



Copyright and the Board

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Memo To: All Staff
From: Director of Education

ACCESSIBILITY:

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PURPOSE:

It is the policy of the Waterloo Catholic District School Board (WCDSB or the Board) to comply with the *Fair Dealing Guidelines* as developed by the Council of Ministers of Education Canada (CMEC) Copyright Consortium. The Waterloo Catholic District School Board will communicate the *Fair Dealing Guidelines* to all school locations on an annual basis in order to ensure that all staff understand the obligations of the school board, school and its teachers regarding the use of copyright protected work in accordance with the Copyright Modernization Act.

REFERENCES:

- Copyright Modernization Act. Assented 29 June 2012.
- Supreme Court of Canada. *Alberta (Education) v. Canadian Copyright Licensing Agency (Access Copyright)*, 2012 SCC 37
- [Movie Ratings in Ontario](#)
- Waterloo Catholic District School Board. Mission Statement
- Council of Ministers of Education, Canada. [Copyright](#)
- [Fair Dealing Guidelines](#) – Council of Ministers of Education Canada (CMEC) Copyright Consortium
- [Teachers Use of Consumables](#)

FORMS:

- N/A

REPORTS:

- N/A

APPENDICES:

- Appendix A: [Exceptions under the Copyright Act for Persons with a "Perceptual Disability"](#)



COMMENTS AND GUIDELINES:

Fair Dealing Guidelines

Background

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.

These guidelines apply to fair dealing in non-profit K-12 schools and post-secondary educational institutions and provide 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 these Fair Dealing Guidelines 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 these Fair Dealing Guidelines may be referred to a person designated by the WCDSB 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.
8. The Fair Dealing Guidelines do not describe absolute limits. Copying or communicating a copyright-protected work within the prescribed limits will, according to the advice of legal counsel, almost certainly be fair. Copying beyond those limits may or may not be fair.
9. School Boards, along with their staff and students must be mindful that some copying may not fall within the parameters set out in the guidelines. When such copying occurs, two options may exist. First, permission to copy can be sought from the copyright holder. Second, a royalty must be paid the copyright holder.
10. Any copying from materials intended for one-time use (e.g. exercise books, worksheets) without permission exposes the person making the copy, the teacher, the school, and the school board to liability for copyright infringement.

Board Documents and Board as Copyright Holder

Copyright affects how WCDSB employees write documents and make them available to other institutions.

- Include a clear copyright statement indicating the source, and get permission to use any articles, books, videos, etc.
- Acquire permission to use logos, images, cartoons, photographs, etc. in works you are writing.

The WCDSB, as an employer, retains copyright for works created by an employee in the course of their employment.

Videos

Schools must purchase a public performance license if they are using videos for purposes not included in the Fair Dealing Guidelines. Some examples that are outside of the fair dealing guidelines: family movie nights, community, cultural and fundraising events. A public performance license is available through Audio Cine Films or VEC/Criterion Pictures.

WCDSB may enter into agreements on behalf of its schools for public performance rights for non-educational use of videos. Please check with school library learning commons staff or The Learning Commons, CEC for further information.

Movies in Ontario are rated for age appropriateness using these classifications: [Movie Ratings in Ontario](#)

- Videos are to be used in the classroom solely for educational purposes. All videos **must be previewed by the teacher** to determine their educational value and suitability for classroom viewing.
- Elementary schools are strongly encouraged to limit their choice of videos for use in classrooms or other educational settings to videos rated General, or considered appropriate for viewing by all ages.
- Videos with a General rating are allowed to be shown in schools, but movies with a rating of PG and 14A requires principals permission and a note sent to parents and guardians.
- A video with a classification other than “G” and “ratings exempt” may be shown in elementary schools if in the opinion of the principal/teacher it contains sufficient educational and/or spiritual values which support the philosophy, values and purpose of a Catholic school system. The principal/teacher must advise parents of elementary students when a video with these classifications is to be shown in the classroom.
- A video with a classification other than “G” and “ratings exempt” may be shown in secondary schools if in the opinion of the principal/teacher it contains sufficient educational and/or spiritual values which support the philosophy, values and purpose of a Catholic school system.
- **Teachers are encouraged to use the videos purchased by The Learning Commons, CEC for the purpose of supporting the curriculum.** The videos may be borrowed from The Learning Commons, CEC and/or streamed from Learn 360. Staff may look for videos on The Learning Commons, CEC [library catalogue](#).

Use of Music in Schools and Board Departments

Educational institutions are required to obtain authorization from the copyright owner or a collective authorized to represent the owner, e.g. SOCAN, the copyright collective that administers licenses for the public performance of music when using music for a purpose that is not outlined in the fair dealing guidelines.

WCDSB signed a one year tariff 55 licensing agreement with SOCAN for secondary schools that covers **some** uses of music in a school.

The following examples are not covered by the SOCAN license:

- school dance
- school sporting events
- while on hold on telephone
- an event where admission fee is intended to make a profit
- on school premises for no other reason than as a background (e.g. in the cafeteria, halls, over the PA system, school fairs, carnivals)

A license may be purchased from SOCAN to cover them. Please contact 1-800-55SOCAN to arrange a SOCAN license.

Any contract between a school and disc jockeys must include a statement that – “The disc jockey assumes the responsibility for obtaining all necessary licenses and that all licensing fees are paid prior to the performance.

Examples of uses of music in a school setting which are not covered by the SOCAN agreement include:

- **In a play performed live.** In this case the schools performing the play must either purchase the rights from a theatrical agent (i.e. Rodgers and Hammerstein hold the rights for works such as “The Sound of Music” **OR** purchase the director’s score and a specified number of students’ copies, from a music store in order to have the rights to perform the work)
- **In performances on school premises by outside performers.** In this case, copyright authorization is the responsibility of the performer.
- **In activities held in school facilities that are rented or provided free of charge to outside groups.** In this case, copyright authorization is the responsibility of the outside group.