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| <b>Procedure Title</b>   | <b>Copyright</b>                     |                       |                        |
| <b>Date of Issue</b>   | December 19, 2012                    | <b>Related Policy</b> |                        |
| <b>Revision Dates</b>  | November 15, 2017; November 15, 2023 | <b>Related Forms</b>  |                        |
| <b>Review Date</b>   | November 1, 2028                     | <b>Originator</b>     | Administrative Council |
| <b>References</b>  |                                      |                       |                        |
| Copyright Act; Bill C-11 “Copyright Modernization Act”; CMEC Copyright Consortium’s “Fair Dealing Guidelines”; PPM 157 “Use of Copyright-Protected Works for Education”; Copyright Matters!, 5 <sup>th</sup> Edition, 2022; <a href="http://www.fairdealingsdecisiontool.ca">www.fairdealingsdecisiontool.ca</a> |                                      |                       |                        |

**1.0 RATIONALE**

This procedure has been developed to ensure Bluewater District School Board staff and students are aware that all material created in Canada is protected by copyright, and is governed by the *Copyright Act*, whether or not the work has been marked with the standard copyright symbol: ©.

This procedure provides guidelines for allowable uses of copyrighted material as it relates to education.

**2.0 PROCEDURE**

**2.1 Examples of Protected Materials – (but not limited to):**

- a) **Literary work (Includes electronic and paper formats)** - Memoranda, email messages, journals, books, magazines, textbooks, workbooks, exercise books, periodicals, government records and reports, pamphlets, newspapers, poetry, letters, computer software, law reports, forms, court records, databases, published, and unpublished research papers, etc.
- b) **Dramatic work** - Video recordings, documentaries, films, radio, television, and cable programs, plays, etc.
- c) **Artistic work** - Paintings, maps, architectural drawings, plans, stage and costume designs, digital images, drawings, photographs, charts, mosaics, art prints, compilations of artistic works on CD-ROMs, and on websites.
- d) **Musical work** - Sheet music, songs with or without words, CDs, cassettes.
- e) **Sound recording** - CDs, talking books, audio books, audio cassettes, papers recorded at seminars, audio tapes of speeches and lectures, sound effects, spoken word recordings, language cassettes for ESL, compilations of sound recordings on CDs.

**2.2 Fair Dealing**

- a) 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 dealings, two tests must be passed:
  - 1. 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.
  - 2. The “dealing” must be “fair”.

- b) The following guidelines are used to determine what is “fair”. For activities that do not meet the guidelines or fall into a grey area, the safest route is to obtain permission from Access Copyright or directly from the publisher; royalty fees may apply.

#### 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:
  - i. as a class handout
  - ii. 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
  - iii. as part of a course pack
4. A short excerpt means:
  - i. up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work)
  - ii. one chapter from a book
  - iii. a single article from a periodical
  - iv. an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works
  - v. an entire newspaper article or page
  - vi. an entire single poem or musical score from a copyright-protected work containing other poems or musical scores
  - vii. 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 ‘consumable’ materials, intended for one-time use, is prohibited (e.g., workbooks or exercise books into which a student records answers).
7. 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.
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.

### **2.3 Allowances without Restrictions**

The *Copyright Act* contains allowances for learning and education uses without having to pay royalties; however, any such materials must still be credited (e.g., bibliographies) in the same way using print-sourced material would be.

- a) Teachers and students may use publicly available internet materials that have been posted for free use by copyright owners for learning and educational purposes.

- b) Students in classrooms may view previously recorded news programs or news commentary programs, except documentaries, without paying royalties.
- c) Audio-visual works can be shown in classrooms.
- d) School libraries will be permitted to deliver “inter-library loan” copies of copyright-protected works using digital technologies.
- e) Recorded lessons may be made available for viewing by students at different times (i.e., on-line learning).
- f) Digital display units (such as white boards, smart boards) may be used to project copyright protected works in a classroom (subject to commercial availability and licencing terms).

## 2.4 Copyright Licenses

The fair dealing guidelines above applies to in the classroom and online learning (in paper or electronic form). The board has several licenses in place for the various categories of other protected material. For example, films, movies, videos, and music fall under performance licence agreements. The Copyright Modernization Act permits film in an educational setting without the payment of fees. A numbered memo from the superintendent of business services and treasurer is sent out annually with information regarding the licencing options and agreements in place for schools to purchase.

## 2.5 Copyright Decision Tool

The Copyright Decision Tool ([www.copyrightdecisiontool.ca](http://www.copyrightdecisiontool.ca)) helps educators decide whether they can use print materials, artistic works or audiovisual materials without getting copyright permission. This tool provides links to current editions of *Copyright Matters! 5<sup>th</sup> Edition, 2022* the *Fair Dealing Guidelines*, and other copyright awareness materials.