POLICY

This policy outlines the copying by NBCC staff and faculty members, either in print or electronic format, of published works that can be made under the exception for fair dealing in sections 29 to 29.2 of the Copyright Act of Canada, without first seeking permission of the copyright owner. The policy does not apply to audio or video recordings.

NBCC is bound by, and operates under, the Copyright Act of Canada. The use of any copyright material, other than that permitted under the Copyright Act of Canada fair dealing provision, is strictly prohibited.

APPLICATION

This policy applies to all students, staff, contractors and consultants of NBCC. The document “NBCC Copyright Licenses” contains a listing of license agreements between NBCC and individual publishers; where there is a conflict between the terms of a license agreement and the fair dealing policy, the terms of the license agreement apply.

DEFINITIONS

Not applicable

SUGGESTIONS FOR IMPROVEMENT

Your suggestions for improvement to this document and/or its content will be forwarded to the policy owner.

1.0 PURPOSE and SCOPE

The purpose of this policy is to translate some of the high-level principles of fair dealing into practical rules applicable to NBCC and outlines some of the activities that can be conducted under the fair dealing exception without infringing copyright.

2.0 WORKFLOW

2.1 Fair Dealing Exception

The exception for fair dealing in the Copyright Act of Canada permits use of a copyright-protected work without permission from the copyright owner or the payment of copyright royalties. To qualify for fair dealing exception, the following two tests must be passed:

NOTE: Any document appearing in paper form is not controlled and should ALWAYS be checked against the version on NBCC@work prior to use.
a) The "dealing" must be for a purpose stated in the Copyright Act of Canada: research, private study, criticism, review, news reporting, education, satire, and parody. Educational use of a copyright-protected work passes the first test.

b) 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.

NBCC has appointed the Director of Information Solutions or delegate, to make decisions on whether copying outside the scope of the copying guidelines in this policy are for one of the fair dealing purposes of research, private study, review, criticism or news reporting, and in all the circumstances, whether the making of the copies is fair.

2.1.1 Copying Guidelines

The following copying guidelines are intended to clarify for NBCC instructors and staff members the boundaries set out by NBCC when copying from published works:

a) NBCC instructors and staff members 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.

b) Copying or communicating short excerpts from a copyright-protected work under this exception for fair dealing 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.

c) 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:

i. a class handout

ii. 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

iii. part of a course pack

d) A short excerpt refers to:

i. up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work)

ii. one chapter from a book

iii. a single article from a periodical

iv. an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works

v. an entire newspaper article or page

vi. an entire single poem or musical score from a copyright-protected work containing other poems or musical scores, and

vii. an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work

e) 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.

f) Copying or communicating that exceeds the limits in this fair dealing provision may be referred to the Director of Information Solutions or other person designated by NBCC for
evaluation. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on all relevant circumstances.

g) 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.

2.1.2 Notwithstanding any of the other provisions of these guidelines, no copies may be made of the following:

a) unpublished works
b) proprietary workbooks, work cards, assignment sheets, tests and examination papers
c) instruction manuals
d) newsletters with restricted circulation intended to be restricted to a fee-paying clientele; or
e) business cases which are made available for purchase

2.1.3 Each paper copy made pursuant to Interlibrary Loan, Library Reserve and Document Delivery of this policy shall contain, on at least one page, the name of the author or artist (where known), the title of the publication from which the copy was made, the name of the publisher of that publication, and the following statement:

“This copy is made solely for the use by a student, staff member, faculty member or library patron for research, private study, review, criticism or news reporting. Any other use may be an infringement of copyright if done without securing the permission of the copyright owner.”

2.1.4 Each electronic copy made pursuant to Interlibrary Loan, Library Reserve and Document Delivery of this policy shall have the information and statement referred to in section 2.1.3 on at least one page, except for an electronic copy made available from a server pursuant to this policy. Instead that information and statement could be associated with the copy in such a manner so as to be noticed by the person accessing the copy.

3.0 CONTROLLED DOCUMENTS

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<th>Number</th>
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<td>Acts &amp; Regulations</td>
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<td>Guides &amp; Standards</td>
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4.0 APPROVAL: Approval by President and CEO

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