

COPYRIGHT

Background

The Division recognizes the rights of creators and undertakes to ensure staff members are aware of these rights as required by the *Copyright Act* of Canada. The Division will not accept responsibility for a staff member who willfully and knowingly contravenes the Copyright Act.

Definitions

In this administrative procedure:

1. Copyright means the legal protection of a creator's original work. The works of others should not be used without their permission unless the use is permitted by the Copyright Act. Copyright law does not protect facts and ideas, only the form in which they are expressed.
2. Copyright Infringement means publishing, adapting, exhibiting, translating, editing, performing in public, photocopying, scanning, downloading or uploading, and emailing without permission of the creator.
3. Copyright protects creators of:
 - Literary, dramatic, artistic, musical works (e.g. book, letter, e-mail, blog, computer program, script, play, film, painting, sculpture, photograph, map, sheet music, compositions, music video, etc.)
 - Sound recording (e.g. lectures, animal sounds, nature sounds, music, audio book, etc.)
 - Performances (e.g. dancing, singing, acting, etc.)
 - Communication signals (e.g. Pay-per-view, radio, satellite, broadcasts, etc.)
4. Copyright protection exists as soon as a work is created in a fixed form. Any original work created by a student is protected. Authorization for further use of a student's work must be obtained from the student or the student's parent or legal guardian if the student is a minor. Such uses include a school publication, a teaching workshop, a student exemplar, or a Web posting.

Procedures

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 provided that the use of the work is considered fair. The following guidelines are provided to assist in determining what is considered fair dealing.

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 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. 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 of a school or postsecondary educational institution,
 - 3.3. as part of a course pack.
4. A short excerpt means:
 - 4.1. up to 10 per cent of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work),
 - 4.2. one 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 communicating substantially the entire work is prohibited.
6. Copying or communicating that exceeds the limits in these Fair Dealing Guidelines may be referred to a supervisor 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.
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

8. Fair Dealing applies to material types in the following manner.

8.1 **Print** Copying, scanning, or printing materials intended for one-time use such as workbooks is strictly prohibited.

8.2 **Audiovisual works** Teachers can show a legally obtained copy of an audiovisual work such as a DVD or play a legal copy of a sound recording for educational purposes at school during instructional hours. 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, or a YouTube video.

A single copy of a radio or television program can be made at the time the program is aired and shown in the classroom.

Teachers should consult the division to ascertain which agreements have been negotiated for the use of audiovisual works outside of school hours and for non-educational purposes.

8.3 **Internet** 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 online text or images into homework assignments, performing music or plays online 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.

8.4 **Online and Recorded Lessons** Lessons can be transmitted to students in real time over the Internet or as a recording made available online. For example, a student in one school is able to access an online 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.

9. Ownership of Copyright

9.1 The Division owns copyright in any works produced by a staff member in the course of his/her employment.

- 9.1.1 The Director may grant others the right to reproduce work copyrighted by the Division under such terms as may be appropriate. The reproduction must include the copyright and give acknowledgment to the authors.
 - 9.1.2 The Director may enter into an agreement with others to produce, in part or in whole, a work for the Division. This agreement shall specifically address copyright of the work produced.
 - 9.1.3 The Division may market Division material at a cost that shall cover printing, mailing and royalty.
 - 9.1.4 The Division may enter into an agreement with a private publisher to publish Division material for sale and distribution.
 - 9.1.5 If the Division markets a resource profitably, it may choose to compensate the creative staff member.
10. Students own the copyright on anything that they create. Parental consent to share students' work such as artwork and writing samples is obtained under the provisions of AP 140 Acceptable Technology Use and Form 140-3 Consent to Share Student Information.
11. Adherence to Copyright Law
- Staff members will not be required by their supervisors to perform any service that is a violation of the copyright administrative procedure.
- 11.1 Copyright information shall be offered to all staff members to ensure they are made aware of the Canadian Copyright Act and this administrative procedure.
 - 11.2 The Director may appoint a committee to review copyright procedures periodically and will continue to provide updated information to all schools. This administrative procedure will be reviewed as necessary and rewritten when amendments to the current Copyright Act are passed.

Copyright law is a very complex subject. This policy is an attempt to outline the basic information, but is in no way a substitute for legal advice. Teachers are encouraged to access resources with more detailed information.

Reference: Canadian Copyright Act
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