

**THE PROTESTANT SEPARATE SCHOOL  
BOARD OF THE TOWN OF PENETANGUISHENE**

**POLICY MANUAL**

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**POLICY TITLE:**

**SECTION/CODE:**

**Copyright**

**School Operations D - 25**

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**POLICY STATEMENT**

It is the policy of The Protestant Separate School Board of the Town of Penetanguishene to comply with the *Fair Dealing Guidelines* as developed by the Council of Ministers of Education Canada (CMEC) Copyright Consortium. The Protestant Separate School Board will communicate the *Fair Dealing Guidelines* to Burkevale Protestant Separate School on an annual basis in order to ensure that all staff understand the obligations of the school board in accordance with the *Copyright Modernization Act*.

**PURPOSE**

To provide direction to staff regarding the use of copyright-protected works for education in accordance with the *Copyright Act* as amended by the *Copyright Modernization Act* (S.C. 2012, c. 20).

The Board recognizes that the schools and Board's logo and all other school and Board related visual identifiers are intended to capture the character or essence of the school and/or Board collective corporate identity or philosophy. As such, all visual representations of the school and/or Board, including but not limited to the official logos and branding of the school and Board, will be used in congruence with and support of official school and Board-related business, programs, projects and initiatives and not for any other purpose.

The Board recognizes the Copyright Act (R.S.C. 1985, c. C-42) as amended by the Copyright Modernization Act (S.C. 2012, c. 20), the Trademark Act (R.S.C. 1985, c. T-13), and the common law as the foundation for the creation of this policy.

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**FAIR DEALING GUIDELINES**

**Background**

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:

2First, the "dealing" must be for a purpose stated in the *Copyright Act*: research, private study, criticism, review, news reporting, education, satire, and/or 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 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. RESPONSIBILITIES**

**1.1 All Staff**

All staff are responsible for ensuring that their use of copyright-protected material complies with the law including:

- 1.1.1 *Fair Dealing Guidelines*
- 1.1.2 Users Right Applicable to Education as outlined in the *Copyright Act*
- 1.1.3 Obtaining permission of the copyright owner and/or where

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required paying a royalty fee.

### **1.2 Principals/Supervisors**

Principals/Supervisors shall:

1.2.1 Remind staff annually of their duty to comply with the copyright law as set out in this procedure. Training resources will be provided for this purpose.

1.2.2 Post a general guide/poster outlining the kinds of copying that are permitted, as well as those which are prohibited, above all photocopying and printing equipment.

### **1.3 Legal Compliance**

1.3.1 The Canadian *Copyright Act* states that a person found guilty of infringement of public performance may be fined or imprisoned or both. Every individual involved in a copyright violation is liable.

## **2. GUIDELINES**

2.1 Educators 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/or parody.

2.2 Copying or communicating short excerpts from a copyright-protected work under

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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.

2.3 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

**A short excerpt means:**

A. up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and/or 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/or 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

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G. an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work

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.

2.6 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.

2.7 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.

2.8 School board staff and students must be mindful that some copying may not fall

within the parameters set out in the *Fair Dealing Guidelines*. When such copying occurs, two options exist. First, permission to copy can be sought from the copyright holder.

Second, a royalty must be paid to the copyright holder. For information on what to do if you are unable to locate a copyright owner, please refer to the Copyright Board of Canada website at the following link – Unlocatable Copyright Owners.

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### **3. ADDITIONAL USERS RIGHT APPLICABLE TO EDUCATION**

**This section is based on information contained in the CMEC booklet *Copyright Matters!* Please refer to the booklet for more detailed information on copyright law and the conditions and limits on the use of copyright-protected materials.**

#### **3.1 Reproduction of a work to be displayed for the purpose of instruction**

Educators may reproduce in paper or electronic form, a work protected by copyright in order to display the work in interactive whiteboards and digital projectors for the purpose of instruction, provided that the work is not commercially available in an appropriate medium for display.

#### **3.2 Tests and examinations**

Educators may copy, translate, communicate electronically, show and/or play a copyright-protected work for a test or examination, provided that the work is not commercially available in an appropriate medium for the purpose of a test or examination.

