



Procedures for Fair Dealing

Parent Policy:	<i>Use of Materials Protected by Copyright</i>		
Procedure Reference	CPYPR_2409N_SPN/LIB		
Procedure Sponsor:	Director, Library Services		
Procedure Contact:	Librarian, Business Liaison & Copyright		
Stakeholders:	Employees, Students, College Community Members		
Approved by:	Executive Team (future approvals by Policy Sponsor)		
Effective Date:	June 1, 2025		
Last reviewed:	September 2024	Scheduled review date:	September 2029

1. Purpose

The purpose of the Procedures is to provide circumstances under which materials protected by Copyright may be used under the Fair Dealing ('the *Fair Dealing Guidelines*') Exception of the *Copyright Act*.

2. Scope and Application

These Procedures apply to all members of the Okanagan College Community, who use resources subject to the provisions of the *Copyright Act*.

3. Fair Dealing

3.1 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.

- a) 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.

- b) Second, the dealing must be “fair”, as such term is interpreted under Canadian law. The Supreme Court of Canada established six factors educational institutions can apply to determine if a dealing is considered “fair”, based on decisions made in 2004 and 2012.
 - i) Factor 1 - Purpose of the dealing (commercial, educational, research)
 - ii) Factor 2 - Character of the dealing (how the work is being used)
 - iii) Factor 3 – Amount of the dealing (how much of the work is copied)
 - iv) Factor 4 - Alternatives to the dealing (is use of the work necessary, or is there an alternative)
 - v) Factor 5 - Nature of the work (whether it is published or unpublished)
 - vi) Factor 6 - Effect of the dealing on the work (does it compete with the original work)
- 3.2 The Fair Dealing provisions apply to non-profit educational institutions and provides reasonable safeguards for the owners of Copyright-protected works in accordance with the Copyright Act and the Supreme Court decisions.
- 3.3 Okanagan College Employees 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, or parody.
- 3.4 Copying or communicating short excerpts from a Copyright-protected work under the Use of Materials Protected by Copyright 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.
- 3.5 Members of the College Community are strongly encouraged to seek assistance from Library Services to facilitate the use of works covered by Fair Dealing.
- 3.6 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 secured by authentication and restricted to current Students and/or Employees.
 - c) As part of a course pack.
- 3.7 A short excerpt means:
 - 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; or
 - g) An entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work.
- 3.8 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.

- 3.9 Copying or communicating that exceeds the limits in these Procedures may be referred to the Director, Library Services 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.
- 3.10 Any fee charged by the College for communicating or copying a short excerpt from a copyright-protected work must be intended to cover only the costs of the College, including overhead costs.

4. Other Exceptions

- 4.1 The *Copyright Act* encompasses a number of other Exceptions in addition to the Fair Dealing, including but not limited to, educational exceptions, exceptions for libraries, archives, and museums, and exceptions for persons with perceptual disabilities. Under these Exceptions, the use of Copyrighted materials is permitted only for certain purposes.
- 4.2 Discussion of these additional Exceptions and the corresponding conditions is beyond the scope of these Procedures. Any questions regarding Exceptions outlined in the *Copyright Act* should be directed to the Copyright Officer and/or the Library.

5. Related Acts and Regulations

BC Human Rights Code, S. 8
Copyright Act, R.S.C., 1985, c. C-42 as amended (the "Copyright Act")

6. Supporting References, Policies, Procedures and Forms

Okanagan College Copyright Guide

History / Revisions

Date	Action
2024-09-24	<i>New Procedure Approved by OC Executive Team (future approvals by Policy Sponsor)</i> Replaces Copyright Fair Dealing Policy (E.5.5) (2012)