

I. BACKGROUND

An important exception to the right of copyright owners to control the reproduction of their works is known as the “**fair dealing**” exception. This exception attempts to balance the rights of the copyright owner with the needs of others, who require access to copyrighted material to pursue their research and studies. The fair dealing provision in the [Copyright Act](#) 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; or
- parody.

The second test is that the dealing must be "fair." The Supreme Court of Canada has provided guidance as to what this test means in educational institutions.

York University's Fair Dealing Guidelines provide direction to Teaching Staff** and Other Staff* on how the Fair Dealing Exception applies to certain copying practices at York while providing reasonable safeguards for the copyright holders of copyright-protected works in accordance with Canadian copyright law.

Note: There may be other requirements related to interlibrary loans, university library reserves and document delivery to patrons of the [York University Libraries](#).

II. FAIR DEALING GUIDELINES

1. Teaching Staff* and Other Staff** may copy, in paper or electronic form, Short Excerpts (defined below) from a copyright protected work, which includes literary works, musical scores, sound recordings, and audiovisual works (collectively, a “**Work**”) within the university environment for the purposes of research, private study, criticism, review, news reporting, education, satire or parody in accordance with these Guidelines.

2. The copy must be a “**Short Excerpt**”, which means that it is either:

10% or less of a Work, *or*

no more than:

- (a) one chapter from a book;
- (b) a single article from a periodical;
- (c) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart and plan) from a Work containing other artistic works;
- (d) an entire newspaper article or page;
- (e) an entire single poem or musical score from a Work containing other poems or musical scores; or
- (f) an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work,

whichever is greater.

3. The Short Excerpt in each case must contain no more of the Work than is required in order to achieve the fair dealing purpose.

4. 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 (e.g. Moodle or Quiclr) that is password protected or otherwise restricted to students of the university; or
- (c) as part of a course pack.

5. Any fee charged by York for copying a Short Excerpt must not exceed the costs, including overhead costs, of the making of the copy.

6. Copies of Short Excerpts made for the purpose of news reporting, criticism or review should mention the source and, if given in the source, the name of the author(s) or creator(s) of the Work.

7. Where the Fair Dealing Exception allows the copying of only a portion of a Work, no member of the Teaching Staff or Other Staff may make copies of multiple Short Excerpts with the effect of exceeding the copying limits set out in Section 2 of the Guidelines.

III. YORK UNIVERSITY SUPPORT

8. The circumstances that qualify within the Fair Dealing Exception may vary from case to case. The Fair Dealing Exception will cover copying that you undertake in accordance with these Guidelines. The Fair Dealing Exception may also cover certain instances of copying that are not

described under these Guidelines. If you have a request for copying that you believe should be covered by the Fair Dealing Exception but is not explicitly permitted by these Guidelines, please contact the **Copyright Office** at copy@yorku.ca. A determination will be made as to whether the proposed copies fall within the Fair Dealing Exception, considering all of the relevant circumstances, including:

- (a) the purpose of the proposed copying, including whether it is for research, private study, criticism, review, news reporting; education, satire or parody;
- (b) the character of the proposed copying, including whether it involves single or multiple copies, and whether the copy is destroyed after it is used for its specific intended purpose;
- (c) the amount of the dealing from the individual user's perspective, including the proportion of the Work that is proposed to be copied and the importance of that excerpt in relation to the whole Work;
- (d) alternatives to copying the Work, including whether there is a non-copyrighted equivalent available;
- (e) the nature of the Work, including whether it is published or unpublished; and
- (f) the effect of the copying on the Work, including whether the copy will compete with the commercial market of the original Work.

9. Other sources of permission (including permission from a copyright holder) will be required where the copy falls outside of these Guidelines. For assistance in obtaining the permission required for this copying or posting, contact York University's Copyright Office at copy@yorku.ca.

Selected definitions

“Teaching Staff”* means any person who teaches at or under the auspices of York University, including without limitation faculty members, adjunct and clinical faculty, lecturers, instructors, and teaching assistants.

“Other Staff”** means full-time and part-time staff members of York University and any other person who works at or under the auspices of York University who is not Teaching Staff.