

## Copyright Policy

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Responsible Authority: Director, Academic Services & Learning Resources

Executive Sponsor: Vice President Student Success

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### PURPOSE

This policy will:

- Define acceptable use of material protected by copyright,
  - Outline the responsibilities of all users of copyright materials,
  - Help College employees and students comply with the legal requirements of the Copyright Act, and
  - Establish a framework for responsible practice.
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### SCOPE

This policy applies to all faculty, staff, and students of George Brown College.

Excluded from the scope of this policy is:

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

Any definitions listed below apply to this document only with no implied or intended institution-wide use.

<b>Word/Term</b>	<b>Definition</b>
Academic Employees	Used interchangeably with “faculty” to refer to full-time, partial-load, part-time, and sessional professors, instructors, counselors, and librarians.
Accessible Media Consultant	The Librarian within the Library Learning Commons of the Academic Services & Learning Resources Department who is responsible for the administration of the College’s Policy on Captioned Media and E-Text and for supporting faculty and staff with compliance.
Authorization	Used interchangeably with “permission” to refer to the consent of the copyright owner to allow someone to do something with a work (e.g. Copy it, perform it, etc.) that only the copyright owner has the right to do (please see Appendix E for permissions procedures).
Copyright	(a) The statutory protection of the original expression of ideas in the form of text images, sounds, or a combination thereof, (b) the rights of the copyright owner to control the use of his/her work by others.
Copyright Librarian/Consultant	The Librarian within the Library Learning Commons of the Academic Services & Learning Resources Department who is responsible for providing guidance, advice and assistance to College faculty and staff on matters related to copyright.
Faculty	Used interchangeably with “academic employees”, “professors” and “instructors” to

	refer to full-time, partial-load, part-time, and sessional professors, instructors, counselors, and librarians.
Fair dealing	Fair dealing is a user's right in copyright law permitting use, or "dealing," with a copyright protected work without permission or payment of copyright royalties. To qualify for fair dealing two tests must be passed: (1) The dealing must be for an allowable purpose stated in the Copyright Act; and (2) the dealing must be fair.
Fixation	Not defined in the Copyright Act.*
Intellectual property	Includes copyrights, patents, trade-marks, industrial designs, integrated circuit topography, and plant breeders' rights.
Library Learning Commons (LLC)	The Library Learning Commons (LLC) is an academic service unit of the College within the College's Academic Services & Learning Resources Department. [It may be referred to as Learning Resource Centre (LRC) in other policies and college documents.]

\* The meaning of "fixation" is not defined in Canadian statute. It is anticipated that this void will be filled in by future litigation. However, you may note that one court has held that "*for copyright to subsist in a 'work', it must be expressed to some extent at least in some material form, capable of identification and having a more or less permanent endurance*". (Canadian Admiral Corporation Ltd. v. Rediffusion Inc., [1954] Ex. CR 382).

Lesson	A lesson, test, or examination in which an act is done in respect of a work or other subject matter that would otherwise be an infringement of copyright but is permitted under a limitation or exception under the Copyright Act.
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Moral rights	The rights of an author/performer (who may or may not be the owner of the copyright in the work/performance) to have his or her work properly attributed, and to prevent changes to his or her work/performance, or its use in association with a product or cause, that would damage the reputation the author/performer.
Other Subject Matter	A category of copyright protected material that includes sound recordings, performers' performances, and broadcast signals.
Perceptual Disability	A disability that prevents or inhibits a person from reading or hearing a work in its original format. Includes the inability to hold or manipulate a book or an impairment relating to comprehension.
Permission	Used interchangeably with "authorization" to refer to the consent of the copyright owner to allow someone to do something with a work (e.g. Copy it, perform it, etc.) that only the copyright owner has the right to do (please see Appendix E for permissions procedures).
Professor or Instructor	Refers to teaching faculty under the academic collective agreement that will include full-time, partial-load, part-time, and sessional professors and instructors.
Rights Management Information	Information that is attached to or embedded in a work or a sound recording that identifies the rights holder(s) or concerns the terms or

	conditions of the use of the work or the sound recording.
Technological Protection Measure	Any technology, device, or component that controls access to a work or a sound recording and whose use is authorized by the copyright owner, or restricts the doing of any act that is one of the exclusive rights of the copyright owner.
E-Learning & Teaching Innovation	A department within the Academic Division of the College that supports e-learning and academic computing initiatives including the use of mobile devices in the teaching and learning relationship.

## POLICY

George Brown College respects copyright and is committed to full compliance by its employees and students with Copyright Law and all licenses governing the use of copyright-protected works.

Accordingly, unless permitted by the terms of a specific licensing agreement or other contract, or except where an exception outlined in the Copyright Act applies, any reproduction of copyright-protected material in any form or format, whether purchased, borrowed, rented or acquired for preview, in whole or in part, by any means necessary, is not allowed without the permission of the copyright holder.

The original of all records of permission to copy, including license agreements, is to be provided to the Copyright Librarian/Consultant who is the College official responsible and accountable for the collection and maintenance of all such records.

The payment of all license fees and royalties will be the responsibility of the user department.

The application of the “fair dealing” provisions of the Copyright Act for educational uses will be governed by the Association of Canadian Community Colleges (ACCC) Fair Dealing Policy to which George Brown College subscribes, the only exception being

where the fair dealing right is superseded by the contractual obligations contained in specific licensing agreements.

