

Application of the Fair Dealing Guidelines for Universities to Administrative Copying

This document provides guidance on the application of the Fair Dealing Guidelines for Universities (“Fair Dealing Guidelines”) to making and communicating copies of short excerpts of copyright-protected works for administrative purposes within the university (“Administrative Copying”). Administrative Copying includes copying copyright-protected works made for one of two purposes, namely, the development of a course of study, unit or program offered by the university, and the governance or administration of the university or of a faculty or department of the university.

The Fair Dealing Exemption

Fair dealing with a copyright-protected work under the *Copyright Act* is exempt from copyright infringement. To fall within the exemption the dealing must be for one of eight specified purposes and must be fair. The specified purposes are research, private study, criticism, review, news reporting, education, satire, or parody. For Administrative Copying to fall within the fair dealing exemption, the copying must be for one of those purposes. The most relevant purpose for Administrative Copying is that of education.

Definition of Short Excerpt

The Fair Dealing Guidelines defines a short excerpt as follows:

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
- (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.

Administrative Copying for Educational Purposes

With respect to Administrative Copying, under the Fair Dealing Guidelines a short excerpt of a copyright-protected work may be copied and communicated if the purpose of the copying is directly tied to the education of students, subject to the safeguards discussed below. An example of Administrative Copying that would fall within the Fair Dealing Guidelines is the making of a copy of a short extract of a copyright-protected work and emailing copies to members of a faculty or department committee for use in developing a course of study, unit or program to be offered by the university. An example of Administrative Copying that would not fall within the Fair Dealing Guidelines is the making of a copy of a copyright-protected work for the purpose of training administrative staff.

Safeguards

In order to protect the interests of holders of copyright in copyright-protected works, Administrative Copying that falls within the Fair Dealing Guidelines must comply with the following safeguards:

1. Copies of the short excerpt of a copyright-protected work are only provided to faculty members, administrative staff and students enrolled in the university who require the copies for the educational purpose for which it was made.
2. If a copy of a short excerpt of a copyright-protected work is made available electronically on a server or other device, the server or other device must be secure (e.g. password protected) and the copy must be accessible only by the persons referred to in item 1.

It would be permissible to email a short excerpt of a copyright-protected work to faculty and administrative staff who require the short excerpt to attend to their administrative duties provided that the making of the short excerpt otherwise complies with this guidance document (i.e. that the purpose of the copying is directly tied to the education of students).

Administrative Copying Outside the Fair Dealing Guidelines

Administrative Copying of copyright-protected works that is made for the governance or administration of the university or a faculty or department of the university does not fall within the Fair Dealing Guidelines. Such copying would include copying of copyright-protected works and providing the copies to members of the board of governors or to members of a faculty or department committee for governance or general administrative purposes relating to the operation of the university. For such Administrative Copying it is necessary to secure the permission of the holder of copyright. Such permission may be available through one of the university's digital licences or obtained by way of a transactional licence. For further information contact the **York University's Copyright Office** at copy@yorku.ca.