

NIPISSING-PARRY SOUND CATHOLIC DISTRICT SCHOOL BOARD

USE OF COPYRIGHT AND FAIR DEALING

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POLICY:

The Nipissing-Parry Sound Catholic District School Board supports staff in the copying and sharing of published materials while respecting copyright laws for educational purposes in a manner that is consistent with our Boards' Mission, Vision Statement and Catholic values.

It shall be the policy of the Nipissing-Parry Sound Catholic District School Board that:

1. All employees responsible for providing educational resources to our students comply with the Copyright Act;
2. All employees comply with the Fair Dealing Guidelines as developed by the Council of Ministers of Education Canada (CMEC) Copyright Consortium; and
3. The Fair Dealing Guidelines are communicated to all school locations on an annual basis in order to ensure that all staff understand the obligation of the school board in accordance with the Copyright Modernization Act.

DEFINITIONS

Fair Dealing

A user's right outlined in the Copyright Act that identifies allowable purposes (or dealings) for the use of copyright protected materials without permission or payment of copyright royalties.

Copyright

A set of exclusive rights, including the right to copy a work, a performance or sound recording.

Copyright Infringement

Violation of copyright through unauthorized copying or use of work or other subject matter under copyright.

BACKGROUND

In June 2012, Bill C-11, the Copyright Modernization Act was passed by Canada's parliament and thus resulted in an updated Canadian Copyright Act. The renewed Canadian Copyright Act permits use of a copyright-protected work without permission from the copyright owner or the payment of copyright royalties as long as the use falls within the 'Fair Dealing' provisions as outlined in the Act. 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.

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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.

The following procedures and guidelines are intended to assist staff in applying the 'Fair Dealing' provisions of the Copyright Act:

ADMINISTRATIVE PROCEDURES

1.0 RESPONSIBILITY

- 1.1 The Superintendent of Education is responsible for annually communicating this policy and the "Fair Dealing Guidelines" (Appendix A and B) informing all staff of copying parameters that qualify for fair dealing in an educational setting.
- 1.2 The principal, manager or supervisor will communicate these procedures and guidelines on an annual basis to staff and students.
- 1.3 The principal, manager or supervisor will monitor the implementation of the procedures and guidelines at the local school or department level.
- 1.4 A copy of the "Fair Dealing Guidelines" information poster (Appendix B) shall be posted and visible within the immediate vicinity of every photocopier to assist staff implement 'Fair Dealing' provisions with copyright-protected material.

2.0 GUIDELINES

- 2.1 Teachers, 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.
- 2.2 Teachers and students may use materials which are intended to be freely available over the Internet for learning and educational purposes. Such materials may be used for routine classroom activities such as downloading, saving, and sharing. Any such materials must be credited (e.g. in bibliographies) in the same way using print-sourced materials would be.
- 2.3 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.
- 2.4 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:

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- 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

2.5 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

2.6 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.

2.7 Copying or communicating that exceeds the limits in these Fair Dealing Guidelines 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.

2.8 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.

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3.0 DUE DILIGENCE

3.1 When in doubt, staff should consult with their principal, manager or respective supervisors regarding the interpretation of this policy, procedure and guidelines and/or copyright laws. If necessary, principals, manager and supervisors shall consult with the Superintendent concerned.

4.0 REVIEW OF THIS POLICY

The Board will review the Copyright: Fair Dealing policy, procedure and guidelines as often as is necessary on an annual basis.

RESOURCES AND REFERENCES

- The Copyright Act: <http://laws-lois.justice.gc.ca/eng/acts/C-42/index.html>
- Copyright Modernization Act
- Fair Dealing Guidelines – Council of Ministers of Education Canada (CMEC) Copyright Consortium

FAIR DEALING GUIDELINES

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 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 this Fair Dealing Guidelines 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.

Copyright and Fair Dealing Guidelines

✓ Check Before You Copy

Did You Know?

The Copyright Act allows you to copy sections of copyrighted books, articles and other material without the consent of the copyright owner as long as you are copying fairly for research, private study, criticism, review or news reporting and provide the source. This is called ***Fair Dealing***.

You May Copy up to:

10 % of a copyright protected – work (including a literary work, musical score, sound recording, and an audiovisual work)

Or the following:

- a) one chapter from a book
- b) a single article from a periodical
- c) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works
- d) an entire newspaper article or page
- e) an entire single poem or musical score from a copyright-protected work containing other poems or musical scores
- f) an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work

In addition:

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

Please Note:

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***.