College staff will not use any college system or server, or indeed, make use of personal Webpages to communicate infringing materials to College students or staff in furtherance of their employment responsibilities. Any infringing materials found to be posted on College servers or Learning Management Systems will be removed.

Employees not complying with this policy may be subject to legal and other actions in accordance with the applicable provisions of the Copyright Act, the College's Codes of Conduct, the College's Progressive Discipline policy and Collective Agreements.

All employment offer letters, consultant agreements and other relevant policies and guidelines will be written in conformity with this policy and the application of Canadian copyright law.

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## **PROCEDURE**

### **1.0 Roles and Responsibility**

#### **1.1 All members of the George Brown College Community**

All members of the George Brown College community have the responsibility to

- (a) respect the rights of copyright holders
- (b) make themselves aware of federal legislation and the exceptions outlined therein
- (c) take steps necessary to ensure that their use of copyright material(s) is compliant
- (d) make themselves aware of college policy on the use of copyright protected materials

#### **1.2 The Office of the Director of Academic Services & Learning Resources and the Copyright Librarian / Consultant**

The Office of the Director of Academic Services & Learning Resources and the Copyright Librarian / Consultant are responsible for the development, implementation, and maintenance of this policy. Specifically, they will:

- (a) Maintain and revise existing policies and procedures as required; develop written policies and procedures in emerging areas related to copyright.

- (b) Ensure that original records of licensing agreements and permission that are received by faculty and other staff are maintained in accordance with College records management procedures.
- (c) Maintain the original record of all permissions to copy obtained by College faculty and staff.
- (d) Maintain all records required by licensing agreements and submit all records required by licensors.
- (e) Advise faculty, staff, and students on copyright questions.
- (f) Keep up-to-date on copyright matters.
- (g) Establish good communication processes to maintain awareness of relevant copyright activities throughout the College.
- (h) Provide training to faculty, staff, and students as required.

### **1.3 Faculty Members**

In addition to their personal responsibility for compliant use, professors also have a duty to inform students of their responsibilities in the use of copyright protected materials.

### **1.4 Deans and Department Heads**

Deans and Department Heads are responsible for providing leadership and support by taking reasonable steps to ensure the effective implementation of this policy and to ensure continued compliance. This includes:

- a) Ensuring that all faculty and staff are made aware of the policy.
- b) Ensuring that all faculty and staff who are involved with copying and the use and communication of copyright protected works receive the necessary training on their responsibilities under the Copyright Act and this policy, on how the legislation and the policy is applied to day-to-day copying scenarios, and on what resources are available to assist.
- c) Ensuring that all communications related to the copyright policy are distributed to all staff and faculty.
- d) Ensuring that the ACCC departmental photocopier poster (Appendix H) is clearly visible near all departmental photocopiers/scanners.
- e) Ensuring that processes are in place for the compliant use of copyright protected materials by staff and faculty.
- f) Ensuring that budget is provided for the payment of royalties and other license fees where required for the compliant use of copyright protected materials by their faculty and staff.

### **1.5 Print Centre**

The contracted service provider, which operates the College's duplication services under the service provider's own license with Access Copyright, is responsible for:

- (a) Assisting with copyright requirements for all manuals and coursepacks produced by the contracted service provider for distribution and / or sale.
- (b) Training faculty and staff to understand and follow fair dealing guidelines, and to advise college employees if the amount being copied appears to be in excess of the fair dealing limits.
- (c) The payment of all associated fees for copyrighted materials. These fees may in turn be included in the fees charged to the student or the college.

## **2.0 Use of copyrighted materials in teaching**

### **2.0.1 General**

- (a) Assistance or advice may be sought from the Copyright Librarian/Consultant.
- (b) The use of copyright protected works is governed by the terms of the licensing agreement or other contracts between the College/professor and the vendor/copyright holder. These contractual obligations supersede fair dealing under the Copyright Act.
- (c) It is the responsibility of the professor or instructor to comply with any license agreements they or the College becomes a party to.
- (d) It is the responsibility of the professor or instructor to obtain the appropriate authorization(s), in the name of George Brown College, to use copyright materials that are not covered by licensing agreements signed by the College or under provisions of the Copyright Act. It is further the responsibility of faculty to ensure that the Copyright Librarian/Consultant receives the original copy of all permissions received (please see Appendix E for permissions procedures).
- (e) The professor or instructors' department is responsible for the budget and payment of all royalty fees and other costs associated with obtaining permission to copy works used by the department's faculty and staff.
- (f) Where a copyright owner has authorized the use of a work, a record of the terms of the authorization must be kept by the professor or instructor. The record should include the parties to the agreement, the date of the agreement, the title of the work(s) used, the use(s) authorized, the duration of the agreement, and any condition(s). The professor or instructor will retain a copy and the original per 2.0.1.d above is to be sent to the Copyright Librarian/Consultant.
- (g) Sources must be indicated whenever material created by others is incorporated into teaching materials. However, simply acknowledging the source is not a substitute for obtaining any necessary authorizations from the copyright owner.
- (h) In addition to economic copyrights (e.g., the right to reproduce, publish, broadcast, etc.), the Act also provides authors and performers with moral rights to protect the reputation of the author/performer and the integrity of the work/performance. Using or changing a work or performance in ways that are prejudicial to the author's / performer's honour or reputation is an infringement of the moral rights of the author/ performer and requires the author's / performer's permission.



