

**TITLE: COPYRIGHT MATERIALS ACCEPTABLE USE**

**POLICY STATEMENT:**

All individuals at Red Deer College using copyright materials comply with the federally legislated *Copyright Act* and related laws and regulations, which includes protection of the rights of ownership of copyright owners and recognition of user rights in relation to copyright materials owned by others.

**PURPOSE:**

This policy outlines the College's position on the use of copyright material by members of the College community. Effectively, this policy:

- States the College's position on the interpretation and application of the *Copyright Act* and related laws and regulations;
- States the College's position on the legal use of copyright materials by the College community, including employees and students;
- Serves to limit the potential legal liability of the College and its employees for copyright infringement through the exercise of due diligence in use of copyright material;
- Serves to maximize the access by members of the College community to copyright materials as outlined in the *Copyright Act* ;
- Is the basis to identify and implement specific procedures and guidelines to effect compliance with copyright laws.

**SCOPE:**

This policy applies to all members of the College community, including students, faculty, staff, contractors and volunteers.

**PRINCIPLES:**

Red Deer College is committed to ethical behavior and integrity in all activities including the use of copyright materials.

Red Deer College is committed to compliance with copyright laws. The *Copyright Act* and related laws and regulations, as well as related College policy and procedures, govern the utilization of all copyright works by members of the College community.

Unauthorized use of copyright works is contrary to law and subject to legal recourse.

**DEFINITIONS:**

**Author:** the person(s) who created and fixed the form of the copyright work, and who are normally the first owner(s) of the copyright in the work.

**Copyright Act/Copyright Laws:** a Federal Act governing matters related to copyright, including regulations there under, including case law which interprets the *Copyright Act*.

**Copyright Material/Work:** Any original literary, dramatic, musical or artistic work created with skill and judgement and fixed in tangible form.

**Copyright Owner:** the legal owner of a copyright work who can assert the rights of ownership.

**Fair Dealing:** a statutory right to, within limits, reproduce works without permission. The *Copyright Act* in Section 29 lists allowable purposes including research, private study, criticism, review, news reporting, education, parody and satire.

**Infringement:** it is an infringement of copyright for any person to do, without the consent of the copyright owner, anything that the *Copyright Act* specifies the copyright owner has the exclusive right to do.

**Licenses:** agreements between copyright owners or their licensing agents and end-users to allow for the use of their copyright works by granting prior permission that may be subject to certain terms.

**Licensing Agent:** an individual or organization authorized by the copyright owner to act on their behalf.

**Use/User:** use of a copyright work can include reproduction, transmission, public performance, display and translation. A user is any individual and/or organization that makes use of copyright material owned by another.

**User Rights:** specific legal rights provided by the *Copyright Act* to facilitate under certain conditions the use of copyright works without the need for the consent of the copyright owner. Most significant for the College are the right of fair dealing, and the specific exceptions for educational institutions and libraries.

#### **GUIDELINES:**

1. All members of the College endeavour to inform themselves of their legal duty and do not use copyright material without ensuring that prior permission has been obtained from the copyright holder or unless permitted under the *Copyright Act*.
2. It is the responsibility of each member of the College community to exercise care in ensuring proper authorization has been obtained for their particular use.
3. Questions, guidance and education regarding copyright issues are the responsibility of the Copyright Office, housed in the Library. The Copyright Officer is responsible for providing guidance and making decisions regarding copyright questions and compliance.
4. Whether or not a copyright owner or their licensing agent chooses to pursue legal action against the College or its members in a case of infringement, the College takes breaches of policy seriously. Incidents of non-compliance by employees may lead to disciplinary action up to and including termination, under College policy and/or the relevant collective agreement. Students who are in violation of the Policy may be disciplined under the *Student Misconduct: Academic and Non-Academic Policy*.
5. Deans, Directors, Divisional Leaders, Associate Deans and Coordinators are responsible for taking reasonable steps to implement this policy and ensure the necessary supports (training workshops, seminars and materials) are in place to facilitate on-going compliance.

#### **PROCEDURE:**

1. To use copyright works, members of the College community have a number of options, depending on the copyright works to be used:
  - In some cases, the College has acquired licenses allowing users access to specific works for limited uses pursuant to negotiated contract terms;
  - Some uses of copyright works may fall within the user rights provided under the *Copyright Act*, related laws and case law for which no permission is required (see

- Association of Canadian Community Colleges Fair Dealing Guidelines in Appendix A for further information);
- Some further uses may require a process of seeking an express permission from the author or copyright owner prior to use. Where information and/or clarification are required to facilitate compliance, users consult with the Copyright Office and are directed appropriately.
2. Any real or perceived infraction of this policy is reported to the Copyright Officer. The Officer conducts a preliminary investigation within three working days. The Copyright Officer, under the direction of the Associate Vice President Academic, may issue a verbal warning for a minor infraction. Where the Associate Vice President Academic has sufficient information to determine that the infraction could be a severe breach of Policy, he/she forwards all information to the Vice President Academic (students) or Human Resources (faculty and staff) for investigation and resolution. Where the material in question resides on College computer equipment, facilities or networks the material may be removed pending an investigation.

**OFFICER RESPONSIBLE:** Vice President Academic

**RECOMMENDING AUTHORITY:** Deans' Council, upon recommendation from Service Council

**CONSULTATION FOR REVIEW:** School Councils, Campus Store, Document Centre, Director of Finance, Deans' Council, Service Council, Copyright Office in the Library.

**POLICY REVIEW DATE:** September 2018

**EFFECTIVE DATE:** November 1, 2013

**REVISION HISTORY:** new policy

**RELATED POLICIES:**

- Information Assets and Information Systems Acceptable Use
- Intellectual Property

**CONNECTION TO BOARD POLICIES:**

All RDC policies support relevant Board of Governors operational policies.

## APPENDIX A – FAIR DEALING GUIDELINES

*In August of 2012, the Association of Canadian Community Colleges created these guidelines and recommended, based on legal opinion from their legal counsel, that all ACCC members adopt these guidelines. These guidelines outline how fair dealing applies in post-secondary educational institutions.*

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.
- 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.