



YORK REGION DISTRICT SCHOOL BOARD

Policy and Procedure #545.0, Intellectual Property, Copyright and Professional Service

WORKING DOCUMENT

Executive Summary

The Intellectual Property, Copyright and Professional Services policy and procedure address the ability of Board employees and others that have access to Board facilities and resources to create innovative ideas, practices and products that may be of benefit to the Board to those outside of the Board. It is being updated to incorporate the new parameters of the [Fair Dealing Guidelines](#) of the [Copyright Modernization Act](#).

What has changed?

Major changes to the document: Major changes have yet to be summarized. These changes are visible as suggestions in the document below.

Reason for review: To align Board priorities with a modernized Intellectual Property, Copyright and Professional Service policy

Who is affected by these changes and what is the impact on current practice? All stakeholder groups with responsibilities.

Implementation timelines: Immediate.

Lead Superintendent(s)/Subject Matter Expert(s): Associate Director of Education, Programs and Coordinating Superintendent of Curriculum and Instructional Services and Continuing Education

Stakeholders with Responsibilities under this Policy

- Board of Trustees
- Director of Education
- Associate Directors
- Superintendents
- All Staff
- Students
- Members of the Public

Relationship to Board priorities

The Intellectual Property, Copyright and Professional Services policy and procedure supports the Stewardship of Board Resources by aligning human and financial resources with Board priorities by:

- a) As stated in the Multi-Year Strategic Plan (2018-2022)
 - Building trusting relationships based on respectful and responsive communication.
 - Leading ethically by focusing on students and upholding our values.
- b) As stated in the Mission, Vision, Values:

- valuing positive, meaningful relationships with students, staff, parents and our community. We value diversity of opinion, sincere dialogue and community engagement.
- continuously striving to provide the best educational programs for all students. We empower staff and students to take initiative and to be innovative leaders.
- encouraging active participation in all learning and activities by creating an environment that engages students, staff, parents and our community.
- recognizing individual and collective responsibility for creating the best possible school community to support the achievement and well-being of all individuals. We are responsible for the delivery of effective and sustainable educational programs and stewardship of Board resources.

Timelines and Next Steps

This policy and procedure was scheduled for first review at the December 14, 2021 Policy and By-Law Committee meeting.

Providing Feedback

Questions about this policy and/or procedure should be raised with your principal, manager or supervisor. If additional clarification is required, principals, managers and supervisors may contact the lead superintendent and/or subject matter expert through Trustee Services.

In accordance with Board Policy #285.0, [Board Policies, Procedures and Supporting Documents](#), the Board welcomes all comments and suggestions on Board policy.

Input is an important component of the review process. If you feel a policy and/or procedure needs to be revised, feedback may be submitted through the school council or by submitting the on-line form. In your response please;

- outline clearly the specific section(s) of the policy and/or procedure in which you are not comfortable,
- suggest specific alternate wording to reflect your position, and
- identify the reason(s) for your concern(s).

Specific recommendations or questions about the review process should be submitted using the on-line form or sent to the Assistant Manager, Corporate Policy via email at policy.committee@yrdsb.ca, or via telephone at 905-727-0022 extension 2570 or in hard copy at [The Education Centre – Aurora](#).

Legislative Context

[Copyright Act](#)

[Copyright Modernization Act](#)

[Education Act](#)

[Municipal Freedom of Information and Protection of Privacy Act](#)

[Accessibility for Ontarians with Disabilities Act \(AODA\)](#)

Related Policies

[Visual Identity Manual](#)

[Conflict of Interest](#)

[Information Access and Privacy Protection](#)

It is the expectation of the York Region District School Board that all employees, students and persons invited to or visiting Board property, or partaking/volunteering in Board or school-sponsored events and activities, will respect the policies and procedures of the Board. The term “parents” refers to both biological/adoptive parents and guardians in all Board policies and procedures.



Board Policy #545.0 Intellectual Property, Copyright and Professional Services

Working Document

Policy Statement

The Board believes that collaborative partnerships amongst school boards and other educational institutions are essential for improving student success, fostering well-being and increasing a shared sense of responsibility for public education. For these reasons the Board supports the sharing of published materials and professional services while respecting intellectual property and copyright laws including the [Fair Dealing Guidelines](#).