Moral rights include:

- (i) the right of attribution (the author's / performer's right to have his or her name associated with the work / performance),
- (ii) the right of association (the author's / performer's right to prevent the use of the work/performance in association with a cause or organization that would be prejudicial to the author's/performer's honour or reputation), and
- (iii) the right of integrity (the right to prevent changes to the work/performance that would be prejudicial to the author's /performer's honour or reputation).

Unlike economic copyrights, moral rights always belong to the author/ performer. They cannot be assigned or licensed; they can only be waived, i.e., the author/performer agrees not to exercise his or her moral rights. It is very difficult to determine what an author/ performer will consider to be prejudicial to his or her reputation or honour.

- (i) George Brown College does not condone the use of personal websites or other non-GBC systems (including but not limited to: web-based applications, environments or technologies, particularly communication or collaboration, social networking, and social media tools or sites) for the purposes of communicating infringing copies of copyright protected works to students or other members of the College community in support of any academic, administrative or recreational activity.

#### [\*\*2.0.2 Single copies made for research, private study, criticism, review, news reporting, education, satire and parody \[Fair Dealing\]\*\*](#)

Single Copies made under the fair dealing provisions of the Copyright Act are subject to the ACCC Fair Dealing Policy to which George Brown College subscribes (see Appendix A).

#### [\*\*2.0.3 College obtained licenses\*\*](#)

The College obtains licenses for a number of electronic databases that contain articles, reports, abstracts, etc. The terms of these licenses vary. Making copies of works from these databases is subject to the terms of each particular license. Where permitted by the license agreement, the use of persistent links in the LMS to documents, recordings or videos (instead of posting copies online) is encouraged to ensure compliance.

Consult the Copyright Librarian / Consultant for the details of these licenses.

#### [\*\*2.0.4 Substitute the purchase of a copyright protected work\*\*](#)

Copying or communicating multiple short excerpts from the same protected work with the intention of copying or communicating substantially the entire work as a substitute for the purchase of a text book or coursepack is prohibited.

## **2.1 Copies of works, e.g. books or articles**

### **2.1.1 Copies for distribution or projection in class or posted on a Learning Management System**

The fair dealing provisions and recent Supreme Court of Canada rulings now permit:

- (a) Making copies of short excerpts of works
  - i. books or articles, for distribution to students as a classroom handout
  - ii. as part of a coursepack
  - iii. or as a posting to a password protected Learning Management System
- (b) Making copies of short excerpts of works
  - i. books or articles for projection to the class using overhead, slide or LCD projectors, interactive whiteboards, etc.

***Refer to Appendix A for the definition of “Short Excerpt”.***

Copying beyond the limits specified in the ACCC Fair Dealing Policy may require permission. The Supreme Court identified six factors to be considered in determining whether the copying is fair (See Appendix B). Consult the Copyright Librarian/Consultant for guidance and advice in applying these factors to your particular situation.

### **2.1.2 Coursepacks**

Coursepacks are collections of photocopies of published works, e.g., books or articles that are assembled and sold to students through direct sale or through materials fees at the beginning of the term.

- (a) The copying is done by the contracted service provider, which operates the College’s duplication services, under the service provider’s own license with Access Copyright.
- (b) The professor or instructor is responsible for assembling the materials to be included in the coursepack.

***Before submitting a coursepack to the printer, always determine whether any or all of the articles are available in the LLC’s databases and whether access can be provided to the student through persistent links to the appropriate course page on the learning management system.***

- (c) The professor or instructor will need to provide as much information about the ownership of the material as possible to the service provider.
- (d) Where required, the service provider will obtain any necessary permission for copying that is outside the scope of its Access Copyright license. If permission has already been obtained, the professor or instructor must

provide proof of permission to the service provider at the time of order. All permissions must be forwarded to the Copyright Librarian / Consultant.

### 2.1.3 Handouts

Handouts are photocopies of works, e.g., books or articles, which are distributed to students during the course. The professor or instructor is responsible for:

- a) assembling the materials to be copied,
- b) obtaining any necessary permission for copying that is outside the scope of the ACCC Fair Dealing Policy (Appendix A),
- c) ensuring that the Copyright Librarian / Consultant receives the original copy of all permissions received and
- d) consulting the Copyright Librarian / Consultant for assistance with obtaining permission to copy where needed.

### 2.1.4 Copies for projection in class

The Copyright Act permits the making of copies of works, e.g. books or articles, for projection to the class using overhead, slide, LCD projector(s), etc. The professor or instructor is responsible for:

- a) assembling the materials to be copied,
- b) obtaining any necessary permissions for copying that is outside the scope of the ACCC Fair Dealing Policy (Appendix A),
- c) ensuring that the Copyright Librarian / Consultant receives the original copy of all permissions received and
- d) consulting the Copyright Librarian / Consultant for the details as to the applicability of the ACCC Fair Dealing Policy to the copying requirements as well as for assistance with obtaining permission to copy where needed.

## 2.2 Copies for Students with Perceptual Disabilities

### 2.2.1 Alternative Format

The Copyright Act permits making copies of protected works or sound recordings (*but not films/videos/DVDs*) in an alternative format designed for the use of students with perceptual disabilities, *except where the work or sound recording is commercially available*.

