

Copyright Matters!



Some Key Questions & Answers for Teachers



cmec

4th
Edition

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© Introduction

The publication of this 4th Edition of *Copyright Matters!* takes into account key changes that have occurred in the area of copyright since the 3rd Edition, published in 2012. Copyright law continues to evolve in response to existing and emerging technologies, international agreements, and the need for reasonable balance

3. What is fair dealing?



The *Copyright Act* provides that it is not an infringement of copyright to deal with a work for the purposes of research, private study, criticism, review, news reporting, education, satire, and parody, provided the dealing is fair.

The following guidelines describe the activities that are permitted under fair dealing in non-profit K-12 schools and provide reasonable safeguards for the owners of copyright-protected works in accordance with the *Copyright Act* and decisions of the Supreme Court of Canada.

FAIR DEALING GUIDELINES

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 these *Fair Dealing 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 that is password protected or otherwise restricted to students of a school or postsecondary educational institution;
 - c. as part of a course pack.

4. A short excerpt means:

- 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.

4. Does fair dealing permit the making of a digital copy from a print source?



Yes, as long as the copying is within the rules set out in the *Fair Dealing Guidelines*.

5. Can teachers copy or post an entire musical score or does the 10 per cent limit in the *Fair Dealing Guidelines* apply?



Musical scores are usually sold individually – that is, one musical work at a time. The 10 per cent limit applies, and a teacher may copy 10 per cent of a musical score under fair dealing.

Music is also contained in music books. An example is a music book containing several musical works. For such a music book, one may copy 10 per cent or one musical work in the book because it contains other musical scores. See 4(f) of the *Fair Dealing Guidelines*.

6. Can a teacher copy for instruction?



A teacher can copy (or take any other necessary action) to display a work protected by copyright. This permits the use of whiteboards and similar tools, overhead projection using a device such as an LCD screen, overhead, opaque, or slide projector, provided the work is used for the purpose of education and training and is not already commercially available in a medium that is appropriate for this purpose.

7. Can a teacher copy materials intended for one-time use?



No. Copying, scanning, or printing materials intended for one-time use is strictly prohibited.

† Materials intended for one-time use are workbooks and exercise books

8. Can a teacher copy for tests and examinations?



Yes. Teachers in Canada may copy, translate, communicate electronically, show, or play any copyright-protected work for a test or examination, provided the work is not already commercially available in an appropriate medium for the purpose of a test or examination.

9. Can teachers and students use statutes, regulations, and court decisions?



Teachers and students can copy and communicate the text of federal, provincial, and territorial statutes, regulations, and judicial decisions for educational purposes from every province and territory except Manitoba, Quebec, and Nunavut.



11. What rights do school libraries have?



School libraries can:

make a copy for the purpose of cataloguing, internal record keeping, for insurance purposes, or police investigation;

make a copy for the purpose of restoration;

use digital technology to deliver an interlibrary loan copy of a copyright-protected work.

Provided a replacement copy is not commercially available in a medium and of a quality that is appropriate for these purposes, school libraries can also:

make a copy of a work if the original is rare or unpublished and is deteriorating, damaged, or lost ;

make a copy of a fragile document or recording for on-site consultation if the original cannot be viewed, handled, or listened to because of its condition;

make a copy if the original is in an obsolete format, or is in danger of becoming obsolete, or the technology to use the original is unavailable or is in danger of becoming obsolete.

12. Can teachers play a sound recording or turn on a radio for students to listen to, or turn on a television for students to watch?



Yes. You can play sound recordings and turn on televisions and radios in the classroom, subject to all of the following conditions:

it must take place on the premises of an educational institution;

it must be for educational or training purposes;

it must not be for profit;

it must take place before an audience consisting primarily of students of the educational institution, persons acting under its



be for educational or training purposes;

not be for profit; and

take place before an audience consisting primarily of students of the educational institution, persons acting under its authority, or any person who is directly responsible for setting a curriculum for the educational institution.

The *Copyright Act* permits the public performance of music in schools when it is in furtherance of an educational object. Performances that are not in furtherance of an educational object must be authorized by the copyright owner, or by a collective that represents the owner.

The following uses of live and recorded music are permitted by the *Copyright Act* and therefore **do not require** permission and payment:

in school assemblies (e.g., a recording of "O Canada");

by a student in a presentation to other students, teachers, assessors, or parents (e.g., as part of a presentation during music class);

in demonstration activities by students, primarily for other students, teachers, assessors, or parents, and for which any admission fee charged covers costs but does not make a profit (e.g., a concert by the school choir, gymnastic routines, shows by school bands);

during school hours for teaching/learning (e.g., music/dance/dramatic arts classes); and

before and after school, and during recess, if the use is for educational purposes (e.g., school radio operated by students for credit and supervised by a teacher).

