Greater Essex County District School Board

Policy: Copyright Compliance

Reference No: P-PR-11

It is the policy of the Greater Essex County District School Board to comply with the Fair Dealing Guidelines as developed by the Council of Ministers of Education Canada (CMEC) Copyright Consortium. The Greater Essex County District School Board will communicate the Fair Dealing Guidelines to all board locations on an annual basis at the commencement of the school year and then again after the December break in order to ensure that all staff understand the obligations of the school board in accordance with the Copyright Modernization Act.

Legal Framework

Copying Modernization Act
Fair Dealing Guidelines – Council of Ministers of Education Canada (CMEC) Copyright Consortium Committee.

Greater Essex County District School Board

Regulation: Copyright Compliance

Reference No: R-PR-11

Educators have opportunities to use some copyright-protected materials in their lessons without payment, however they also have professional responsibilities to know and understand what restrictions and parameters exist under the *Copyright Act*. 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.

1. Educators, 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 may be provided or communicated to each student enrolled in a class or staff attending a presentation.

3. As 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)
    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 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. Educators can use the "Fair Dealing Decision Tool" website to assist with compliance with the Copyright Act.

6. Copying or communicating multiple short excerpts from the same copyright-protected work, with the intention of copying substantially the entire work, is prohibited. Failure to comply with copyright law can result in a teacher, a school, or a school board being sued for copyright infringement.

7. Copying or communicating that exceeds the limits in this regulation may be referred to the Superintendent of Education responsible for copyright compliance for evaluation. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on all relevant information.

8. Any fee charged by the copyright-protected source/institution for communicating or copying a short excerpt from a copyright-protected work must be intended to cover only the costs of the copyright-protected source/institution, including overhead costs.

9. At the commencement of every school year (before mid-October), the central office will communicate with all staff as to copyright compliance and share all relevant digital tools resources. Additionally, after the December break, the central office will remind all staff of copyright compliance materials.