



Fair Dealing Policy

Revised: 9 October 2012

In March 2011 the University of Windsor implemented a Fair Dealing Policy as an administrative directive. The current revision has been recommended for adoption by the Association of Universities and Colleges of Canada (AUCC) to all member institutions. The revision reflects changes resulting from the enactment of the Copyright Modernization Act (S.C. 2012, c.20) which amends the *Copyright Act* to, among other things, “allow educators and students to make greater use of copyright material”.

The Policy is intended to apply primarily to the copying of paper and electronic documents by University faculty and staff, but may also apply to sound recordings and audiovisual works. Copying may be done with the copyright holder’s permission, or pursuant to a license, or pursuant to an educational or other exception under the Copyright Act. Where a copy does not fall into one of these categories, it can only be made if it is considered “fair dealing” as described in this Policy. The Policy does not apply to copying by students of the University for their own private study or research.

Compliance with this Policy is mandatory for all University faculty and staff. Questions regarding its applications should be addressed to:

Ms. Gwendolyn Ebbett
Dean of the Library & Copyright Officer
copyright@uwindsor.ca

Fair Dealing Policy for Universities

October 9, 2012

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 **Gwendolyn Ebbett**, Copyright Officer, ext. 3161 or copyright@uwindsor.ca 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.