

Background

The Division has a statutory and ethical responsibility to respect the legitimate copyright claims of creative contributors and their publishers/distributors. The Division also recognizes the need for students to have access to a wide range of resources within the limits of the *Copyright Act*. Accordingly, there exists a need to clarify both the creator's and the user's rights with respect to use of copyright material.

Division employees shall not duplicate, without the permission of copyright holders, print materials (except as outlined in the "Fair Dealing Guidelines"), computer software programs, video or audio materials that are protected by copyright; nor shall schools store or use duplicated materials that are in violation of copyright laws.

Division employees will follow the "Fair Dealing Guidelines" provision in the *Copyright Act* which 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.

These guidelines apply fair dealing in non-profit K-12 schools and post-secondary educational institutions and provide reasonable safeguards for the owners of copyright-protected works in accordance with the *Copyright Act* and the Supreme Court decisions.

Definitions

1. Copyright means the legal protection of a creator's original work. Copyright law does not protect ideas, only the form in which they are expressed.
2. Copyright infringement means publishing, adapting, exhibiting, translating, editing, performing in public, communication by telecommunication, copying or converting to another medium without permission of the creator.
3. Works covered by copyright means all original literary, dramatic, musical and artistic works.

Examples include books, writing, encyclopaedias, photographs, films, podcasts, dictionaries, statistical data, newspapers, reviews, magazines, translations, tables, compilations, examination questions, speeches set down in writing, any piece that can be recited, choreographies, harmony, melody, lyrics, paintings, drawings, sculptures, works of artistic craftsmanship, engravings, architectural works of art, maps, plans, charts,

records, cassettes, tapes, sound recordings, television programs and electronic resources such as computer software, online programs, CD-ROMS, laser disks and computer programs stored on any media.

4. Dubbed off-air means making a copy of any television program during broadcast.

Guidelines

1. Division employees shall follow the *Copyright Act* "Fair Dealing Guidelines" which will be posted by all photocopiers.
2. Division employees shall not contravene the copyright law by illegally copying or duplicating texts, workbooks, periodical materials and/or musical works, printed or recorded. Works covered by copyright may only be reproduced by Division employees with oral or written permission from the copyright owner or authorized agent.
3. In the event of litigation resulting from copyright violation, the Division will not assume responsibility for actions of an employee who has contravened the school system copyright policy.
4. Works covered by copyright may only be reproduced for Division office, class, or school use with oral or written permission from the copyright owner or if they are covered by the agreement entered into with Access Copyright on behalf of the Division by Alberta Education.
5. The Division will allocate funds through site based budgets for provision of learning resources and for the payment of copyright permission.

Procedures

1. Print Resources
 - 1.1 Print Resources may be copied in accordance with the *Copyright Act* "Fair Dealing Guidelines".
 - 1.2 When copying exceed the guidelines parameters:
 - 1.2.1 permission to copy can be sought from the copyright holder
 - 1.2.2 a royalty must be paid to the copyright holder
2. Video Resources
 - 2.1 Television programs may only be dubbed off-air with permission from the copyright owner. (ACCESS network's catalogue lists titles of videos that may be dubbed off air.) Teachers can tape and show news programs in their classrooms and keep a copy of the program for up to a year, and then they must destroy the copy. Teachers can tape and show other TV shows for instructional purposes and keep a copy for up to thirty (30) days and then they must destroy the copy.
 - 2.2 Only video programs and feature film rentals with public performance rights may be shown in schools. (A site license must first be obtained from the Canadian distributor.)

3. Electronic Resources
 - 3.1 Electronic resources (computer software, CD-ROMS, online programs, electronic bulletin boards, freeware, shareware, and computer programs stored on any media) may only be used as specified in the license agreement.
 - 3.2 The Division will make every effort to purchase multiple copies of electronic resources or site licenses for electronic resources. (One backup copy, adaptation or translation of a computer program is permitted by law and does not require special permission from the copyright owner; school librarians may lend the original program but not the backup copy.)
4. Music Resources
 - 4.1 Audio recordings may be played in schools if the public performance rights were purchased. (Audio recordings obtained from Canadian distributors include performance rights in the purchase price.)
 - 4.2 Musical works may be performed in the course of teaching and learning without obtaining permission from the copyright owner.
 - 4.3 SOCAN (Society of Composers, Authors, and Music Publishers of Canada) license agreement covers all public performances of musical works that take place in the Pembina Hills Regional Division Schools, regardless of the duration of the performance or the nature of the event during which the public performance takes place. If there are questions with regard to the license agreement, please contact Regional Office.
5. Public Domain Resources
 - 5.1 Works that are in the public domain may be reproduced without permission. Works become part of the public domain after the death of the creator except when the rights are passed to others. Public domain is life plus 50 years for Canada and New Zealand. Public domain is life plus 70 years for Australia, the United Kingdom and the United States.

From the Copyright Board of Canada Brochure – “Unlocatable Copyright Owners”
“Generally, copyright in works expires 50 years following the end of the calendar year of the creator’s death. There are special rules for works of joint authorship or for works for which the crown holds copyright. After copyright protection has expired, a work is considered to be in the “public domain”. It is crucial to remember, however, that new editions of a work that is in the public domain may contain elements that are protected by their own copyright (such as footnotes, editorial comments, cover art) even though the original work is not.

Sound recordings are also protected separately from any work which they may contain. In a 1990 recording of music from a composer who dies in the 1800s, the recording is protected but the music is not. In a 1945 recording of music composed by a person who died in 1960, the music is protected but the recording is not.”

6. Student Work
Students own the copyright on anything that they create, and parental permission to reproduce their work should be obtained if the student is under 18 years of age; student permission is required if the student is 18 years of age. Permission is not required to display student work within the school.

- 6.1 Each school will request and file permissions from parents/guardians at the beginning of each school year to record and/or tape their child(ren) for possible performance.
 - 6.2 Parental approvals shall be obtained to display any student work outside the school at such sites as teachers' conventions, conferences, public libraries division office or shopping centres.
 - 6.3 The copyright in photographs taken by students for publications with equipment and supplies provided by the school are usually the property of the school.
7. Each school-based administrator shall ensure that reproduction equipment (photocopiers, computers and records) are labelled with warnings that reproduction is not permitted without permission from the copyright owner.

Sample Copyright Information Labels

Photocopiers

Employees and students shall comply with the "Fair Dealing Guidelines" of the *Copyright Act*.

Computers

Employees and students shall not copy computer software without permission from the copyright owner.

Videocassette Recorders

No off-air dubs of television programs or videos without public performance rights may be used without permission from the copyright owner.

Reference

[Education Act](#)
[Copyright Act](#)
[Copyright Regulations](#)
CanCopy Agreement

[Form 3-30-A Copyright Release Form](#)
[Form 3-45-A Access and Privacy Consent Form – Specific Use](#)
[Form 3-45-B Access and Privacy Parental/Guardian Consent Form](#)
[Form 3-45-C Informed Consent/Access and Privacy Form for Videoconference Session\(s\)](#)
[Form 3-45-D Photo & Multimedia Permission Form – Consent and Release](#)
[Form 3-45-E Photo and Multimedia Permission Form](#)

Exhibit - [Fair Dealing Guidelines](#)