### 2.2.2 Circumventing of Technological Protection Measures

The Copyright Act permits the circumventing of a technological protection measure in order to make a work or a sound recording perceptible to a person with a perceptual disability.

### **2.2.3 Font Changes**

The Copyright Act prohibits the creation of a large-print book for a student with a perceptual disability without permission from the copyright owner. A font may be changed stylistically, but it cannot be enlarged to make a “large print book”. This provision applies to both print and digital formats.

## **2.3 Videos / Films / DVDs / Computer Software**

### **2.3.1 Reformatting & Captioning**

Copying all or part of a video into a digital format (e.g., as a DVD or a CD-ROM for any purpose, including into a learning management system and on the College website), is not permitted without first obtaining the permission of the copyright owner or streaming license (subject to the exception found in Article 2.10). This also includes the captioning of videos, DVDs, and clips placed into a learning management system and on the website for purposes of accessibility. The Accessible Media Consultant is available to provide advice or assistance with obtaining permissions and/or finding alternative captioned resources.

### **2.3.2 Copying**

- (a) Videos that are available for purchase may not be copied for back-up purposes. As a not-for-profit library, the *Library Learning Commons* may copy a video work within its permanent collection if the original is in a format that is obsolete or becoming unavailable, as long as the item is not commercially available. Commercially available refers to the item being available on the Canadian market within a reasonable time and for a reasonable price and may be located with reasonable effort.
- (b) Subject to the software license, a single copy of a computer program may be made for backup purposes provided that the back-up copy is destroyed once the owner ceases to own or to have a license to use the source copy.

### **2.3.3 Public Performance Rights**

The Copyright Act permits an educational institution to show videos, films, and DVDs in the classroom for not-for-profit educational or training purposes provided that the video/film/DVD is not an infringing copy, and the professor or instructor has reasonable grounds to believe that the video /film/DVD is not an infringing copy.

## **2.4 Television or Radio Broadcasts**

### **2.4.1 Copy, show, or play**

The Copyright Act permits an educational institution to copy, show or play a radio or television broadcast in the classroom for educational or training purposes and not-for-profit purposes in the following circumstances:

- (a) An educational institution can show a radio or television broadcast in the classroom at the time of broadcast (i.e. real time) without the permission of the broadcaster
- (b) An educational institution can make a single copy of a *news program or a news commentary program* (excluding documentaries) at the time it is broadcast and show it in the classroom or to students participating in a course

- by means of telecommunication any number of times, without the permission of the broadcaster.
- (c) An educational institution can make a single copy of any work or other subject matter at the time of its broadcast and keep it for 30 days to decide whether or not it will be used in the classroom. If the copy is retained for more than 30 days, royalties must be paid for making the copy. If the copy is shown in the classroom, royalties must be paid for the public performance.

#### **2.4.2 Responsibility of faculty members**

It is the responsibility of the professor or instructor to ensure that the Copyright Librarian/Consultant receives the original copy of all permissions received. The academic division will be responsible for the budget and payment of any necessary royalties.

#### **2.4.3 Rights Clearance**

Rights will be cleared through the Educational Rights Collective of Canada (ERCC), which represents the interest of copyright owners of television and radio programs when these programs are reproduced and performed in public by educational institutions.

### **2.5 Internet Content**

#### **2.5.1 Reproduce / communicate / perform**

The Copyright Act permits instructors to reproduce, communicate, and perform for students copyright-protected works or other subject matter that are available through the internet provided that:

- (a) The source is mentioned.
- (b) Such materials (or the website) are not clearly marked as prohibiting such reproduction.
- (c) Such materials (or the website) are not protected by a technological protection measure (TPM), and
- (d) The instructor was not aware that the materials were posted on the Internet in violation of the owner's rights.

#### **2.5.2 Technological Protection Measures (TPM)**

The Copyright Act prohibits circumventing TPMs or tampering with rights management information (RMI), except where provided by the Act.

### **2.6 Online Learning**

### **2.6.1 Creating Content**

In creating the content of a lesson for online learning purposes, professors can do only those acts that are permitted under an exception in the Copyright Act, license agreement, or express permission from the copyright holder.

### **2.6.2 Permitted uses of Materials**

It is permitted to:

- (a) Communicate a “lesson” (see Definitions) to the public by telecommunication (provided that the public consists only of students enrolled in the course or persons acting under the authority of the College) for educational or training purposes, or
- (b) Make a fixation of a lesson.

### **2.6.3 Restrictions**

*Where copyright protected materials are used* in a “lesson” the permitted uses mentioned in Article 2.6.1 are subject to the following conditions:

- a) The College must take reasonable measures to limit the communication to authorized persons.
- b) The College must take reasonable measures to prevent students from fixing, reproducing, or communicating the lesson other than as permitted.
- c) Any fixation of a lesson, including any recording via traditional lecture capture or voice over methodology, must be destroyed within 30 days after the date upon which the students received their final marks. This is not limited to just the copyrighted materials. The lesson in its entirety must be destroyed.

## **2.7 Copying Beyond the ACCC Fair Dealing Policy / Database Licenses**

Copying selected text, images, sounds, or multi-media components that exceeds the limits specified in the ACCC Fair Dealing Policy or in the Database Licenses (for purposes such as the distribution of physical copies, or incorporation into products such as a learning management system), may be done in the following situations. In all cases, the source must be acknowledged.

