

Fair Dealing



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 postsecondary educational institutions.

These guidelines apply to fair dealing in non-profit K–12 schools and postsecondary educational institutions and provide reasonable safeguards for the owners of copyright-protected works in accordance with the *Copyright Act* and the Supreme Court decisions.

GUIDELINES



1. Teachers, instructors, professors, and staff members in non-profit educational institutions 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 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 postsecondary educational institution;
- c) as part of a course pack.

4. A short excerpt means:

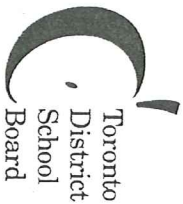
- a) up to 10 per cent of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work);
- b) one chapter from a book;
- c) a single article from a periodical;
- d) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, 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 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.





CANADIAN COPYRIGHT AND FAIR DEALING GUIDELINES FOR TEACHERS

Fair dealing for the purpose of research, private study, criticism, review, news reporting, education, parody, or satire does not infringe copyright.

This poster is for general information purposes only and does not constitute legal advice.



MEDIUM	WHAT IS INCLUDED? YOU CAN....	THE FINE PRINT
AUDIOVISUAL: FILM, VIDEO/DVD, YOUTUBE	Show licensed DVDs and videos available through MediaNet for any purpose. Show other legally obtained copies of feature films, TV series, and documentaries, for education or curriculum purposes only.	MediaNet circulates a collection of videos/DVDs and streamed resources (e.g., Learn360, NFB) that have Public Performance Rights for schools. Permission must be obtained to show audiovisual content for any non-curriculum purposes, for example, recess or lunch, administrative or parent or student activities, movie nights. For more information on Public Performance Rights, contact Audio-Ciné Films and/or Criterion Pictures . 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. Video-sharing sites, like Youtube , may contain content not uploaded by the original copyright owner. Teachers should check that the resource is legally posted before using it in the classroom. Teachers may not copy a work at home and show it in the classroom.
DRAMA	Perform plays.	Take place on the premises of an educational institution, before an audience consisting primarily of the students of the same educational institution, for instruction and assessment purposes. The performance must not be for profit, nor involve a "motive of gain."
INTERNET	Copy Internet materials (including YouTube videos).	Teachers and students may save, download, use, and share publicly available, legally posted materials, unless there is a clearly visible notice prohibiting educational use. Regarding YouTube, see also Audiovisual . Always reference/cite your sources!
MUSIC	Play sound recordings: turn on TVs and radios in the classroom. Perform a music work live. Copy musical scores.	Take place on the premises of an educational institution, before an audience consisting primarily of the students of the same educational institution, for instruction, presentation, demonstration, and assessment purposes. If the performance is primarily by students of the educational institution. Does not include music used in a play performed live, e.g., <i>My Fair Lady</i> . Only if the score is included in an anthology of other musical scores, or up to a maximum of 10 percent of a musical score. The performance must not be for profit, nor involve a "motive of gain." Activities not permitted and requiring permission: school dances; sporting events; being "on hold" via school telephone; background music in classrooms, hallways, cafeteria; events where an admission fee is charged. iTunes purchases are governed by terms and conditions, and are intended for personal, non-commercial use. Used only for non-commercial purposes. Original source must have been acquired legally, and it must be referenced/cited where reasonable. Any original student work is protected, and only the student or parent/legal guardian may authorize further use in a school publication, teaching workshop, web posting, etc. Always reference/cite your sources!
NEW WORKS STUDENT-CREATED WORKS, E.G. VIDEOS, DVDS, OR MASH-UPS	Create new works.	
PERCEPTUAL DISABILITIES INCLUDES STUDENTS WITH BLIND OR VISUAL IMPAIRMENTS, AND LEARNING DISABILITIES	Provide content in alternate formats, e.g., audiobooks, Braille, and e-text.	Students, and educational institutions on behalf of students, may make a copy in an alternate format of a literary, dramatic, musical, or artistic work (but not an audiovisual work) in a format designed for a person with a perceptual disability. Transition, adaptation, and performance in public, as long as the work is not already commercially available in that format. May not make a large-print book without permission from the copyright owner.
PHOTOGRAPHS AND IMAGES	Copy photographs, images, clip art.	Print - One work (see Print - Artistic works) Internet - OK unless clearly prohibited (see Internet) New Works/Mashups - OK unless clearly prohibited (see New Works) Clip art is not necessarily free to use; it may be licensed or fee based. Always reference/cite your sources!
PRINT	Communicate and reproduce a single copy of a short excerpt in print or electronic format for each student for the purposes of research, private study, criticism, review, news reporting, education, parody, or satire. Use digital display units, e.g., whiteboards, to project works (subject to commercial availability of materials).	A short excerpt includes up to 10 percent of copyright-protected work, including a literary work, musical score, sound recording, and an audiovisual work: <ul style="list-style-type: none">• Book: one chapter• Journal or magazine: one article• Newspaper: one entire article or page• Artistic works (e.g., painting, print, photograph, diagram, drawing, map, chart, and plan): one entire work• Poem/musical score: one single poem or musical score from an anthology• Reference works (e.g., encyclopedias or dictionaries): one entry Copying multiple excerpts from the same work is prohibited. Always reference/cite your sources!
SOFTWARE	Create single back-up copies for personal use only.	Owners of legally obtained copies of computer programs may make one back-up copy of the program for personal use only. Software provided provincially through OSAPAC includes teacher take-home rights. Refer to OSAPAC for terms and conditions. The <i>Copyright Act</i> prohibits breaking a technological lock for educational uses.
TELEVISION AND RADIO	Copy news and news-commentary programs. Copy other radio and TV programs, documentaries.	A single copy may be made only at the time the program is aired. Does not include documentaries. For reviewing purposes only, a teacher may make a single copy only at the time the program is aired, and may examine the copy for a maximum of 30 days only, if the copy is shown on school premises at any time, permission must be obtained from the Educational Rights Collective of Canada. Cable TV subscriptions, Netflix, Rogers, Bell, etc. are governed by the terms and conditions of use and are intended for "personal" or "household" use only.