Application

Staff members and others who have access to Board facilities and resources are encouraged to create innovative ideas, practices and products that may be of benefit to students, the Board and those outside of the Board. Products and services developed, may be marketable, and result in a return on investment to the Board and its partners or may contribute towards public copyright licensed content.

Employment status within the Board supersedes any engagement in intellectual property development in a pecuniary manner beyond the scope of the Board.

Responsibilities

The Board of Trustees is responsible for:

- reviewing the Intellectual Property, Copyright and Professional Services policy in accordance with the priorities in the [Multi-Year Strategic Plan](#) and the approved policy review cycle; and
- understanding and communicating with members of the community about the Intellectual Property, Copyright and Professional Services policy, as required.

The Director of Education is responsible for:

- implementing and operationalizing the Intellectual Property, Copyright and Professional Services policy.

Definitions

Conflict of Interest (as per, [Conflict of Interest](#) policy and procedure)

A conflict of interest is a situation in which a trustee or staff member attempts to promote private or personal interests, of themselves or some other person, which results or could appear to result in:

- an interference with the Board's;
- Mission, Vision and Values,
- priorities,

- policies and procedures; and/or
- a gain or an advantage (including pecuniary) by virtue of his/her position in the York Region District School Board.

Copyright

A set of exclusive rights regulating the right to use, produce or reproduce a work or a substantial part of it in any form.

Fair Dealing

Fair Dealing is a component of the [Copyright Act](#) that allows for educational use of copyright protected works. The [Fair Dealing Guidelines](#) outline the specific details required by educational institutions.

Intellectual Property (IP)

A creation of the mind produced by an individual or group of individuals of which the ownership or right to use may be legally protected by copyright or other legal forms of ownership. Intellectual Property can include inventions, literary and artistic works, designs and symbols or other intangible assets.

Professional Services

An individual's skills, which may include, but are not limited to technical, knowledge, reputation, ethics, and creativity or other unique function(s).

History

Formerly Policy #165.0, Publishing of Shared Materials and Professional Services
Approved 2002
2008, 2012, 2013, 2018, 2021



Board Procedure #545.0 Intellectual Property, Copyright and Professional Services

Procedure Statement

The procedure outlines how staff and students will develop, distribute and implement strategies for resources in relation to learning and other Board related work. Processes and rights for digital distribution of copyright material, course packs and other print and non-print resources are outlined in this procedure.

Application

This procedure applies to all staff and students of York Region District School Board.

Copyright

Outlines the parameters regarding the right to copy an original creation. The symbol for copyright is ©.

Copyright may include a wide range of creative, intellectual, or artistic works, including writings (theses, opinion papers, etc.), movies, choreographic works (dances, ballets, etc.), musical compositions, audio/video recordings, artwork, photographs, software, and media broadcasts of live and other performances.

The name York Region District School Board, YRDSB, the logo of York Region District School Board, as well as the related names and graphics are trademarks and the property of York Region District School Board.

These trademarks are not in the public domain and may not be duplicated or used without permission.

Commercial use is strictly prohibited.

Board documents are copyrighted and are not to be modified or rebranded for distribution singularly or in volume, in part or as a whole, outside the Board.

Fair Dealing

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 postsecondary educational institutions. (As defined by the Council of Ministers of Education, Intellectual Property, Copyright, Professional Services

Canada)

Intellectual Property

Where the product being developed is the outcome of an assigned task or job responsibility, the Board normally retains the ownership of the intellectual property rights.

Responsibilities

The Director of Education shall:

- allocate staff and resources to support the Intellectual Property, Copyright and Professional Services procedure; and
- approve intellectual property agreements, as required.