#### **3.3 Use of Statutes, regulations, and court decisions**

Educators and students may copy and communicate the text of federal, provincial and territorial statutes, regulations, and judicial decisions for education purposes from all provinces and territories except Manitoba, Quebec, and Nunavut.

#### **3.4 Reproduction in alternative formats for persons with perceptual disabilities**

Students and educational institutions, on behalf of a student, may make a copy of a literary, dramatic, musical, and/or artistic work (excluding audio-visual works) in an

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alternative format designed for a person with a perceptual disability provided it is not already commercially available in an alternative format for the benefit of a student. Persons with perceptual disabilities include the blind and visually impaired, and persons with learning and other physical disabilities. Educational institutions are prohibited from making a large-print book for a student with a perceptual disability without written permission from the copyright owner.

### **3.5 School Libraries**

School Libraries may use digital technologies such as email to deliver copyright-protected work as part of an interlibrary loan, provided that measures are taken to protect against further distribution of the material.

### **3.6 Playing sound recordings, listening to the radio and watching television Programs (excluding music)**

Educators may play sound recordings, listen to the radio, and/or watch television programs as they are being transmitted (via over-the-air broadcast, cable, satellite, or the internet) in the classroom provided that the use is for an educational purpose. This user's right does not apply to previously recorded radio and television programs.

### **3.7 Performing plays and other works on school premises**

Students may perform a work protected by copyright, such as a play. An example is the performance of a play in drama class. However, the performance of the play must meet the following conditions:

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3.7.(i) It must take place on school premises or school approved offsite venues.

3.7.(ii) It must be for educational purposes.

3.7.(iii) It must be not-for-profit (any fee charged by the school for attending the performance of the work must only recover the cost associated with the performance, including overhead costs).

3.7.(i.v.) It must take place before an audience consisting primarily of students of the school, persons acting under the authority of the school, or any person who is directly responsible for developing or implementing a curriculum for the school.

### **3.8 Performing music for educational purposes**

The public performance of music in elementary and secondary schools, whether recorded or live, is permitted if the performance is for educational purposes. Schools may also play sound recordings containing a musical work, listen to the radio, and watch television programs containing a musical work while the program is being transmitted (via over-the-air broadcast, cable, satellite or the internet). However, the use of music must meet the following conditions:

3.8.(i) It must take place on school premises or school approved offsite venues.

3.8.(ii) It must be for educational purposes.

3.8.(iii) It must be not-for-profit (any fee charged by the school for attending the performance of the work must only be to recover the costs associated with the performance, including overhead costs).



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3.8.(i.iv.) It must take place before an audience consisting primarily of students of the school, persons acting under the authority of the school, or any person who is directly responsible for developing or implementing a curriculum for the school.

**3.9 Use of copyright-protected works to create new works**

Anyone, including students and educators may use copyright-protected works to create new work provided the following conditions are met:

3.9.(i) The new work may only be used for non-commercial purposes.

3.9.(ii) The original source must be mentioned.

3.9 (iii) The original work used to generate the content must have been legally acquired.

3.9.(i.v.)The resulting user-generated connect must not substantially harm the market for the original work.

**3.10 News and news commentary programs from radio or television**

Educators, or a person acting under the authority of a school, may make a single copy of a news or news commentary for later viewing by students, provided that the copy is only made at the time the program is aired by the broadcaster or communicated over the internet.

**3.11 Showing of audio-visual works on school premises**

Educators may show audio-visual works on school premises for educational purposes, such as movies on DVD or video, provided that the copy is not one that infringes on copyright law. Copies can be purchased or borrowed from a library from a

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friend.

### **3.12 Educational use of the Internet**

The “educational use of the internet” provision allows students and educators to use publicly available internet material for their learning and educational pursuits. Publicly available materials are those legitimately posted online by content creators and copyright owners without any technical protection measures, such as a password, encryption systems, or similarly technology intended to limit access or distribution, and without a clearly visible notice prohibiting educational use. The provision requires that the source be mentioned.

#### **Legal Framework**

*Copyright Modernization Act*

*Fair Dealing Guidelines* – Council of Ministers of Education Canada (CMEC)  
Copyright Consortium

#### **Cross-Referencing**

Boards should use the appropriate mechanism to refer to other related Board Policies or procedures.