- a) If you have obtained the written permission of the copyright owner.
- b) If a copyright statement on the source authorizes you to do so.
- c) If you are using only an insubstantial part.
- d) If your use falls under the fair dealing provisions of the Copyright Act. The Supreme Court identified six factors to be considered in determining whether the copying is fair (see Appendix B). Consult the Copyright Librarian /Consultant for guidance and advice in applying these factors to your particular situation.

## **2.8 Video / Audio Recording and Real Time Captioning of Guest Speakers**

Video or audio recording or real-time captioning of guest speakers requires their consent in advance of the recording and or reproduction of a real-time captioned transcript for purposes of dissemination in any format. The Permission to Record Authorization form (see Appendix F) includes permission for real-time captioning and specifies the permitted uses of the transcript.

## **2.9 Use of New Technologies in Teaching**

Advice provided by E-Learning & Teaching innovation and the Library Learning Commons (LLC) to faculty using new technology, such as lecture capture, for teaching should routinely include information about copyright compliance.

## **2.10 Use of Mash-ups in Teaching**

The Copyright Act permits the use of copyright-protected works to create new works providing that the new content is user-generated content for non-commercial purposes and is not protected by a technical protection measure.

### **2.10.1 User Generated Content for Non-commercial Purposes**

The following conditions apply to the creation of non-commercial user generated content:

- (a) It can only be used for non-commercial purposes.
- (b) The original source must be mentioned, if it is reasonable to do so.
- (c) The original work used to generate the content must have been acquired legally.
- (d) The resulting user-generated content does not have a substantial adverse effect on the market of the original work.

## **2.10.2 Dissemination**

The Copyright Act permits faculty to reproduce, communicate, and perform for students copyright-protected works created by instructors and other creators if freely available on the internet as per Article 2.5 of this policy.

## **2.11 Performing a copyright-protected work, such as a play on college premises**

The Copyright Act permits educational institutions and persons under their authority to give live performances of copyright-protected works such as a play providing that the following conditions are met;

- (a) it must take place on the premises of an educational institution;
- (b) it must be for educational or training purposes;
- (c) it must not be for profit;
- (d) it must take place before an audience consisting primarily of students of the educational institution, persons acting under its authority, or any person who is directly responsible for setting curriculum; and
- (e) it must not involve a “motive of gain”.

## **2.12 Playing sound recordings, radios, and televisions on College premises**

The Copyright Act permits instructors to play sound recordings, radios, and televisions subject to all of the following conditions:

- (a) the playing of the recording, radio or television program must take place on the premises of an educational institution;
- (b) it must be for educational or training purposes;
- (c) it must not be for profit;
- (d) it must take place before an audience consisting primarily of students of the educational institution, persons acting under its authority, or any person who is directly responsible for setting curriculum; and
- (e) it must not involve a “motive of gain”.

The use of recorded music for non-educational college events requires a public performance license as per Article 6.2 of this policy.

## **3.0 Use of copyrighted materials by students**

### **3.0.1 General**

- (a) Assistance or advice may be sought from the Copyright Librarian/Consultant.
- (b) In addition to economic copyrights (e.g., the right to reproduce, publish, broadcast, etc.), the Copyright Act also provides authors and performers with moral rights to protect the reputation of the author/performer and the integrity of the work/performance. Using or changing a work or performance in ways that are prejudicial to the author's / performer's honour or reputation is an infringement of the moral rights of the author/ performer and requires the author's / performer's permission.

Moral rights include:

- (i) the right of attribution (the author's / performer's right to have his or her name associated with the work / performance),
- (ii) the right of association (the author's / performer's right to prevent the use of the work/performance in association with a cause or organization that would be prejudicial to the author's/performer's honour or reputation), and
- (iii) the right of integrity (the right to prevent changes to the work/performance that would be prejudicial to the author's /performer's honour or reputation).

Unlike economic copyrights, moral rights always belong to the author/ performer. They cannot be assigned or licensed; they can only be waived, i.e., the author/performer agrees not to exercise his or her moral rights. It is

very difficult to determine what an author/ performer will consider to be prejudicial to his or her reputation or honour.

In general, consideration must be given to the nature of the student's use and manipulation of copyright protected works to determine if the author's/performer's moral rights have been infringed. Work produced for a classroom assignment for a professor may carry limited risk of legal action. However, student work that is created initially as a classroom assignment but published on the College's or on the student's website may increase the risk of legal action, if appropriate permissions are not obtained.

- c) Further, students must comply with the various licensing agreements granted to the College. The use of these materials is governed by the terms of the licensing agreement or other contracts between the College/professor and the vendor/copyright holder. These contractual obligations supersede fair dealing as determined in the Copyright Act.
- (d) It is not easy to determine precisely the situations in which students must obtain the copyright owner's permission for the use of a work. Generally, incorporating quotations of textual material into written assignments does not require the permission of the copyright owner. However, for manipulation of visual works, such as paintings, sculptures, photographs, and the like, the permission of the copyright owner is required (subject to the exception found in Article 3.4). See Appendix A for further guidance on the application of fair dealing to particular situations.
- (e) Where the copyright owner has authorized the use of a work, a record of the terms of the authorization must be kept by the student, including the parties to the agreement, the date of the agreement, the title of the work(s) used, the use(s) authorized, the duration of the agreement, and any conditions (please see Appendix E for permissions procedures).
- (f) Sources must be indicated whenever others' ideas or material created by others are incorporated into student assignments. Not to do so constitutes plagiarism, which is a form of academic dishonesty (See Ch. IX of the College's Academic Policies, Guidelines & Codes of Conduct).
- (g) The College will not provide protection or assistance to students facing charges arising from copyright infringement.

