

POLICY B5003 – COPYRIGHT COMPLIANCE

FAIR DEALING PROCEDURES

1. PURPOSE

To outline the rights and responsibilities of Langara College and its members with respect to the fair dealing exception within s. 29 of the Canadian [Copyright Act](#).

2. DEFINITIONS

Fair Dealing is a provision within the *Copyright Act* that permits use of copyrighted works for the purposes of research, education, private study, criticism, review, parody, satire or news reporting without payment or permission from the rights holder.

Infringement occurs when a person uses a copyrighted work in a way that violates rights granted in the *Copyright Act*.

3. FAIR DEALING PROCEDURES

- 3.1. Members of the College community may reproduce and communicate short excerpts from a copyrighted work in print or digital format for the purposes of research, education, private study, criticism, review, parody, satire or news reporting.
- 3.2. Fair dealing for the purpose of news reporting, criticism or review shall mention the source and, if given in the source, the name of the creator of the work.
- 3.3. Langara College Library and its employees may facilitate uses covered by fair dealing on behalf of members of the College community.
- 3.4. Reproducing or communicating multiple short excerpts from the same copyrighted work with the intention of reproducing or communicating a substantial portion of the work is prohibited.
- 3.5. Uses that are not permitted under a license agreement, fair dealing or another exception in the *Copyright Act* should be referred to the Copyright Office for assistance.
- 3.6. Fees charged by the Copyright Office for reproducing or communicating a copyrighted work (e.g. for inclusion in a coursepack) are limited to cost recovery.

4. DETERMINING IF A USE IS FAIR

To qualify for fair dealing, two conditions must be met:

- 4.1. The use must be for one of the eight allowable purposes stated in the *Copyright Act*.
- 4.2. The use must be fair, based on the application of six factors outlined by the Supreme Court of Canada (see [CCH Canadian Ltd. v. Law Society of Upper Canada, 2004](#)):

- 4.2.1. **Purpose of the dealing**
Is the use for one of the eight allowable purposes stated in the *Copyright Act*? If so, the use is more likely to be considered fair.
- 4.2.2. **Character of the dealing**
How is the work being used? Is the work being widely distributed? If a single copy is used for a permitted purpose, the use is more likely to be considered fair.
- 4.2.3. **Amount of the dealing**
How much of the work is being copied? If the amount is small, the use is more likely to be considered fair. However, it may be possible to deal fairly with an entire work.
- 4.2.4. **Alternatives to the dealing**
Is there a suitable alternative to the work that is not protected by copyright? If so, the use is less likely to be considered fair.
- 4.2.5. **Nature of the work**
Was the work previously unpublished? If so, the use is more likely to be considered fair in that reproduction with acknowledgment can lead to wider public dissemination of the work. If the work was confidential, the use is less likely to be considered fair.
- 4.2.6. **Effect of the dealing on the work**
Is the copy likely to compete with the market of the original work? If so, the use is less likely to be considered fair.