-line lesson within 30 days after the students who are enrolled in the course receive their final evaluations.

10. Can teachers copy computer software for educational use?

Owners of legal copies of computer programs may make a single reproduction of these programs in only two situations:

a). An owner of a legitimate copy of a computer program may make one backup copy of that program. The person must be able to prove that the backup copy is erased as soon as he or she ceases to be the owner of the copy of the computer program from which the backup was made.

b). An owner of a legitimate copy of a computer program may also make a single copy of that program by adapting, modifying, or converting the computer program or translating it into another computer language, provided that:

(i) the reproduction is essential for the compatibility of the program with a particular computer;

(ii) the reproduction is solely for the person's own use; and

(iii) the copy is erased when the person ceases to be the owner of the copy of the program from which the copy was made.

10. Can teachers and students copy from the Internet?

Yes. Educational institutions, teachers, and students may save, download, and share publicly available Internet materials, as well as use that material in the classroom and communicate it to students or others within their education circle.

"Publicly available" materials are those posted on-line by content creators and copyright owners without any technological protection measures, such as a password, encryption system, or similar technology intended to limit access or distribution, and without a clearly visible notice prohibiting educational use.

Routine classroom uses may be made of publicly available Internet materials, such as incorporating on-line text or images into

homework assignments, performing music or plays on-line for peers, exchanging materials with teachers or peers, or reposting a work on a restricted-access course Web-site.

To encourage copyright awareness and respect in all circumstances, students and educators are required to cite the source of the Internet materials they use.

11 ■ Can teachers and students break digital locks to use copyright-protected materials they have the legal right to use?

No. A digital lock is a technological protection measure (such as encryption or a password) that restricts the ability of users of digital content from sharing or copying the content. The *Copyright Act* prohibits breaking a digital lock even for educational uses that are otherwise permitted by the *Copyright Act*. For example, the encryption on most commercial DVDs, or the serial-key validation required by many software programs, protects these DVDs and software programs from unauthorized use. These protections cannot be broken even if the purpose of the use is otherwise allowed.

12. Are student-created works protected by copyright?

Yes. Any original work created by a student — be it in the form of an essay, a video or DVD, a sound recording, Web site, or art work — is protected. The student — or if the student is a minor, the student's parent or legal guardian — must authorize the further use of a student's work, such as its use in a school publication, a teaching workshop, a student exemplar, or in a Web posting.

13. Can an instructor copy for instruction?

Yes. An Instructor can copy (or take any necessary action) to display a work protected by copyright. This permits the use of whiteboards and similar tools, overhead projection using a device such as an LCD screen, overhead, opaque or slide projector provided the work is used for the purpose of education and training and is not already

commercially available in a medium that is appropriate for this purpose.

14. Can an instructor copy materials intended for one-time use?

No. Copying, scanning or printing materials intended for one-time use is strictly prohibited.

“Materials interceded for one-time use” are workbooks and exercise books into which a student records answers. These are materials created and intended for each student to have his or her own copy. Once a student completes the answers, these materials are of no use to another student.

Any copying from materials intended for one-time use exposes the person making the copy, the teacher and the school, to liability for copyright infringement.

This prohibition does not apply to reproducible materials. A reproducible is not intended for one-time use, but is sold or provided with the rights holder's authorization to reproduce it for educational use.

15. Can an instructor copy for test and examinations?

Yes. Instructors in Canada may copy, translate, communicate electronically, show or play any copyright-protected work for a test or examination provided the work is not already commercially available in an appropriate medium for the purpose of a test or examination.

16. Can instructors and students use statutes, regulations and court decisions.

Instructors and students can copy and communicate the text of federal (most) provincial and territorial statutes, regulations and judicial decision for educational purposed from provinces and territories EXCEPT MANITOBA, QUEBEC and NUNAVUT.

17. Rights for students with perceptual disabilities.

- Students with perceptual disabilities, including blind and visually impaired students as well as students with learning disabilities and other physical disabilities are provided with alternative formats

through production centres scattered across Canada. The alternative formats may include audiobooks, Braille, and e-text.

- Students and the college on behalf of students, may make a copy in an alternative format of a literary, dramatic or musical or artistic work (but not an audiovisual work) in a format designed for a person with a perceptual disability.
- Translation, adaption and performance in public for the purpose of service student with perceptual disabilities, as long as the

work is not already commercially available in that format are permitted.

- Educational institutions **may not** make a large-print book for a student with a perceptual disability without permission from the copyright owner.

6.2

Crown Copyright and Licensing

As of November 18, 2013, Publishing and Depository Services no longer administers Crown Copyright and Licensing on behalf of Government of Canada departments and agencies. Should you be seeking copyright clearance for Government of Canada information, please contact the department or agency that created the information.

Some departments and agencies have provided specific contact points to request copyright clearance related to their material. If you are unable to find an organization in the [list of departmental contact points](#) provided below, please consult the links on the Canada site's list of Government of Canada [Departments and Agencies](#).