### **3.1 Student use of Library Holdings**

#### **3.1.1 Fair Dealing**

Copies of library holdings may be made in accordance with Association of Canadian Community Colleges (ACCC) Fair Dealing Policy and the Copyright Act and the Supreme Court Decision , CCH Canadian Ltd. v. Law Society of Upper Canada, [2004] 1 S.C.R. 339, 2004 SCC 13.

### **3.1.2 Databases**

Making copies of articles, reports, abstracts, etc. contained in electronic databases in the library computers is subject to the terms of each particular license agreement between the College and vendor/copyright holder that governs the use of these materials. ***These contractual obligations supersede fair dealing as determined in the Copyright Act.***

The terms of these licenses vary. The details of the licenses are available from the Copyright Librarian/Consultant.

### **3.1.3 Prohibited Uses**

Making copies of entire books contained in electronic databases or in the library holdings is not permitted without first obtaining the permission of the copyright owner.

## **3.2 Copying Beyond the ACCC Fair Dealing Policy / Database Licenses**

Selected text, images, sounds, or multi-media components that exceed the limits specified in the ACCC Fair Dealing Policy or in the Database Licenses may be copied and incorporated into student assignments in the following situations:

- (a) If you have obtained the written permission of the copyright owner. (Please see Appendix E for permissions procedures).
- (b) If a copyright statement on the source authorizes you to do so.
- (c) If you are using only an insubstantial part.
- (d) If your use falls under the fair dealing provisions of the Copyright Act. The Supreme Court identified six factors to be considered in determining whether the copying is fair (see Appendix B). Consult the Copyright Librarian /Consultant for guidance and advice in applying these factors to your particular situation.

In all cases, the source must be acknowledged.

### **3.3 Student use of Online Learning materials**

Students can make a copy of a “lesson” (see Definitions) or a part thereof sent by means of telecommunication, ***but they must destroy the copy within 30 days of receiving their final marks. Faculty will ensure that a notice advising students of their responsibilities is attached to the “lesson”.***

### **3.4 Creation of Mash-ups by Students**

The Copyright Act permits the use of copyright-protected works to create new works providing that the content is user-generated content for non-commercial purposes and is not protected by a technical protection measure.

### **3.4.1 User Generated Content for Non-Commercial Purposes**

The following conditions apply to the creation of non-commercial user generated content:

- a) It can only be used for non-commercial purposes.
- b) The original source must be mentioned, if it is reasonable to do so.
- c) The original work used to generate the content must have been acquired legally.
- d) The resulting user-generated content does not have a substantial adverse effect on the market of the original work.

### **3.4.2 Dissemination**

The Copyright Act permits a student to create, reproduce, communicate, and perform works created by professors, and other creators if freely available on the internet as per Article 2.5 of this policy.

## **4.0 Library Learning Commons (LLC) Practices**

### **4.0.1 General**

The Library Learning Commons facilitates the limited copying of copyrighted works for the sole purpose of research or private study. Patrons are reminded to follow the posted guidelines. The provision of copies of copyright materials by the Library is limited to the purposes of research or private study and is further limited to single copies for an individual. Copies of library holdings will be made in accordance with ACCC Fair Dealing Policy and the Copyright Act and the Supreme Court Decision, CCH Canadian Ltd. v. Law Society of Upper Canada, [2004] 1 S.C.R. 339, 2004 SCC 13.

### **4.0.2 Library Reserves**

Faculty are responsible for:

- a) obtaining any necessary written permissions from the copyright owner prior to placing or requesting that digital content be placed on any College server including the LLC servers and the LMS server, and
- b) providing the Copyright Librarian/Consultant with original copies of all authorizations.

***The college is not responsible for any infringing content posted by faculty or other staff to its servers; infringing materials found on the server will be removed.***

Copies made by staff or faculty for library reserve, and electronic copies made by a member of the LLC staff for a student of the College are governed by the ACCC Fair Dealing Policy (Appendix A).

Linking to the contents of the full text databases is subject to the terms of the licenses, which often vary. Consult the Copyright Librarian/Consultant for the details of the license in question.

#### **4.0.3 Inter-library loan / Document Delivery**

- (a) The Copyright Act permits the making of copies of articles in response to inter-library loan requests from other institutions, subject to certain conditions. Further copying of materials received from other institutions in response to inter-library loan requests is not permitted. The details of the provisions of the statute are available from the Copyright Librarian / Consultant.
- (b) The LLC staff may make copies for a patron under the ACCC Fair Dealing Policy (Appendix A).

#### **4.0.4 Educating students and staff about copyright**

The LLC staff play an important role in educating students, faculty, and staff about copyright issues in the following ways:

- a) Incorporating copyright training in Library Instruction sessions.
- b) Ensuring the appropriate signs, posters, etc. informing users about limits on copying are posted on or near photocopiers, printers, scanners, etc.
- c) Ensuring that the LLC web page contains accurate and up-to-date information about copyright issues.

