

ADMINISTRATIVE POLICY COPYRIGHT

EFFECTIVE: January 2014
REVISED: January 2014
RELATED POLICIES:

POLICY

Northern Lights College is committed to upholding the right of creators to ownership of copyright in their works and to their entitlement to acknowledgment of this ownership through credit and/or payment as stated in the Copyright Act of Canada. It is the responsibility of the entire College community to adhere to the rights and restrictions for use of copyrighted material as laid out in the following documents:

- the Copyright Act of Canada,
- the Association of Community Colleges of Canada (ACCC) Fair Dealing Guidelines (see Appendix 1); and
- all applicable rulings of the Supreme Court of Canada and Copyright Board of Canada.

Copyright law applies to print, broadcast, and digital works in the same manner.

PROCEDURE

Northern Lights College provides the following to ensure copyright regulations are followed:

- Informational material for faculty, staff, and students;
- prominently posted guidelines for copying and using copyrighted material;
- forms and procedures to record use of copyrighted material; and
- designation of a staff member who handles copyright inquiries, processes copyright permissions and payments, and provides copyright information for employees and students.

When using copyrighted material, faculty, staff, and students will consult the relevant copyright information posted on the library section of the NLC website, posted by printers or copiers around each campus, and/or contact the Library Assistant-Copyright in order to ensure compliance. Six criteria for evaluating if copying is fair dealing have also been provided in Appendix II.

Faculty will submit the citations for copyrighted material used in the classroom and D2L to the Library Assistant-Copyright for appropriate record keeping.

Records of the use of copyrighted material, permissions, and royalty payments at NLC will be filed in an appropriate secure location at the College, and maintained by the Library Assistant-Copyright.

Guidelines and policies will be kept current as changes occur in the Copyright Law or by decree of the Supreme Court of Canada, and will be disseminated among the NLC community.

Faculty will use the form in Appendix III to gain permission for use of student work in class or in D2L (Desire 2 Learn). Faculty should keep a copy of the completed form in their records and submit the original to the Library Assistant – Copyright.

Faculty, staff and students will refrain from breaking technological protection measures in order to use protected materials

DEFINITIONS

Copyright: Copyright in a work means that the creator has the sole right to produce, copy, perform, or publish the work in any format. This right applies to a translation, adaptation to a different genre, and to producing the work in a different medium.

Fair dealing: The Copyright Act provides users with the right to use, or “deal” with copyright-protected works, in certain circumstances, without having to pay royalties or seek permission for use from the copyright holder. There are two criteria for using fair dealing:

a) The purpose of the use: The Copyright Act states that allowable purposes are research, private study, criticism, review, news reporting, education, satire, and parody.

b) The amount used: The Supreme Court of Canada ruled that a short excerpt of a work is fair. See the Association of Community Colleges of Canada Fair Dealing Guidelines for determining whether an excerpt is fair.

Digital rights management (DRM): This term refers to technologies used to enforce limitations on the use and transfer of copyrighted digital material by viewing, copying, printing, altering, and anything else that can be done with digital content. DRM relies mainly on Technological Protections Measures to carry out the limitations.

Technological protection measure (TPM): A TPM is any type of device, technology, or component used to prevent access to, or copyright infringement of, a work, performance, or sound recording. Methods of TPM include encryption, passwords, subscriptions, licenses, digital locks, dongles, registration keys, and must not be broken in order to use the material for any purpose.

Appendix I

Association of Canadian Community Colleges Fair Dealing 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, 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 post-secondary educational institutions.

This Fair Dealing Policy applies fair dealing in non-profit K-12 schools and post-secondary educational institutions 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 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 this Fair Dealing 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. 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 post-secondary educational institution
 - 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

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 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.

August 30, 2012

Appendix II

Six principle criteria for evaluating if your copying is fair dealing

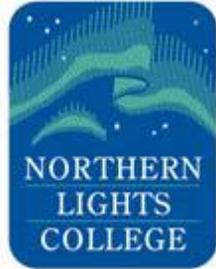
1. **The Purpose of the Dealing:** Is it for research, private study, criticism, review, news reporting, education, satire, or parody? The Supreme Court states that "these allowable purposes should not be given a restrictive interpretation or this could result in the undue restriction of users' rights" and that "a large and liberal interpretation" of research should be applied.
2. **The Character of the Dealing:** How is the work being dealt with? Will there be a single copy or multiple copies made? Will these copies be distributed widely or to a limited group of people? Will access be password-protected? Will the copy be destroyed after being used? What is the general practice in the educational sector?
3. **The Amount of the Dealing:** How much of the work will be used? What is the importance of the work? Quoting trivial amounts may alone sufficiently establish fair dealing as there would not be copyright infringement. In some cases even quoting the entire work may be fair dealing. The amount of the work taken must be fair in light of the purpose of the dealing.
4. **Alternatives to the Dealing:** Is a "non-copyrighted equivalent of the work" available to the user? Is the dealing "reasonably necessary to achieve the ultimate purpose"?
5. **The Nature of the Work:** Copying from a work that has never been published could be fairer than from a published work "in that its reproduction with acknowledgement could lead to a wider public dissemination of the work - one of the goals of copyright law. If, however, the work in question was confidential, this may tip the scales towards finding that the dealing was unfair."
6. **Effect of the Dealing on the Work:** Is it likely to affect the market of the original work? "Although the effect of the dealing on the market of the copyright owner is an important factor, it is neither the only factor nor the most important factor that a court must consider in deciding if the dealing is fair."

No one of these criteria is more important than any other. Take them all into consideration when evaluating the use of copyrighted work.

Quotes taken from Supreme Court of Canada ruling, *Access Copyright vs CCH*.

Appendix III

Permission for use of student work in class or D2L



11401 – 8 Street
Dawson Creek, BC V1G 4G2
1-866-463-6652

I, _____, a student at Northern Lights College,

grant permission for use of the following assignment

in the classroom or in the course management system, Desire to Learn.

Title of assignment: _____

Course name and number: _____

Instructor's name: _____

Period of permission: _____ years from the date of this permission **OR**: No restriction: _____

I wish to have my name removed from the work: Yes _____ No _____

Signature: _____ Date: _____

Address: _____ Telephone: _____

Completed forms must be submitted to the Library Assistant-Copyright for record keeping purposes.