



Copyright – Fair Dealing Guidelines

Board Received: November 28, 2016

Review Date: December 2020

Policy Statement:

The Grand Erie District School Board will comply with the Fair Dealing Guidelines as developed by the Council of Ministers of Education Canada (CMEC) Copyright Consortium. The Grand Erie 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 in accordance with the Copyright Modernization Act.

Accountability:

1. Frequency of Reports – As needed
2. Criteria for Success – Fair dealing provisions of the Copyright Act are followed

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.

Procedures:

1. Fair Dealings posters and Consumables posters must be prominently displayed in all schools.
2. Teachers, instructors, 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.
3. In order to remain “fairly” operating under the Fair Dealing Guidelines, all copying, scanning, or printing of materials intended for one-time use is strictly prohibited. “materials intended for one-

time use” are workbooks and exercise books in which a student records answers. This prohibition does not apply to reproducibles.

4. 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.
5. 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
 - c. as part of a course pack
6. A short excerpt means:
 - a. up to 10% of a copyright-protected work
 - b. one chapter from a book
 - c. a single article from a periodical
 - d. an entire artistic work 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

Before engaging DJ services, schools must obtain written agreement that every song in performance from the storage medium utilized is a confirmed purchased song and is licensed for the purpose of public broadcast.

7. 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.
8. Copying or communicating that exceeds the limits in these Fair Dealing Guidelines may be referred to the Director or Superintendent of Education designated by the Grand Erie District School Board for evaluation. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on all relevant circumstances.
9. Any fee charged 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.
10. Classroom teachers or other school board employees can access the “Copyright Decision Tool” at www.copyrightdecisiontool.ca when they have questions about copyright when preparing lesson materials to determine whether their copying is within the Fair Dealing Guidelines parameters.

Legal Framework:

Copyright Modernization Act

Fair Dealing Guidelines – Council of Ministers of Education Canada (CMEC) Copyright Consortium