## **5.0 Use of Student Work**

### **5.0.1 Copyright in work(s) prepared by students in fulfillment of College course requirements**

The copyright in work(s) prepared by students in fulfillment of College course requirements is owned by the student. Accordingly, the student has the right to control further uses of his/her work, as such:

- a) Student work may not be used for purposes other than that for which it was assigned by the professor or instructor teaching their course(s) namely, for evaluation purposes, without the written permission of the student.
- b) In instances where the College wishes to make use of student work, e.g. for display, marketing, fundraising, or other specified purposes, the student will be asked to sign a license authorizing the limited use of the work (Appendix C). The license will be explicit in listing the specific uses for which the work will be used.

### **5.0.2 Copyright in work(s) created by students as part of an employment contract**

The copyright in work(s) created by students as part of an employment contract with the College for which they receive remuneration is owned by the College unless otherwise agreed between the College and the Student.

## **6.0 Use of copyrighted materials for purposes other than teaching**

### **6.0.1 General**

The Copyright Act allows the College to use copyrighted material in various ways for “educational or training purposes” provided that certain conditions are met. However, use of copyrighted materials for purposes other than the education or training of students, e.g., research, staff events, and the like is outside the scope of these provisions.

### **6.1 Copying beyond the ACCC Fair Dealing Policy/Database Licenses**

Selected text, images, sounds, or multi-media components that exceed the limits specified in the ACCC Fair Dealing Policy or in the Database Licenses may be copied and incorporated into presentations and other documents created for purposes other than educational or training purposes in the following situations:

- (a) If you have obtained the permission of the copyright owner (please see Appendix E for permissions procedures).

- (b) If a copyright statement on the source authorizes you to do so. Your use may be subject to certain conditions that are specified in the copyright statement, for example, that the work can be used for research or private study, or for educational purposes, but not for commercial use.
- (c) If you are using only an insubstantial part.
- (d) If your use falls under the fair dealing provisions of the Copyright Act and the ACCC Fair Dealing Policy (see Appendix A). The Supreme Court identified six factors to be considered in determining whether the copying is fair (see Appendix B). Consult the Copyright Librarian/Consultant for guidance and advice in applying these factors to your particular situation.

In all cases, the source must be acknowledged.

## **6.2 Performing music in on College premises**

The Copyright Act permits the public performance of music in educational institutions, when it is in furtherance of an educational objective without permission or the payment of royalties. Performances that are not in furtherance of an educational object must be authorized by the copyright owner, or by a collective that represents the owner.

### **6.2.1 Permitted Performances**

The following uses of live and recorded music are permitted by the Copyright Act and therefore do not require permission and payment:

- a) During school hours for teaching/learning (e.g. music/dance/dramatic arts classes)
- b) By a student in a presentation to other students, primarily for other students, instructors, assessors or parents;
- c) In demonstration activities by students, primarily for other students, instructors, assessors or parents, and for which any admission fee charged covers costs but does not make a profit.
- d) Before and after school hours, and during breaks, if the use is for educational purposes (e.g. school radio operated by students for credit and supervised by an instructor).

### **6.2.2 Performances requiring permission from SOCAN and Re:Sound**

The following uses of live and recorded music in educational institutions are not permitted by the Copyright Act and therefore require permission and payment of royalties:

- a) At events such as a dance, fashion show, or sporting event;
- b) While people are on hold on the telephone;
- c) At an event where the admission fee is intended to make a profit; and
- d) On educational institution premises for no other reason than as background music (e.g. in the classroom, cafeteria, halls, over the PA system, at events such as fairs, carnivals, socio-cultural events).

- e) At staff events regardless of location where the performance is not in the furtherance of an educational object.

### **6.3 Use of Copyright Protected Materials in Marketing:**

Items posted to the College's self-publishing system (SPS) and or website must comply with this Policy and the Copyright Act to ensure that the ownership rights associated with works subject to copyright are fully respected in all applications. The appropriate Marketing manager is responsible for ensuring that all materials placed on the SPS and Website are compliant and permission, where required, is on file.

## **7.0 Use of copyrighted materials by Administrative Staff**

### **7.0.1 General**

- (a) Assistance or advice may be obtained from the Copyright Librarian / Consultant.
- (b) It is the responsibility of the administrative staff member to obtain the appropriate authorization(s) in the name of George Brown College to use copyright materials that are not covered by licensing agreements signed by the College or under provisions of the Copyright Act. It is further the responsibility of the Administrative staff member to ensure that the Copyright Librarian/Consultant receives the original copy of all permissions received (please see Appendix E for permissions procedures).
- (c) Administrative staff will abide by all copyright laws applying to both print and digital formats. Staff wishing to make use of a copyright protected work must comply with any statutory and regulatory obligations.
- (d) Where a copyright owner has authorized the use of a work, a record of the terms of the authorization must be kept by the staff member. The record should include the parties to the agreement, the date of the agreement, the title of the work(s) used, the use(s) authorized, the duration of the agreement, and any condition(s). The staff member will retain a copy and the original per Article 2.0.1.d above is to be sent to the Copyright Librarian/Consultant.
- (e) George Brown College does not condone the use of personal websites or other non-GBC systems (including but not limited to: web-based applications, environments or technologies, particularly communication or collaboration, social networking, and social media tools or sites) for the purposes of communicating infringing copyright protected works to students or other members of the College community in support of any academic, administrative or recreational activity. The College will not accept responsibility for or provide any assistance to any individual who is charged with copyright violation arising from such actions.

