



Responsibility:	<i>Superintendent, Student Achievement & Well-Being Senior Manager, Information Technology Services</i>
Legal References:	<i>Copyright Act (R. S. C. 2012, c. 20). Alberta (Education) v. Canadian Copyright Licensing Agency (Access Copyright), 2012 SCC 37 (CanLII).</i>
Related References:	<i>Administrative Procedure 4110 – Selection and Reconsideration of Educational Resources; Administrative Procedure 4070 – Responsible Use Procedure for Information, Communication and Collaboration Technologies. www.copyrightdecisiontool.ca</i>
Revisions:	<i>March 2016, September 2020</i>
Reviewed:	<i>December 2016</i>

1. Preamble

- 1.1 Copyright laws attempt to balance the rights of the creators and distributors of materials (copyright holders), and the consumers of the materials (users). It is an evolving concept, which underwent significant legal revision in 2012, especially in regards to what constitutes Fair Dealing in the public educational sector.
- 1.2 The following procedures provide general information on Canadian copyright laws as they apply to employees and students of the Waterloo Region District School Board. It is the policy of the Waterloo Region District School Board to comply with the Fair Dealing Guidelines as developed by the Council of Ministers of Education Canada (CMEC) Copyright Consortium.

2. General

- 2.1 It is the responsibility of staff and students in the Waterloo Region District School Board to be aware of and adhere to copyright laws. The Canadian laws provide protection to copyright holders and users of copyrighted materials. Anyone who reproduces material in a way that is non-compliant with the laws may be subject to legal action.
- 2.2 The Waterloo Region District School Board will communicate the Fair Dealing Guidelines to all school locations on an annual basis in order to ensure that all staff understands the obligations of the school board in accordance with the Copyright Act.
- 2.3 Employees and students of the Waterloo Region District School Board should understand that materials subject to copyright include print, video, and audio materials such as (but not limited to) television programs, movies, software, websites, printed texts, workbooks, consumables and periodicals. Copyright laws apply equally regardless of media format, and distribution method (e.g. print or electronic).
- 2.4 Where copyright doubts exist, principals and teachers are encouraged to log an IT Service Desk ticket for the Library Governance Committee to review, and where advised, seek permission to reproduce the materials in question from the legal owner. Further important information about what materials and works may or may not be copied is available at www.copyrightdecisiontool.ca.
- 2.5 Copying that does not infringe copyright:
 - 2.5.1 Some publications come with permission to copy. Look for a clear permissions statement. Copying within the bounds of that statement, (usually found on the back of the title page in a book, or at the start of a movie, for example) will not infringe copyright or violate the

licence. Blackline masters or other classroom reproducibles usually contain a clause permitting copying for classroom use, for example.

2.5.2 Copying works in the public domain does not infringe copyright. Copyright protection does not last forever. Works go into what is called the public domain 50 years after the death of the author and may then be copied freely. Please note, though, copyright protection extends to each individual, specific version of a work. New translations, adaptations or editions of works otherwise in the public domain are protected as new, original works.

2.5.3 Where possible, Library and Resource Services will endeavour to purchase and make available to staff and students resources that include a licence for reproduction and open sharing in the educational setting.

2.5.4 See also section 5, Internet Resources below.

3. Fair Dealing:

3.1 Background:

3.1.1 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:

3.1.1.1 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;

3.1.1.2 The second test is that the dealing must be "fair," that is, be limited in scope, and not cause damage to the copyright owner, while not hindering users' rights to carry out the activities described in the first test. Adhering to the Fair Dealing Guidelines below will help ensure that the use is fair.

3.1.2 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.

3.2 Guidelines

3.2.1 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.

3.2.2 Copying or communicating short excerpts from a copyright-protected work under these Fair Dealing Guidelines should mention the source and, if given in the source, the name of the author or creator of the work.

3.2.3 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:

3.2.3.1 as a class handout,

3.2.3.2 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,

3.2.3.3 as part of a course pack.

3.2.4 A short excerpt means:

3.2.4.1 up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audio-visual work);

3.2.4.2 one chapter from a book;

3.2.4.3 a single article from a periodical;

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

- 3.2.4.5 an entire newspaper article or page;
- 3.2.4.6 an entire single poem or musical score from a copyright-protected work containing other poems or musical scores;
- 3.2.4.7 an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work.
- 3.2.5 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.
- 3.2.6 Consumables are materials intended for one-time use, including workbooks and exercise books in which a student records answers. Copying consumables is prohibited.
- 3.2.7 Copying (in electronic or print format), or communicating that exceeds the limits in these Fair Dealing Guidelines may be referred to the Library Governance Committee. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on all relevant circumstances.
- 3.2.8 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.

4. Public Performance Rights

- 4.1 Public Performance rights for watching movies in the classroom setting have undergone significant changes in the most recent copyright legislation. The WRDSB will no longer be purchasing blanket licences to display movies in the classroom since they are no longer required. Reporting of the movies watched is also no longer required.
- 4.2 All audio-visual works may be performed or displayed for educational purposes provided that the work is from a legally obtained copy.
- 4.3 Broadcast performances (e.g. radio, television shows) may be recorded for personal use only under the Copyright Act, and such items should not be used in schools. The Copyright Act allows exceptions for news-commentary programs, which may be recorded and performed in classrooms, provided that they were recorded at time of original airing.
- 4.4 For music, the WRDSB will maintain a licence with the Society of Composers, Authors and Music Publishers of Canada (SOCAN) to cover non-educational performances amongst staff and students in the school setting (e.g. school dances, music in hallways, etc.).
- 4.5 The SOCAN licence does not apply to other groups such as Boy Scouts, Girl Guides, YM/YWCA after school programs, etc. that use Board Facilities. These groups must purchase their own licences to be able to hold public performances of music. Nor does it cover live public performances of musical works that take place during concerts or other shows where performers are not students, or school personnel.
- 4.6 Public performances of movies for non-instructional purposes (e.g. school movie nights) still must be covered with public performance rights. It is the responsibility of the organizing parties to arrange and pay for such a licence.

5. Internet Resources:

- 5.1 Works available over the Internet may be reproduced, communicated, or performed in the educational setting without infringing copyright provided:
 - 5.1.1 you mention the source and, if given in the source, the name of the author or creator of the work,
 - 5.1.2 the site where the work is posted is not protected by password or other technological measure that restricts access to the material,
 - 5.1.3 the work is not clearly and visibly marked with a notice (not merely the copyright symbol) prohibiting reproduction, communication or performance.
- 5.2 Section 5.1 does not apply if the educational institution or person acting under its authority knows or should have known that the work or other subject matter was made available through the Internet without the consent of the copyright owner. For example, many video clips at YouTube.com are posted without the copyright holder's consent or knowledge. Most materials on file-sharing sites or bit-torrent sites are also posted without the copyright holder's consent. Caution must be exercised when considering such resources.