

Teachers' use of "short excerpts" in the classroom

Changes made to the "fair dealing" provision in Canada's copyright law in 2012 have provided new benefits for teachers and the learning process in the classroom. One such benefit is the right of teachers to now make copies of "short excerpts" from copyright-protected works for students without having to ask for copyright permission or pay copyright royalties. Short excerpts from published works, books, magazines, films, television programs, recordings, and music can now be used for educational purposes.

The *Fair Dealing Guidelines*

The *Fair Dealing Guidelines* were developed to explain the parameters of the fair dealing provision and clarify the meaning of "short excerpts." The *Fair Dealing Guidelines* may be used as an institutional policy by schools, school boards, and departments/ministries of education. The guidelines describe the uses of copyright-protected works that, in the opinion of legal counsel, are allowed without obtaining permission from the copyright owner or paying copyright royalties under the fair dealing provision.

The *Fair Dealing Guidelines* describe a safe harbour, not absolute limits. Copying or communicating a copyright-protected work within the limits prescribed in the guidelines will, according to the advice of legal counsel, almost certainly be fair under the fair dealing provision. Copying or communicating beyond the prescribed limits may, or may not, be fair.

Use of copyright-protected works beyond the limits in the *Fair Dealing Guidelines* requires an evaluation of whether the proposed educational use is permitted under the fair dealing provision. If the use is not permitted under fair dealing or another users' right in the *Copyright Act*, prior written permission must be obtained from the copyright owner or copyright collective. There may be a transaction fee required to use the material. If this process has not been followed, there is a risk that the use is contrary to law. In such a case, proceeding with the planned use is copyright infringement.

What are short excerpts?

The *Fair Dealing Guidelines* describe "short excerpts" as:

- a. up to 10 per cent 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.

Educators must also know that:

- 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; and
- copying or communicating that exceeds the limits in the *Fair Dealing Guidelines* 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 the fair dealing provision will be made based on all relevant circumstances.

To place these “short excerpt” conditions into the proper context, teachers are urged to read the full *Fair Dealing Guidelines*. Posters containing the guidelines should be posted next to all photocopiers and scanners.

Know your copyright law

Education departments and ministries, as well as school boards across the country, encourage awareness of and respect for copyright. Teachers and school staff should know the basics of copyright law, because they set the example for their students.

Teachers are encouraged to download a copy of the *Fair Dealing Guidelines* from the Council of Ministers of Education, Canada (CMEC), Web site:

www.cmec.ca/copyrightinfo.