

# Copyright Guidelines for Teachers

## How has copyright law changed in Canada recently?

Canada's Copyright Act was updated in 2012 to include 'education' as a purpose under the fair dealing provision. "This means that anyone (and not just educational institutions) may claim the defence of fair dealing when using copyright materials for the purpose of education. It does not mean, however, that any use for education by anyone or by any educational institution is automatically allowed without permission from the copyright owner. If copying is for the purpose of education, then one may consider the fair dealing defense and make a fair dealing analysis . . ." [Lesley Ellen Harris, *Canadian Copyright Law*, 4<sup>th</sup> ed., p. 177]

The updated law also allows teachers and students in classrooms to download, save, share, and use materials that are publicly and legally available on the internet. The materials must have been posted with the permission of the copyright owner; this provision does not pertain to illegally uploaded materials.

In addition to this, a 2012 Supreme Court of Canada ruling on fair dealing determined that teachers may copy and distribute **short** excerpts of copyrighted materials for their students in class without having to ask for permission or pay royalties.

The Council of Ministers of Education, Canada has produced a handout explaining these changes.

<http://www.cmec.ca/docs/copyright/New-Copyright-Law.pdf>

## What is 'fair dealing?'

Fair dealing is a provision in the Canadian Copyright Act that allows for some exceptions in the copying and use of copyrighted material. In other words, fair dealing places limits on the rights that copyright holders have. Unfortunately, fair dealing is not clearly defined in the Act, and determining whether or not a particular use falls under this provision can be very tricky.

According to the law, fair dealing allows for the use of copyrighted materials for the purposes of:

- Research or private study,
- Criticism or review,
- News reporting,
- Parody or satire, or
- Education,

as long as proper attribution is given to the copyright holder.

This does not mean, however, that you can use the material in any way that you like, even for these exceptions. In her book, *Canadian Copyright Law*, noted copyright expert Lesley Ellen

Harris suggests three factors to consider when trying to determine whether or not a particular use of copyright-protected material constitutes fair dealing:

1. “. . . first consider whether a **substantial part** of a work is being copied.”
2. “If a substantial part of a work is being copied, you must then determine whether the dealing is for one of the **[eight] allowable purposes** set out in the act” [see above].
3. Finally, you must “assess the **fairness** of the use.” The Supreme Court of Canada has laid out a number of factors that need to be taken into account when determining fairness:
  - The purpose of the dealing
  - The character of the dealing
  - The amount of the dealing
  - Alternatives to the dealing
  - The nature of the work
  - The effect of the dealing on the work

[Harris, 4<sup>th</sup> edition, 166-167; my emphasis]

### How do I ask for copyright permission?

It is best to get copyright permission in writing – an email from the copyright holder is perfectly acceptable. Contact the copyright holder directly, recognizing that the author or creator of a work does not always hold on to copyright. In your request, explain how you will be using the material. Here are some of the details you might want to include in your request:

- The details of the work – title, author, publisher, date, source (if part of a larger work), etc.
- Page numbers to reprint
- Number of copies required
- Type of reproduction you’ll be making (photocopy, reprint, etc.)
- Purpose – precisely how the material will be used (be as specific as possible)
- Target audience
- Frequency of use – one-time, or multiple times
- Date by which copyright permission is required

### Where can I find free media resources online?

- Information about Creative Commons licenses (**always** provide proper attribution, no matter where your media is coming from!)  
<http://creativecommons.org/about/licenses>
- 30+ Places to Find Creative Commons Media  
<http://www.sitepoint.com/30-creative-commons-sources/>
- Wikimedia Commons  
(repository images, sound, other multimedia)  
[http://www.commons.wikimedia.org/wiki/Main\\_Page](http://www.commons.wikimedia.org/wiki/Main_Page)
- Creative Commons Search  
<http://search.creativecommons.org/>

**More information about copyright for teachers can be found on the BCTF website**

<http://bctf.ca/links.aspx#copyright>

**and in CMEC's *Copyright Matters! Some Key Questions & Answers for Teachers.***

[http://cmec.ca/Publications/Lists/Publications/Attachments/291/Copyright\\_Matters.pdf](http://cmec.ca/Publications/Lists/Publications/Attachments/291/Copyright_Matters.pdf)

**Copyright questions? Email [copyright@bctf.ca](mailto:copyright@bctf.ca)**