



# PROCEDURE

# SO-024

## COPYRIGHT - FAIR DEALING GUIDELINES

<b>Superintendent Responsible:</b> Superintendent of Program K-12 (Teaching & Learning)	<b>Initial Effective Date:</b> 2021/03/29
<b>Last Updated:</b> 2023/02/24	<b>Next Review Date:</b> 2026/02/24

### Purpose:

To outline procedures whereby the Grand Erie District School Board (Grand Erie) will comply with the Fair Dealing Guidelines as developed by the Council of Ministers of Education Canada Copyright Consortium.

### Guiding Principles:

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. A substantial part of a work can be used under fair dealing if the Supreme Court of Canada's six non-exhaustive factors test for fair dealing are met.

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.

### 1.0 Process

- 1.1. Fair Dealings posters and consumables posters must be prominently displayed in all schools including at all board photocopiers.
- 1.2. Employee(s) 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.
- 1.3. Any copying from materials intended for one-time use (e.g., exercise books, worksheets) without permission exposes the person making the copy, the educator/Grand Erie employee(s), the school, and Grand Erie to liability for copyright infringement.
- 1.4. 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.
- 1.5. 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 package

- 1.6. A short excerpt means:
- up to **10% of a copyright-protected** work
  - one chapter** from a book
  - a **single article** from a periodical
  - an **entire artistic work** from a copyright-protected work containing other artistic works
  - an **entire newspaper** article or page
  - an entire **single poem** or **musical score** from a copyright-protected work containing other poems or musical scores
  - an entire entry from an encyclopedia, annotated bibliography, dictionary, or similar reference work

For example, before engaging Disc Jockey 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**.

- 1.7. 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**.
- 1.8. Copying or communicating that exceeds the limits in these Fair Dealing Guidelines may be referred to the Superintendent of Program K-12 (Teaching and Learning) designated by the Grand Erie for evaluation. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on all relevant circumstances.
- 1.9. 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.
- 1.10. Employee(s) can access the **“Copyright Decision Tool”** at [www.copyrightdecisiontool.ca](http://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.

## 2.0 Examples of Copyright Infringement

- 2.1. Purchasing and reproducing resources accessed from fee-based collaborative websites where the resources were created in violation of copyright and Fair Dealing guidelines.
- 2.1.1 Employee(s) must confirm the resources were created in compliance with copyright and Fair Dealing legislation before reproducing them. (Note: Collaborative websites are not responsible for vetting content; resources can be produced and sold by individuals who are not acting in accordance with copyright and Fair Dealing legislation.)
- 2.2 Reproducing images and/or icons sourced from the internet without providing attribution to their original creator and/or source.
- 2.2.1 Any content reproduced from the internet must not be protected by a paywall or any other measure to restrict access. The user must believe the content was posted to the Internet legally.
- 2.3 Making and sharing a recording of the educator reading a book aloud to students **without receiving permission from the publisher**.
- 2.3.1 Recording a book reading is equivalent to reproducing the book. Express permission from the copyright holder (i.e., publisher) must be obtained first and stated at the start of the recording.

### Reference(s):

- Copyright – Fair Dealing Guidelines Policy (SO-24)
- [Copyright Modernization Act](#)
- Fair Dealing Guidelines – Council of Ministers of Education Canada Copyright Consortium