## **8.0 Use of copyrighted materials by Support Staff**

### **8.0.1 General**

- (a) Assistance or advice may be sought from the Copyright Librarian /

Consultant.

(b) It is the responsibility of the support staff member to obtain the appropriate authorization(s) in the name of George Brown College to use copyright materials that are not covered by licensing agreements signed by the College or under provisions of the Copyright Act. It is further the responsibility of the support staff member to ensure that the Copyright Librarian/Consultant receives the original copy of all permissions received (please see Appendix E for permissions procedures).

(c) Support staff will abide by all copyright laws, which applies to both print and digital formats. Staff wishing to make use of a copyright protected work must comply with any statutory and regulatory obligations.

(d) Where a copyright owner has authorized the use of a work, a record of terms of the authorization must be kept by the support staff member. The record should include the parties to the agreement, the date of the agreement, the title of the work(s) used, the use(s) authorized, the duration of the agreement, and any condition(s). The support staff member will retain a copy and the original per Article 2.0.1.d above is to be sent to the Copyright Librarian/Consultant.

(e) George Brown College does not condone the use of personal websites or other non-GBC systems (including but not limited to: web-based applications, environments or technologies, particularly communication or collaboration, social networking, and social media tools or sites) for the purposes of communicating infringing copyright protected works to students or other members of the College community in support of any academic, administrative or recreational activity. The College will not accept responsibility for or provide any assistance to any individual who is charged with copyright violation arising from such actions.

## **9.0 Teaching Students about Copyright**

Where copyright issues are an important aspect of professional practice, information about copyright compliance will be incorporated into all relevant courses. Similarly, Library Instruction sessions provided to students will reinforce with students the need and tools available for the proper citation of sources used in their assignments.

Faculty who see a student using infringing copies of copyright protected works in class should advise the student that:

- (a) They should not have made the copy,
- (b) They should refrain from making any future copies,
- (c) materials protected by copyright cannot be copied unless permission has been obtained, and
- (d) They should purchase the item in future.
- (e) Repeated infractions will be dealt with pursuant to the Student Code of Conduct and Discipline.

Similarly, staff observing students making infringing copies of copyright protected works on public access photocopiers should similarly draw these facts to the attention of the student.

## **10.0 Infringement by College Employees**

### **10.1 Non-Compliance**

Non-compliance is a violation of federal legislation which may result in civil and or criminal action against the infringing party as per Part IV of the Copyright Act.

### **10.2 Claims of copyright infringement**

The College will comply with any statutory and regulatory obligations to identify users alleged to have infringed copyright, to forward copyright infringement claims to the alleged infringers, and to notify the claimant whether his/her notice of infringement was forwarded to the alleged infringer or , if not, why not. Any infringing materials posted on College servers will be removed.

### **10.3 Breaches to this Policy**

Employees not complying with this policy may be subject to legal and other actions in accordance with the applicable provisions of the Copyright Act, the College's Codes of Conduct, the College's Progressive Discipline Policy and Collective Agreements.

## **SUPPORTING DOCUMENTATION**

- n/a
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## **RELATED POLICIES**

Academic Policies, Guidelines and Codes of Conduct

- Chapter X – Code of Conduct: Academic Employees
  - **Article 1.5 Copyright**
- Chapter XI – Code of Conduct: Support Staff
  - **Article 1.5 Copyright**
- Chapter XII – Code of Conduct: Administrative Staff
  - **Article 1.5 Copyright**

Association of Canadian Community Colleges [ACCC] Fair Dealing Policy, August 30, 2012 (Appendix A)

Captioned Media and E-Text Policy

Collective Agreements

Copyright Act, RSC 1985, c C-42

Copyright Regulations

George Brown College – Academic Policies and Guidelines

- Student Code of Conduct and Discipline – Conduct Relating to Academic Performance
  - o **Article 3.3 Copyright**

Xerox Coursepack Guidelines

Intellectual Property Policy

Library Learning Commons (LLC) Policy

Permission to Record Form

Student Course Work License Form

Various License agreements

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## **RELATED MATERIALS**

Copyright Act and Regulations [Copyright Act and Regulations](#)(listed alphabetically by title of statute).

Government Agencies:

The Department of Canadian Heritage website contains information about current policy and emerging issues ([Department of Canadian Heritage Website](#)).

The Canadian Intellectual Property Office administers Canada's intellectual property. Their website ([Canadian Intellectual Property Office website](#)) is a useful place to find general information about copyright, including services of circulars on particular aspects of copyright.

The Copyright Board website includes a list of copyright collectives that administer copyright for various categories of works ([Copyright Board website](#))

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## **APPENDIX A**

Association of Canadian Community Colleges [ACCC] Fair Dealing Policy, August 30, 2012

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## **APPENDIX B**

6 Factors of the SCC

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## **APPENDIX C**

Student Course Work License Form

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## **APPENDIX D**

George Brown College Copyright Guidelines

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## **APPENDIX E**

Permissions Procedure

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## **APPENDIX F**

Permission to Record Authorization Form

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## **APPENDIX G**

Xerox Print Centre Copyright Guidelines (April 2018)

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## **APPENDIX H**

Association of Canadian Community Colleges [ACCC] departmental photocopier poster

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## **APPENDIX I**

Library photocopier poster referencing Supreme Court of Canada decision CCH Canadian Ltd. v. Law Society of Upper Canada, [2004] 1 S.C.R. 339, 2004 SCC 13.