

MacEwan University Fair Dealing Guidelines

Reproduction and Communication of Copyrighted Works by Faculty and Staff for Students

Pursuant to MacEwan University Policy D7215, *Reproduction and Use of Copyrighted Material*

Summary

These Fair Dealing Guidelines (“Guidelines”) apply to all faculty members and staff persons of MacEwan University. These Guidelines are in place to provide guidance on the use of copyright-protected works under fair dealing and to provide reasonable safeguards for the owners of copyright-protected works in accordance with the *Copyright Act* and Supreme Court decisions.

The fair dealing provision in the *Copyright Act* permits use of a copyright-protected work without permission from the copyright owner or payment of copyright royalties. Whether a use of a copyright-protected work qualifies under fair dealing is dependent on an evaluation of all relevant factors in a given situation. Fair dealing will apply to copying and communicating of works made in accordance with these Guidelines. Copying or communicating beyond the quantitative limits in these Guidelines may, or may not, be fair dealing and may require permission from the copyright holder.

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, parody and satire*. The Supreme Court has determined that educational use of a copyright-protected work passes this 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.

Guidelines

1. MacEwan University faculty members and staff persons 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, parody and satire*.
2. Copying or communicating short excerpts from a copyright protected work under these Guidelines 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 (such as Blackboard and eReserves) that is password protected or otherwise restricted to students of MacEwan University; or
 - c. as part of a course pack.
4. A short excerpt includes:
- 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 individual 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 publication 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 these Guidelines may be referred to the MacEwan University Copyright Specialist or designate for an 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.

Please Note: These Guidelines do not restrict copying or communicating of copyright-protected works permitted under an arrangement or contract entered into by MacEwan University with a publisher, publisher's representative or under contract arrangements, such as for Library databases ("Third Party Copying Arrangement"). In the event of a conflict between these Guidelines and a Third Party Copying Arrangement, the terms of the Third Party Copying Arrangement will apply.