

Policy Name	Fair Dealing		
Policy #	723	Category	HUMAN RESOURCES
Steward	Manager, Human Resources	Date Approved	Aug. 13, 2025
Next Review Date		Date Reviewed or Revised	

POLICY

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.

"Fair Dealing" is a statutory right which is an important element of users' rights under Canadian copyright law, permitting the reproduction and use of copyright-protected works for specific purposes without needing permission, as long as the use or dealing is "fair".

Fair dealing aims to balance the exclusive rights of copyright owners to their works with the rights of users to utilize those works in the public interest. The Supreme Court of Canada has articulated that fair dealing is not merely a defense, but rather an essential element of Canada's Copyright Act. When the fair dealing requirements are satisfied, there is no need to look for more specific exceptions within the Copyright Act nor to seek additional permission.

PRINCIPLES

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.

SCOPE

This policy applies to all Suncrest College employees.

DEFINITIONS

Fair Dealing – is a statutory right which is an important element of users' rights under Canadian copyright law, permitting the reproduction and use of copyright-protected works for specific purposes without needing permission, as long as the use or dealing is "fair".

User Rights - Specific legal rights under the Copyright Act allowing limited use of copyright works without needing the copyright owner's permission. For the College, the most significant are the right of "fair dealing" and the specific exceptions for educational institutions.

Copyright Law – The federal *Copyright Act*, RSC 1985 c C-42, including its accompanying regulations, amendments, and any case law which interprets the *Copyright Act*.

Use – The use of a copyrighted work can encompass reproduction, transmission, public performance, display, and translation.

Copyright-Protected Works – Any original literary, dramatic, musical, or artistic work that is created with skill and judgment and is fixed in a tangible form.

Copyright Owner – The legal owner of a copyrighted work who can exercise ownership rights.

Rights of Ownership – Section 3(1) of the Copyright Act defines copyright ownership as the exclusive right to produce or reproduce the work or any substantial part of it in any material form, perform the work or any substantial part in public, or if the work is unpublished, to publish the work or any substantial part of it. Additionally, copyright owners have the sole right to exploit translation, conversion, recording, adaptation, communication by telecommunication, public exhibition, and rental rights, and to authorize any of these uses.

User – Someone who makes use of a copyrighted work owned by someone else.

PROCEDURES

1. The fair dealing provision in the Copyright Act permits use of 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.
 - a. **TEST 1: Purpose** – is the “dealing” for one of the allowed purposes stated in s.29 of the Copyright Act: research, private study, criticism, review, news reporting, education, satire, or parody. Educational use of copyright-protected work passes the first test.
 - b. **TEST 2: Is the dealing “fair”** – In landmark decisions in 2004 and 2012, the Supreme Court of Canada provided guidance as to what this test means in schools and post-secondary educational institutions, identifying six criteria to consider when determining fairness. The six factors are: purpose, character, amount, nature, effect, and alternatives to the dealing.

LEGISLATIVE AND COLLECTIVE AGREEMENT REFERENCES

Copyright Act, R.S.C. 1985, c. C-42 - [Copyright Act and Regulations](#) (Department of Justice)

[Six criteria for determining whether a dealing is fair](#) (CCH Canadian Ltd. V. Law Society of Upper Canada)

LINKS TO OTHER RELATED POLICIES, DOCUMENTS, AND WEBSITES

N/A