

COPYRIGHT AND FAIR DEALING POLICY

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<i>The official controlled version of this document is held with the Policy & Procedure Coordinator.</i>			

A. POLICY STATEMENT

Keyano College is committed to compliance with copyright law and does not sanction or authorize any violation of copyright. The College Community is responsible for ensuring adherence to the *Copyright Act*. This entails adherence to: (i) the rights of copyright-owners; and (ii) the exceptions to those rights as defined in law and supported by the Supreme Court of Canada. Of particular relevance in an educational setting is the Court’s guidance with respect to Fair Dealing.

This policy sets out the policy and regulations governing use of copyrighted materials and Fair Dealing at the College, and applies to all members of the College Community, including faculty, staff, and students, who use copyrighted material.

1. GUIDING PRINCIPLES

- 1.1** Keyano College is committed to ethical behaviour and integrity in all activities including the use of copyrighted materials.
- 1.2** Keyano 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.
- 1.3** Unauthorized use of copyright works is contrary to law and subject to legal recourse.
- 1.4** All members of the College Community endeavour to inform themselves of their legal duty and to not use copyright material without ensuring that proper authorization has been obtained from the copyright holder for their particular purpose, unless permitted under the *Copyright Act Fair Dealing Provision*.

- 1.5 The Library will provide guidance and education regarding copyright issues and questions.
- 1.6 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 per the *Progressive Discipline Policy*. Students who are in violation of the policy may be disciplined under the *Academic Integrity Policy*.
- 1.7 Deans, Directors, Chairs and Managers 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.

B. DEFINITIONS

- (1) **College Community:** Means individuals who are employees, students, contractors, and volunteers who represent the College, including the Keyano Board of Governors, administration, staff, faculty, contract providers, the Keyano College Foundation Board of Directors, any Keyano subsidiary Board of Directors, and community members.
- (2) **Copyright:** Means the rights of copyright owners to have the sole and exclusive right to reproduce, perform, or publish a work. These rights give the copyright holders control over the use of their creations, and an ability to benefit, monetarily and otherwise, from the exploitation of their works. This includes the sole right
 - a. to produce, reproduce, perform, or publish any translation of the work,
 - b. in the case of a dramatic work, to convert it into a novel or other non-dramatic work,
 - c. in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise,
 - d. in the case of a literary, dramatic, or musical work, to make any sound recording, cinematograph film

or other contrivance by means of which the work may be mechanically reproduced or performed,

- e. in the case of any literary, dramatic, musical, or artistic work, to reproduce, adapt, and publicly present the work as a cinematographic work,
- f. in the case of any literary, dramatic, musical, or artistic work, to communicate the work to the public by telecommunication,
- g. to present at a public exhibition, for a purpose other than sale or hire, an artistic work created after June 7, 1988, other than a map, chart, or plan,
- h. in the case of a computer program that can be reproduced in the ordinary course of its use, other than by a reproduction during its execution in conjunction with a machine, device, or computer, to rent out the computer program,
- i. in the case of a musical work, to rent out a sound recording in which the work is embodied, and,
- j. in the case of a work that is in the form of a tangible object, to sell or otherwise transfer ownership of the tangible object, as long as that ownership has never previously been transferred in or outside Canada with the authorization of the copyright owner, and to authorize any such acts.

- (3) **Copyright Act/Copyright Laws:** Means a Federal Act governing matters related to copyright, including regulations thereunder, including case law which interprets the *Copyright Act*.
- (4) **Copyright Owner:** Means the legal owner of a copyright work who can assert the rights of ownership.
- (5) **Fair Dealing:** Means a user's statutory right to, within limits, reproduce works without permission. Section 29 of the *Copyright Act* lists allowable purposes including research, private study, criticism, review, news reporting, education, parody, and satire.

To qualify for Fair Dealing, two tests must be passed:

1. *The dealing must be for an allowable purpose*

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.

2. *The dealing must be fair*

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. It is "fair" for an instructor to copy "short excerpts" from a copyright-protected work for students in a class.

(6) Infringement: Means 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.

(7) 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.

- (8) **Use:** Means use of a copyright work can include reproduction, transmission, public performance, display, and translation.
- (9) **User:** Means any individual and/or organization that makes use of copyright material owned by another.
- (10) **User Rights:** Means 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 education institutions and libraries.

C. RELATED POLICIES

- [Academic Freedom Policy](#)
- [Academic Integrity Policy](#)
- [Intellectual Property and Ownership Policy](#)
- [Library Technology Use and Management Policy](#)
- [Employee Progressive Discipline Policy](#)

D. RELATED LEGISLATION

- *Canadian Copyright Act (R.S.C., 1985, c. C-42)*
- *Canadian Copyright Act Fair Dealing Exception*

E. RELATED DOCUMENTS

- [Copyright and Fair Dealing Procedure – Keyano College](#)
- [Fair Dealing Guidelines – Council of Ministers of Education, Canada](#)
- [ACCC, Fair Dealing Policy](#)
- [CICan, Copyright toolkit for member institutions of colleges and institutes Canada](#)

- [CFLA-FCAB, Copyright Fair Dealing Statement](#)

F. REVISION HISTORY

Date (mm/dd/yyyy)	Description of Change	Sections	Person who Entered Revision (Position Title)	Person who Authorized Revision (Position Title)
01/29/2016	New	All		
02/23/2021	Replaces 212 Copyright-Fair Dealing Policy	All	Information Librarian & Circulation Support Specialist	Director, Student Services