

# University of Northern British Columbia Fair Dealing Guidelines

## Reproduction and Communication of Copyrighted Works by Faculty and Staff for Students

### *Summary*

These Fair Dealing Guidelines (“Guidelines”) apply to all faculty members and staff persons of the University of Northern British Columbia (UNBC). These Guidelines are in place to provide guidance on the use of copyright-protected works under fair dealing and to provide reasonable safeguards for the owners of copyright-protected works in accordance with the *Copyright Act* and Supreme Court decisions. These Guidelines have been adapted from AUCC, ACCC and Grant McEwan’s Fair Dealing Guidelines.

The fair dealing provision in the *Copyright Act* permits use of a copyright-protected work without permission from the copyright owner or payment of copyright royalties. Whether a use of a copyright-protected work qualifies under fair dealing is dependent on an evaluation of all relevant factors in a given situation. Fair dealing will apply to copying and communicating of works made in accordance with these Guidelines. Copying or communicating beyond the quantitative limits in these Guidelines may, or may not, be fair dealing and may require permission from the copyright holder.

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 or parody*. The Supreme Court has determined that educational use of a copyright-protected work passes this first test.

The second test is that the dealing must be “fair.” The Supreme Court of Canada has stated that deciding whether a particular instance of copying may be considered to be “fair” requires a consideration of all of the relevant factors, including the following:

- a) the purpose of the proposed copying, including whether it is for research, private study, education, satire, parody, criticism, review or news reporting;
- b) the character of the proposed copying, including whether it involves single or multiple copies, and whether the copy is destroyed after it is used for its specific intended purpose;
- c) the amount of the dealing from the individual user’s perspective, including the proportion of the Work that is proposed to be copied and the importance of that excerpt in relation to the whole Work;
- d) alternatives to copying the Work, including whether there is a non-copyrighted equivalent available;
- e) the nature of the Work, including whether it is published or unpublished; and
- f) the effect of the copying on the Work, including whether the copy will compete with the commercial market of the original Work.

### **Guidelines**

1. UNBC faculty members and staff persons 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*.
2. Copying or communicating short excerpts from a copyright protected work under these Guidelines for the purpose of *news reporting, criticism or review* must 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 (such as Blackboard) that is password protected or otherwise restricted to students of UNBC; or
  - c. as part of a course pack.
  
4. A short excerpt includes:
  - 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 individual 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. If you would like to copy something that you believe falls within the Fair Dealing Exception but does not meet the criteria set out above, please contact the Library Assistant – Copyright at [libcopyright@unbc.ca](mailto:libcopyright@unbc.ca). 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.

*Please Note:* These Guidelines do not restrict copying or communicating of copyright-protected works permitted under an arrangement or contract entered into by UNBC with a publisher, publisher's representative or under contract arrangements, such as for Library databases ("Third Party Copying Arrangement"). In the event of a conflict between these Guidelines and a Third Party Copying Arrangement, the terms of the Third Party Copying Arrangement will apply.