



This document provides guidance on the application of the Guidelines for use to be considered Fair Dealing (the “Fair Dealing Guidelines”) to copying and communicating of copyright-protected works by faculty members (including part-time and adjunct faculty) in the course of their teaching and research. It also applies to students employed by the university as teaching assistants or instructors and to postdoctoral fellows for copying and communicating copyright-protected works done during the course of their employment.

Copyright Infringement and Exceptions

It is an infringement of copyright to copy all or a substantial part¹ of a copyright-protected work or to communicate all or a substantial part of a copyright-protected work to the public² by telecommunication without the consent of the holder of copyright, unless copying or communicating the work falls within one of the exception in the Copyright Act. Examples of a communication of a work to the public by telecommunication include emailing a work to more than one student and transmitting a work posted to a learning management system (LMS) to more than one student. The exceptions in the Act include exceptions for fair dealing, displaying a work for the purposes of education or training, and recording a lesson and communicating the recording to the public by telecommunication for educational or training purposes.

Fair Dealing

Copying and communicating works pursuant to the Fair Dealing Guidelines fall within the fair dealing exception in the Copyright Act and therefore do not infringe copyright. There is no need to obtain the consent of the holder of copyright for those acts. The Fair Dealing Guidelines permit copying and communicating short excerpts of copyright-protected works by the university (including its faculty members) subject to certain safeguards to protect the interests of holders of copyright.

Definition of Short Excerpt

Section 3 of the Fair Dealing Guidelines defines a short excerpt as follows:

3. 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;

¹For a discussion of what constitutes a substantial part of a copyright-protected work and the ability to freely use an insubstantial part of a copyright-protected work see the Application of the Fair Dealing Guidelines: General Application to be found here <https://library.usask.ca/copyright/general-information/fair-dealing-guidelines.php#ApplicationDocuments>.

²In general, a communication is to the public, if the recipients are not restricted to individuals that are purely in a domestic relationship, i.e., a family relationship.

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- 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.

Teaching

Under the Fair Dealing Guidelines a copy of a short excerpt of a copyright-protected work may be made by or on behalf of a faculty member for the purpose of teaching students. A faculty member or his or her proxy may:

- provide a copy of the short excerpt to students enrolled in a course of study as a handout;
- email a copy of the short excerpt to students enrolled in a course of study;
- post a copy of the short excerpt on an LMS stored on a secure server or other device (e.g., password protected) that is only accessible by students enrolled in a course, unit or program of instruction;
- include a copy of the short excerpt in a course pack sold to students enrolled in a course of study;
- include a copy of the short excerpt in a lecture or classroom presentation such as a PowerPoint presentation presented to students enrolled in a course of study; and
- display a copy of the short excerpt in a classroom to students enrolled in a course of study.

In each case, a copy of the short excerpt may also be provided or made available as required to another faculty member and to university staff.

Additional information concerning the posting of a copy of a short excerpt of copyright-protected works to an LMS is set out in the document Application of the Fair Dealing Guidelines to Learning Management Systems to be found here <https://library.usask.ca/copyright/general-information/fair-dealing-guidelines.php#ApplicationDocuments>. For additional information on using a copy of a short excerpt in a course pack, please consult the Copyright Office at copyright.coordinator@usask.ca. Special circumstances relating to the copying and performance of audiovisual works (e.g., YouTube videos) and musical works are set out respectively in the document Application of the Fair Dealing Guidelines to



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Audiovisual Works to be found here <https://library.usask.ca/copyright/general-information/fair-dealing-guidelines.php#ApplicationDocuments> and the document Application of the Fair Dealing Guidelines to Musical Works to be found here <https://library.usask.ca/copyright/general-information/fair-dealing-guidelines.php#ApplicationDocuments>.

As a safeguard to protect the interests of holders of copyright, the work from which the copy of the short excerpt is made must be in the lawful possession of the university or a faculty member. This would include a work in the collection of the university library or a faculty member, a work borrowed by the university library or faculty member through an inter-library loan, or a short excerpt that is copied and communicated to the university or a faculty member under fair dealing.

The Fair Dealing Guidelines does not permit copying or communicating a copyright-protected work for a lecture or presentation that is open to the general public, i.e., a lecture or presentation that is not restricted to students specifically enrolled in a course of study. Depending on the circumstances the fair dealing exception may however apply where the lecture or presentation is open to the public.

For information regarding the Fair Dealing Guidelines and Canada's copyright law, contact the Copyright Coordinator at copyright.coordinator@usask.ca.

Note: The information obtained from or through this side does not constitute legal advice, but is provided as guidelines for using works for educational purposes.