

COPYRIGHT POLICY

Authorizer: Vice President Academic / Student Affairs and Human Resources

Version: V2

Effective Date: 12/1/2012

POLICY STATEMENT:

Conestoga provides access to print, audio-visual and electronic resources to support professional and educational practices within the College in compliance with current Canadian copyright legislation, regulations, external adopted policies and licence agreements.

SCOPE:

The Copyright Policy applies to all Conestoga stakeholders, including administration, faculty, staff, and students that access, use and/or wish to make, communicate or distribute copies of copyright-protected materials.

DEFINITIONS:

Copy

A reproduction of a physical or electronic original created by any means, including but not limited to photocopying, scanning, printing, emailing, faxing, storing, posting or uploading.

Copyright

The right to produce or reproduce a work. In Canada, copyright with the fixation of an idea or creation into a tangible form, either physical or electronic, regardless of whether a copyright statement appears on the work. Unless applying an exception to copyright infringement as defined in the Copyright Act, only the copyright owner, who is most often the creator of the work, has the right to produce or reproduce a substantial part of a work.

Fair Dealing

An exception in the Copyright Act (s. 29-29.2) that allows the copying of a work without the permission of the copyright owner for the purposes of research, private study, criticism, review, news reporting, education, satire and parody.

POLICY ELABORATION:

- The Copyright Policy demonstrates Conestoga's commitment to meeting its legal obligation to comply with current Canadian copyright legislation, College agreements and external copyright policies adopted by the College.
- Conestoga respects the rights of copyright owners and will only copy, sell, distribute, or use print or electronic materials in accordance with licence agreements, in compliance with the Copyright Act, or with explicit permission from the copyright owner.
- Conestoga is responsible for educating and communicating with its stakeholders about Copyright, including what materials can or cannot be reproduced, copied, distributed, or sold within the College.
- Conestoga stakeholders are individually responsible for adhering to Copyright practices and legislation, for seeking clarification and guidance where required, and for working in consultation with the College to obtain permissions where necessary.
- Conestoga applies the fair dealing exception to infringement according to the *Association of Canadian Community Colleges (ACCC) Fair Dealing Policy* it has adopted,¹ and as established by the Canadian Supreme Court in *CCH Canada Limited v. Law Society of Upper Canada, 2004*.

APPENDIX – FAIR DEALING:

Association of Canadian Community Colleges Fair Dealing Policy

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:
 - as a class handout
 - 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
 - as part of a course pack
4. A short excerpt means:
 - up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work)
 - one chapter from a book
 - a single article from a periodical
 - an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works
 - an entire newspaper article or page
 - an entire single poem or musical score from a copyright-protected work containing other poems or musical scores
 - 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.
7. 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.

August 30, 2012

REFERENCES:

Association of Canadian Community Colleges (ACCC). Fair Dealing Policy.
CCH Canadian Limited v. Law Society of Upper Canada, 2004 SCC 13.
Copyright Act (R.S.C., 1985, c. C-42)
Copyright Board of Canada

Academic Offences Policy
Alternate Format Policy
Copyright Guides for Conestoga
Research Intellectual Property Rights

REVISION LOG:

Policies and Procedures Committee	11/23/2012
Academic Coordinating Committee	11/28/2012
Policies and Procedures Committee	2017
Academic Coordinating Committee	2017
Academic Forum	11/15/2019

Acknowledgement

¹adapted from George Brown College. (n.d.). *Copyright Policy*. Retrieved from <https://www.georgebrown.ca/policies/copyright.pdf>