

Category:	Academic	Approval:	Board of Trustees - Financial Planning and Investment Committee
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Background

The fair dealing exception in the *Copyright Act* provides that dealing with copyright materials for certain purposes, such as education, research and private study, does not infringe copyright, provided the dealing is fair.

Brock is committed to supporting use of the exception by Brock employees in a manner that respects the rights of copyright owners. This Policy provides guidance to Brock employees in how to apply the exception at Brock.

This Policy was prepared by legal counsel for the Association of Universities and Colleges of Canada and replaces the previous Fair Dealing Policy approved by the Board on June 23, 2011.

Purpose

The purpose of this Policy is:

- To ensure that all Brock employees apply the fair dealing exception in a manner which respects the rights of copyright owners;
- To provide guidance and clarity as to the nature and scope of copying permitted under the fair dealing exception; and
- To provide a process for review and evaluation of copying which is beyond the scope of the Policy.

Scope

This Policy applies to all Brock University departments and faculties, subject to the following:

- The Policy does not apply to any copying by Brock University students;
- The application of the Policy may be affected by the terms of licence agreements for copyright materials.

Policy

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 or 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 educational institutions.

This Fair Dealing Policy applies fair dealing in non-profit universities and provides 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 universities 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 this Fair Dealing Policy 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 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 the university
 - (c) as part of a course pack
4. 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
- (g) an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work

provided that in each case, no more of the work is copied than is required in order to achieve the allowable purpose.

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 this Fair Dealing Policy may be referred to a supervisor or other person designated by the university 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 university for communicating or copying a short excerpt from a copyright-protected work must be intended to cover only the costs of the university, including overhead costs.

Related policies

N/A