



POLICY TITLE: Fair Dealing Policy

POLICY CATEGORY: ACADEMIC

POLICY NUMBER: 014

POLICY OWNER: Associate Vice President, Student Success

POLICY APPROVER: Board of Governors

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REVIEW PERIOD: Every 5 Years

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1. Purpose

1.1. Introduction

This policy will:

- Define acceptable use of material protected by copyright,
- Outline the responsibilities of all users of copyright materials for educational purposes,
- Help George Brown Polytechnic personnel, students and visitors comply with the legal requirements of the Copyright Act, and
- Establish a framework for responsible practice.

2. Scope

This policy applies to all George Brown Polytechnic personnel as well as visitors using copyrighted works on campus and/or using Polytechnic technology and resources.

Excluded from the scope of this policy is:

- The Polytechnic’s ownership of copyright, patents (see the Polytechnic Policy on Intellectual Property)
- The ownership of copyright materials created by Polytechnic academic employees (see the Academic Employees Collective Agreement)
- The status of the Polytechnic as an Internet Service Provider (ISP)

3. Definition of Terms

Word/Term	Definition
Academic Administrator	Program Chair, Course Chair, Academic Director, Academic Manager, Associate Dean or Dean. Also referred to as “senior academic officer” in the Academic Employees Collective Agreement.
Copyright	(a) The statutory protection of the original expression of ideas in the form of text, images, performances, sounds, broadcast signals or a combination thereof, (b) the rights of the copyright owner to control the use of his/her work by others, including by preventing others from copying, producing, or reproducing the copyright-protected work.

College	George Brown College of Applied Arts & Technology
Polytechnic Personnel	Polytechnic academic, support and administrative employees, students, visiting employees, contractors, consultants and all other persons whose work affiliation is with the Polytechnic, whether compensated by the Polytechnic or not.
Fair dealing	An exception in the <i>Copyright Act</i> (s. 29-29.2) that allows the copying of portions of materials protected by copyright without the permission of the copyright owner for the purposes of research, private study, criticism, review, news reporting, education, satire, and parody.
Moral Rights	<p>Authors have moral rights in Canada to the right to the integrity of their work (i.e. for it to remain unchanged); and the right to be associated with the work as its author by name, under a pseudonym, or the right to remain anonymous.</p> <p>Generally, merely copying portions of a work will not be considered an infringement of an author’s moral rights.</p>
Works, Materials, Resources	Any copyrighted and published or publicly available item – including but not limited to books, articles, newspapers, photographs, software, and audiovisual materials.

4. Policy

- 4.1. George Brown Polytechnic respects the moral rights of copyright owners and will not knowingly use, produce or reproduce any print or electronic materials without the express permission of the copyright holder or in accordance with appropriate license agreements.
- 4.2. The application of the “fair dealing” provisions of the *Copyright Act (R.S.C., 1985, c. C-42)* (See Appendix) for educational uses will be governed by the (CICan)/Association of Canadian Community Colleges (ACCC) Fair Dealing Policy, which is described below.
- 4.3. Polytechnic personnel and visitors shall abide by the *Copyright Act, Fair Dealing Provision of the Copyright Act*, relevant Polytechnic policies and the Polytechnic’s license agreements and can be held liable for non-compliance.

- 4.4. Copyright material shall not be accessed, copied, transformed, used for financial gain, or distributed using Polytechnic services, equipment or facilities unless permitted under the *Copyright Act*, license agreements or this policy.
- 4.5. It is the responsibility of Polytechnic personnel and visitors to be aware of the restrictions and to copy and distribute materials in accordance with institutional directives.
- 4.6. Library, Learning and Assessment Centers communicates these restrictions via the Polytechnic's websites <https://www.georgebrown.ca/library-learning-commons/research-support/copyright>
- 4.7. Academic Administrators are responsible for taking reasonable steps to ensure effective implementation of this policy and to encourage continued compliance with it.
- 4.8. This policy, sanctioned by George Brown Polytechnic, is an institutional regulation requiring compliance across the Polytechnic. Failure to comply with this policy may result in disciplinary measures commensurate with the offence in accordance with relevant academic and administrative codes of conduct and collective bargaining agreements.

5. Appendices

5.1. Appendix #1: Fair Dealing Provision of Copyright Act

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, and parody. Educational use of a copyright-protected work passes the first test.

The second test is that the dealing must be "fair." In landmark decisions in 2004 and in 2012, the Supreme Court of Canada provided guidance as to what this test means in schools and post-secondary educational institutions.

This Fair Dealing Policy applies fair dealing in non-profit K-12 schools and post-secondary educational institutions and provides reasonable safeguards for the owners of copyright-protected works in accordance with the *Copyright Act* and the Supreme Court decisions.

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 this Fair Dealing Policy 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 post-secondary educational institution

c) as part of a course pack

4. 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*

5. Copying or communicating multiple short excerpts from the same copyright-protected work, with the intention of copying or communicating substantially the entire work, is prohibited.

6. Copying or communicating that exceeds the limits in this Fair Dealing Policy may be referred to a supervisor or other person designated by the educational institution for evaluation. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on all relevant circumstances,.

9. Any fee charged by the educational institution for communicating or copying a short excerpt from a copyright-protected work must be intended to cover only the costs of the institution, including overhead costs.

6. Related Materials

[Copyright Act \(R.S.C., 1985, c. C-42\)](#)

The [Canadian Intellectual Property Office](#) administers Canada’s intellectual property. Their website provides general information about copyright, including services of circulars on particular aspects of copyright.

7. Related Policies

[Student Code of Conduct](#)

[Academic Integrity Policy](#)

[Accessible Media Policy](#)

[Intellectual Property Policy](#)