

JAMES BAY LOWLANDS SECONDARY SCHOOL BOARD
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ADMINISTRATIVE PROCEDURE GENERAL ADMINISTRATION: NO. 189	
Effective	August 21, 2019
Last Revised	June 23, 2023

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COPYRIGHT

PURPOSE

The James Bay Lowlands Secondary School Board shall comply with the *Fair Dealing Guidelines* as developed by the Council of Ministers of Education Canada Copyright Consortium. System and school administrators will communicate the *Fair Dealing Guidelines* to the school and Board office locations on an annual basis in order to ensure that all staff members understand the obligations of the Board in accordance with the *Copyright Modernization Act*.

PROCEDURES

1. Fair Dealing Guidelines

1.1. Background Information

- 1.1.1. 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.
- a) 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.
 - b) 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.
- 1.1.2. These guidelines apply to fair dealing in non-profit K-12 schools and post-secondary educational institutions, and they provide reasonable safeguards for the owners of copyright-protected works in accordance with the *Copyright Act* and the Supreme Court decisions.

2. Non-Profit Educational Institutions

- 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.

- 2.2. 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.
- 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; and
 - c) as part of a course pack.
- 2.4. A short excerpt means:
- a) up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and 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 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
 - 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 supervisory officer 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.

REFERENCE DOCUMENTS

Legal:

Copyright Act, 1997

Copyright Modernization Act, 2011

Council of Ministers of Education Canada Copyright Consortium. Fair Dealing Guidelines.

Education Act, Section 8 (1) paragraph 23.1: Copyright Licence Agreements

Board:

Administrative Procedure 185 Staff and Student Use of Technology

Administrative Procedure 570 Provision of Computer Technology