

USE OF COPYRIGHT MATERIALS

This procedure is administered by the Assistant Superintendent Corporate Services.

Background

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. The following guidelines apply fair dealing in K–12 schools and provide reasonable safeguards for the owners of copyright-protected works in accordance with the *Copyright Act* and the Supreme Court decisions.

To qualify for fair dealing, two tests must be passed.

- First Test: the “dealing” must be for a purpose stated in the *Copyright Act*: research, private study, education, parody or satire.
- Second Test: 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.

Fair Dealing Guidelines for Print Resources

1. Teachers and staff members 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 are to 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:
 - 3.1 As a class handout;
 - 3.2 As a posting to a learning- or course-management system that is password protected or otherwise restricted to students;
 - 3.3 As part of a course pack.
4. A short excerpt means:
 - 4.1 Up to ten percent (10%) of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work);
 - 4.2 One (1) chapter from a book;
 - 4.3 A single article from a periodical;
 - 4.4 An entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works;

- 4.5 An entire newspaper article or page;
 - 4.6 An entire single poem or musical score from a copyright-protected work containing other poems or musical scores;
 - 4.7 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 substantially communicating the entire work is prohibited.
 - 6. Copying or communicating that exceeds the limits in these Fair Dealing Guidelines will be referred to a supervisor or other person designated by the Superintendent for evaluation. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on this AP, the Canadian Copyright Act and other relevant legislation.
 - 7. Any fee charged by the District for communicating or copying a short excerpt from a copyright-protected work must be intended to cover only the costs of the District, including overhead costs.

Fair Dealing Guidelines for Digital Resources

- 1. The use of “Torrent” Based file sharing services (including but not limited to Bit Torrent, Pirate Bay, etc.) is strictly prohibited.
- 2. The duplication and sharing in whole or in part of a digitally copyrighted work is strictly prohibited. This includes “ripping” of CDs and DVDs and the removal of streaming media such as YouTube from its source site.
- 3. Copyrighted digital resources may be used for educational purposes to create a new work as long as:
 - 3.1 The resource itself is not a violation of copyright
 - 3.2 The produced work is not used for financial gain
 - 3.3 The author of the resource is credited
 - 3.4 The “Digital Rights management” (DRM) lock does not need to be removed.
- 4. Performance of copyrighted, digital resources obtained through legal means:
 - 4.1 Is always permitted for educational purposes
 - 4.2 Is always permitted for audio works
 - 4.3 Is only permitted for non-educational purposes such as lunch supervision, sporting events, etc. if permission has been obtained. Contact the Director of Student Learning 7-12 and assurance data to determine whether the work is covered under purchased performance agreements. For copyrighted music, permission can be purchased through SOCAN (<http://socan.ca>).

Procedures

- 1. Posters outlining the Fair Dealing Guidelines shall be provided by the Assistant Superintendent Corporate Services and are to be posted above each multi-function or photocopying device.
- 2. Principals will ensure all staff are aware of the [Digital Copyright Guidelines and Resources](#)

located on the Division SharePoint Site.

3. Use of copyrighted materials that do not fall under the Fair Dealing Guidelines is not permitted without the approval of the Superintendent or designate. Where school staff or students wish to use copyrighted materials, they must:
 - 3.1 Obtain permission to copy from the copyright holder; and
 - 3.2 Where requested, a royalty must be paid to the copyright holder.
4. The Canadian Copyright Act (CCA) Section 32(1) allows individuals with perceptual disabilities and those acting on their behalf to create and use alternate formats of copyrighted print materials as long as they are not large print format or available commercially. Further, the act defines “perceptual disability” as a disability that prevents or inhibits the individual from accessing the print material due to a visual impairment, a physical disability, or a comprehension disability. PDF copies of textbooks made available on <http://learnalberta.ca> are provided for this purpose only and **are not to be made available** to the general student population.
5. All staff and students that are expected to use copyrighted materials must be aware of the procedures and the guidelines for fair dealing. Teachers are to have knowledge of and be familiar with the “Copyright Decision Tool” available at <http://www.copyrightdecisiontool.ca/>.

Reference: Relevant Legislation & Guidelines

[Form: 190-1 – Copyright Release Form](#)

[Form: 190-2 – Photograph Media Consent Form](#)