Departmental contact points for Crown Copyright and Licensing

A

- **Agriculture and Agri-Food Canada**
 - publishing-publications@agr.gc.ca

C

- **Canada Border Services Agency**
 - Marketing@cbsa-asfc.gc.ca
- **Canada Revenue Agency**
 - PACROWNCO_G@cra-arc.gc.ca
- **Canadian Centre for Occupational Health and Safety**
 - inquiries@ccohts.ca or submit the online [copyright request form](#).
- **Canadian Environmental Assessment Agency**
 - info@ceaa-acee.gc.ca

- **Canadian Heritage**
 - info@pch.gc.ca
- **Canadian Institutes of Health Research**
 - Editorial-Permissions@cihr-irsc.gc.ca
- **Canadian Museum of Nature**
 - ip@mus-nature.ca
- **Citizenship and Immigration Canada**
 - publications@cic.gc.ca
- **Correctional Services Canada**
 - ecomms@csc-scc.gc.ca

E

- **Employment and Social Development Canada – Publications and Reports**
 - droitdauteur.copyright@hrsdc-rhdcc.gc.ca
- **Employment and Social Development Canada – Policy Horizons Canada**
 - questions@horizons.gc.ca
- **Environment Canada**
 - enviroinfo@ec.gc.ca

F

- **Financial Consumer Agency of Canada – Publications**
 - info@fcac-acfc.gc.ca
- **Fisheries and Oceans Canada**
 - copyrights@dfo-mpo.gc.ca

H

- **Health Canada**
 - Pubsadmin@hc-sc.gc.ca

I

- **Industry Canada**
 - [Apply for Crown Copyright Clearance](#)

J

- **Justice Canada**
 - webadmin@justice.gc.ca

L

- **Library and Archives Canada**
 - copyright/droit_d'auteur@bac-lac.gc.ca

N

- **National Defence and the Canadian Armed Forces**
 - [Crown Copyright / Commercial and Non-Commercial Reproduction](#)
- **National Energy Board**
 - library@neb-one.gc.ca
- **Natural Resources Canada**
 - copyright.droitdauteur@nrcan-rncan.gc.ca
- **Natural Sciences and Engineering Research Council of Canada**
 - sectr@nserc-crsng.gc.ca

P

- **Parole Board of Canada**
 - Info@pbc-clcc.gc.ca
- **Passport Canada**
 - publications@cic.gc.ca
- **Privy Council Office**
 - info@pco-bcp.gc.ca
- **Public Health Agency of Canada**
 - Pubsadmin@hc-sc.gc.ca
- **Public Safety Canada - Commission for Public Complaints against the RCMP**
 - org@cpc-cpp.gc.ca
- **Public Service Commission of Canada**
 - cfp.infocom.psc@cfp-psc.gc.ca
- **Public Works and Government Services Canada**
 - questions@tpsgc-pwgsc.gc.ca

- **Royal Canadian Mounted Police**
 - copyright_droitdauteur@rcmp-grc.gc.ca
- **Royal Canadian Mounted Police External Review Committee**
 - org@erc-cee.gc.ca


S

- **Supreme Court of Canada**
 - reception@scc-csc.ca

T

- **Transport Canada**
 - [Transport Canada – Crown Copyright and Licensing – Request Permission](#)
- **Treasury Board of Canada Secretariat**
 - publicenquiries-demandesderenseignement@tbs-sct.gc.ca

6.3 Copyright and Fair Dealing Policy

 ASSINIBOINE COMMUNITY COLLEGE Policies and Procedures	# pages 1 of 3	Number G 11
	Originator Vice-President, Academic	
Title Duplication of Copyright Materials and Fair Dealing	Effective date September 2012	Replaces December 2006

Purpose:

The purpose of this policy is to state the College position in regards to copyright and fair dealing and to outline the procedure for obtaining permission to duplicate copyright materials. Please refer to copyright manual for complete compliance strategy.

Policy:

The College abides by the Federal Government's legislation prohibiting the unauthorized use of copyright materials. Duplication of copyright material will only be done in accordance with copyright law. The Fair Dealing policy outlines the copying of published works that can be made in print or electronic format by staff and faculty members under the exception for fair dealing in section 29 of the *Copyright Act*, without seeking permission of the copyright owner.

Procedure:

1. The responsibility for obtaining copyright clearance rests with the individual staff member or student requesting or carrying out the duplication. Refer to attachment 'Permission to Request' for more information.

2. It is important to note that, with the exceptions outlined below; no authority to duplicate copyright materials exists until written permission from the copyright owner is received.

Exceptions:

- a) Works in the public domain.
- b) Copyright works where the owners have announced their permission for such works to be copied (within the limitations, if any, set forth by the copyright owner).
- c) Copying falling under the classification of Fair Dealing.
- d) Exceptions made by the Supreme Court of Canada.

Fair Dealing

Fair dealing is an exception in the Copyright Act that allows an individual to make a copy for the purpose of research or private study, criticism, review or education and for news reporting. The original source must be credited.

Although fair dealing is detailed in section 29 of the Copyright Act, in the CCH judgment the Supreme Court argued that fair dealing constitutes the user's rights balanced against the rights of the copyright holder; and that fair dealing should be broadly not narrowly interpreted.

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.

Guidelines

1. Instructors, and staff members at the college 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 this Fair Dealing Policy 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 post-secondary educational institution
 - c) as part of a course pack
4. A short excerpt means (one of the following):
 - a) up to 10% 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 this Policy may be referred to the Vice-President Academic or other person designated by the College 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.

For more information please contact copyright@assiniboine.net

President

Date

6.4 EXAMPLE FORMS:

Please click on the link below to access actual forms.

1. [Facility Booking and Special Functions](#)
2. [Copyright Log](#)
3. [Permission Request Template](#)