The following uses of live and recorded music are not permitted by the *Copyright Act* and therefore require permission and payment:

at school dances;

at school sporting events;

while people are on hold when they telephone the school;

at an event where the admission fee is intended to make a profit; and

on school premises for no other reason than as background music (e.g., in the classroom, cafeteria, halls, over the PA system, at school events such as fairs, carnivals, or sociocultural events).

SOCAN and Re:Sound can provide licences to schools and school boards across Canada. Applicable rates can be found on the SOCAN Web site at www.socan.ca and on the Re:Sound Web site at [www.resound](http://www.resound.ca)

The factors to consider when determining whether music use requires permission include:

Did the music use occur during school hours?

Will the student be graded on the activity involving the music use?

Does the music use involve a demonstration by a student or teacher for other students, teachers, assessors, or parents?

Is it reasonable to consider the music use to be for educational purposes? The phrase "educational purposes" is not defined in the *Copyright Act* but can be described as an activity that is planned and where the objective is for students to meet one or more subject or program outcome.

Was the music used on school premises?

If admission was controlled, was it free?

Was the music use for a non-profit purpose?

If the answer to the majority of these questions is "no," then the music use is likely to be considered a fair use.

16. Can teachers copy programs from radio or television?



Yes. An educational institution or a person acting under its authority may make a single copy of a radio or television program and show that copy provided the following four conditions are met:

1. The copy must be made at the time the program is aired by the broadcaster or communicated over the Internet.
2. The showing of the single copy must be for an audience consisting primarily of students.
3. The showing of the single copy must be for educational or training purposes.
4. The showing of the single copy must take place on the premises of the educational institution.

17. Can teachers show an audiovisual work (such as a DVD or video) on school premises without infringing copyright?



The *Copyright Act* permits showing an audiovisual work such as a DVD or video on the premises of an educational institution provided the following five conditions are met:

1.

18. Can teachers copy an audiovisual work at home and show it in the classroom?



N

20. Can teachers copy computer software for educational use?



Owners of legal copies of computer programs may make a single reproduction of these programs in only two situations:

1. An owner of a legitimate copy of a computer program may make one backup copy of that program. The person must be able to prove that the backup copy is erased as soon as he or she ceases to be the owner of the copy of the computer program from which the backup was made.
2. An owner of a legitimate copy of a computer program may also make a single copy of that program by adapting, modifying, or converting the computer program or translating it into another computer language, provided that:
 - (i) the reproduction is essential for the compatibility of the program with a particular computer;
 - (ii) the reproduction is solely for the person's own use; and
 - (iii) the copy is erased when the person ceases to be the owner of the copy of the program from which the copy was made.

21. Can teachers and students copy from the Internet?



Yes. Educational institutions, teachers, and students may save, download, and share publicly available Internet materials, as well as use that material in the classroom and communicate it to students or others within their education circle.

Publicly available materials are those posted on-line by content creators and copyright owners without any technological protection measures, such as a password, encryption system, or similar technology intended to limit access or distribution, and without a clearly visible notice prohibiting educational use.

Routine classroom uses may be made of publicly available Internet materials, such as incorporating on-line text or images into homework assignments, performing music or plays on-line for peers, exchanging materials with teachers or peers, or reposting a work on a restricted-access course Web site.

To encourage copyright awareness and respect in all circumstances, students and educators are required to cite the source of the Internet materials they use.

**22. Can teachers and students
break digital locks to use
copyright-protected materials
they have the legal right to use?**

©

No

24. Where can I get more information on copyright?



Copyright can be, and often is, very complicated. This booklet provides the basics to point you in the right direction toward increasing your own copyright awareness. Exploring additional resources to obtain more in-depth information on the topics that are covered in this booklet will increase your knowledge. **Awar**

The 2Learn.ca Education Society's [Your Digital Presence](#) site. A useful site on obtaining copyright permissions, written from a teacher's perspective.

www.2learn.ca/ydp

PRINT RESOURCES

Dryden, J. (2001). *Demystifying copyright: A researcher's guide to copyright in Canadian libraries and archives*. Ottawa: Canadian Library Association. ISBN: 0-0-88802-298-0, \$21.00.

Harris, E.L. (2012). *Canadian Copyright Law*, 4th ed. Hoboken, NJ: Wiley. ISBN-13: 978-1118078518, \$39.95.

Murray, L.J., & Trosow, S.E. (2013). *Canadian copyright: A citizen's guide*. Toronto: Between the Lines. ISBN-13: 978-1771130134, \$20.56.