

Background

Copyright is the legal protection of literary, dramatic, artistic, and musical works, sound recordings, performances, and communications signals. Copyright provides creators with the legal right to be paid for — and to control the use of — their creations.

In Canada, copyright is protected through the federal government's [Copyright Act](#). Provisions for education institutions within the Act, known as Fair Dealings, have been addressed by the Supreme Court.

July 2017: This Administrative Procedure has been revised with consideration of guidance from the Alberta Ministry of Education Copyright Officer and reflects the most recent rulings and interpretations of the Law. These rulings continue to be challenged and therefore it is in the best interest of the Division to continue to monitor the use of copyright protected materials, in the way described by this Administrative Procedure.

The use of copyright-protected resources is a complex subject and it is difficult to summarize or simplify. We expect teachers and school administrators to reference the following resources to increase awareness of rights and obligations related to copying and **using text, video, audio and software**:

[Copyright Matters \(2016\)](#). Wanda Noel & Jordan Snel, Barristers and Solicitors.
www.CopyrightDecisionTool.ca
[Dealing Fairly with Copyright-Protected Works of Others – What Teachers Can and Cannot Do](#)

Procedures

1. Making Copies of materials:
 - 1.1. As described in Copyright Matters, the Supreme Court of Canada interprets the fair dealing provision of the *Copyright Act* as permitting teachers to copy “short excerpts” of copyright-protected works for their students if the use is for educational purposes and it is “fair”.
 - 1.1.1. Teachers should refer to Copyright Matters and or CopyrightDecisionTool.ca to confirm whether or not their intent is permitted.
 - 1.1.2. Teachers should use [Form 3-30-A Copyright Release Form](#) to request permission from an owner of copyright-protected material when necessary.
 - 1.2. Principals shall ensure that posters and guidelines will be displayed in the school workrooms and copy rooms.
2. Using a cinematographic (audiovisual) work (such as a movie) on school premises:
 - 2.1. As described in Copyright Matters, 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:
 - 2.1.1. The showing must take place on the premises of an educational institution.
 - 2.1.2. The showing must be for an audience consisting primarily of students, instructors, or persons directly responsible for setting a curriculum.

- 2.1.3. The showing must be for educational or training purposes.
- 2.1.4. The showing must not be for profit.
- 2.1.5. The copy shown must not be infringing or the person responsible for the performance has no reasonable grounds to believe that it is an infringing copy
- 2.2. If all five conditions listed above are met, an audiovisual work may be shown for educational purposes without permission from the copyright owner and without the payment of royalties pursuant to section 29.5(d) of the *Copyright Act*.
- 2.3. Showing videos in class for various events and or during lunch breaks provides opportunities for students to learn social behaviors and norms and as such the purpose is considered to be educational or training.
 - 2.3.1. Teachers should establish learning plans and behavior expectations for these kinds of events and provide students with feedback related to these social experiences.
- 2.4. Teachers can show audiovisual works purchased or rented from a retail store, a copy borrowed from the library, a copy borrowed from a friend, or a YouTube video. Teachers can show videos from a streaming service subscribed to by the Division.
- 2.5. Showing audiovisual works for non-educational purposes, such as fundraising or a family movie night, requires permission and the payment of copyright royalties.
 - 2.5.1. The Division may choose a subscription service that includes licensing for this purpose (see Number 4 below).
- 2.6. Usage Reports: The Division will submit collated usage reports as required by licensing agreements.
 - 2.6.1. The Manager of the Instructional Materials Centre will query teachers monthly and submit information quarterly.
 - 2.6.2. Teachers must record the title of the film, the date presented and the context of the presentation being one of:
 - 2.6.2.1. After School Event
 - 2.6.2.2. Community Activity
 - 2.6.2.3. Fundraising Event
 - 2.6.2.4. Leisure / Holiday Presentation
 - 2.6.2.5. Lunch Time / Recess
 - 2.6.2.6. Presentation during regular classroom instruction
- 3. Using Music: As described in Copyright Matters, The *Copyright Act* permits educational institutions to perform music, whether recorded or live, without payment or permission from the owner of the copyright.
 - 3.1. The five conditions for using music are the same as for audiovisual works:
 - 3.1.1. The use must take place on the premises of an educational institution.
 - 3.1.2. The use must be for an audience consisting primarily of students, instructors, or persons directly responsible for setting a curriculum.
 - 3.1.3. The use must be for educational or training purposes.
 - 3.1.4. The use must not be for profit.
 - 3.1.5. The copy used must not be infringing or the person responsible for the performance has no reasonable grounds to believe that it is an infringing copy.
 - 3.2. Music, Band and Drama teachers need to be aware of the conditions for copying musical scores. See Copyright Matters.
 - 3.3. Schools are permitted to play recordings of the National Anthem.
 - 3.4. The Division retains annual licensing for permission and payment required by law when music is used in the following circumstances:
 - 3.4.1. at school dances and school sporting events;
 - 3.4.2. while people are on hold when they telephone the school;
 - 3.4.3. at an event where the admission fee is intended to make a profit; and

- 3.4.4. 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).
4. Acquisition of licenses and subscriptions
 - 4.1. Regional Services Administration will annually submit payment for public performance licenses from the following:
 - 4.1.1. In order to provide the opportunity for schools to host ‘movie nights’ as fundraising activities, and to provide Division teachers with access to streaming services for feature films, the Division will retain annual licensing from:
 - 4.1.1.1. Audio Cine Films: www.acf-film.com
 - 4.1.1.2. Criterion on Demand: www.criterionondemand.com
 - 4.1.2. In order to remain within the law, schools that choose to do a public performance fundraiser can only do so using Criterion on Demand or Audio Cine streaming movie titles.
 - 4.1.3. In order to provide the opportunity for teachers and schools to use music for non-educational purposes, for example, as background music, or at a school event, the Division will retain annual licensing from:
 - 4.1.3.1. SOCAN – Society of Composers, Authors and Music Publishers of Canada: www.socan.ca
 - 4.2. Payment of the license fees will be made from the ‘co-op pool’ on behalf of all community schools, based on a cost per pupil FTE established by the rights representatives.
 - 4.3. See [AP 60-17 Instructional Resources](#) for information and access to Discovery Education Canada and Learn360.
5. Student-created work is protected by copyright: As described in Copyright Matters, an original work created by a student — whether in the form of an essay, a video or DVD, a sound recording, Web site, or art work — is protected. The student — or if the student is a minor, the student’s parent or legal guardian — must authorize the further use of a student’s work, such as its use in a school publication, a teaching workshop, a student exemplar, or in a Web posting.
 - 5.1. Student work that is posted in FreshGrade is within a secure digital space shared only with family members and therefore student’s permission is not required.
 - 5.2. See also [Form 3-48: Student Creative Work – Copyright Release](#).

Reference

Copyright Matters

Council of Education Ministers, Canada – Copyright information: <http://cmec.ca/139/Programs-and-Initiatives/Copyright/Overview/index.html>
[Dealing Fairly with Copyright-Protected Works of Others – What Teachers Can and Cannot Do](#)

Handouts

[Fair Dealing Guidelines](#) (black and white information sheet)
[Fair Dealing Guidelines](#) (colour poster)
[Copyright compliance checklists](#)
[Teachers’ use of “short excerpts” in the classroom](#)
[Teachers’ use of Internet materials in the classroom](#)
[Consumables poster](#)