Associate Directors, Superintendents, Principals, Managers and Supervisors shall:

- ensure staff are aware of their obligations under the [Copyright Modernization Act](#);
- ensure that materials produced by staff are the property of the Board and are protected by copyright, where the Board's resources or expertise are used, and when the product developed is the outcome of an assigned task or job;
- refer to the [Conflict of Interest](#) policy and procedure on a case-by-case basis, if issues arise with conflict of interest regarding intellectual property development by and between staff and/or students and potential financial gains,
- In an instance of uncertainty related to the ownership of intellectual property, complete the [IP review process form](#) and submit to Executive Council for review who will consult with legal experts when deemed necessary
- ensure that information about the [Fair Dealing Guidelines](#) is accessible to all staff;
- approve the establishment of committees in conjunction with other school boards or organizations in order for a program, professional learning opportunity or school board resource material to be produced;
- ensure that the result or product of these activities, will be the property of all participating school boards to use at their discretion;
- allow, in some cases, the lead school board to retain ownership of the resource materials produced, provided that the details of such arrangements are outlined in a written agreement between the participating parties;
- ensure that Fair Dealing Guidelines are displayed prominently beside each photocopier at their school or work location;
- understand that schools and departments must pay for all copyright costs for materials beyond the Fair Dealing Guidelines;
- understand that persons with a perceptual disability have an exception under the Copyright Act to copy a copyright-protected work in an alternate format that may benefit that person;
- give staff permission to officiate at events or competitions or act as workshop leaders, lecturers, or speakers to school boards or educational institutions when their services are requested for events on regular school days, in accordance with relevant Board processes and collective agreements;
- provide the Board's human resources without charge on the understanding that this service will be reciprocated or per diem costs will be recovered;

- ensure that staff do not receive any remuneration for services other than reimbursements for out-of-pocket expenses including, but not limited to, teachers being used as actors in educationally-based video/television productions while working on Board time and being paid by the Board; and
- make exceptions for specific honoraria under special circumstances.
- *Curriculum and Instructional Services and Student Services shall:* communicate that all curriculum materials and supports that are produced by Board staff are the property of the Board and are protected by copyright and include proper identification or notice of ownership
- request that workbooks or other resources intended for one-time use are not copied, scanned or printed;
- understand and abide by the Fair Dealing Guidelines when producing resources, including legalities and copyright restrictions related to published materials.
- publish and distribute curriculum materials that are produced by Board staff;
- approve the establishment of committees in conjunction with other school boards or organizations in order for a school program, a course of study, professional development or curriculum resource material to be produced;
- ensure that the result or product of such developmental activities will be the property of all participating school boards, to use at their discretion; and
- support the work of other departments in the interpretation and implementation of similar resource development activities.

Learning Resource Services (LRS) and Learning Design and Development (LDD) shall:

- communicate the Fair Dealing Guidelines to all school and work locations on an annual basis to support staff's understandings of the obligations of the Board in accordance with the *Copyright Modernization Act*;
- provide direction to Board staff regarding the use of external resources;
- manage requests for Board resources from individuals or groups outside the Board;
- provide support for copyright enquiries;
- maintain copyright, related permission and release forms for all related projects;
- support the application of Fair Dealing Guidelines to the development of resources and ensure licensing arrangements are supported for any copyright materials used in Board developed resources;
- manage the copyright restrictions applied to Board resources made available for sale; and
- support the work of all departments in the interpretation and implementation of resource development activities that are for both internal and external use.

All Staff shall:

- identify and disclose potential intellectual property concerns and/or conflicts of interest related to students to their principal, manager or supervisor;
- understand their obligations under copyright legislation and the associated consequences;
- acting in compliance with the Fair Dealing Guidelines;
- recognize that internal documents owned by the Board, protected by copyright, and therefore, are not shared with external sources without consulting with their supervisor;
- consider copyright details from the beginning of the process, with support from Learning Resource Services, when developing curriculum resources or other resources;
- educate students about responsibilities under copyright legislation, where applicable;
- understand that the Copyright Act permits students with special needs to make a copy in certain formats to support their learning needs; and that they can obtain further information through the Ontario with Disabilities Act;

- comply with Fair Dealing Guidelines if they are managing content in a physical or an electronic format, such as, but not limited to Engagement Platforms, Virtual Learning Environments, Learning Management Systems (LMS) or any other current or future Content Management Systems;
- adhere to licensing arrangements for any copyright materials used in Board developed resources and comply with the Fair Dealing Guidelines;
- understand that, under common law, the Board retains ownership of intellectual property, where the Board's resources or expertise are used to create a product or practice that may have commercial significance and when the product developed is the outcome of an assigned task or job responsibility;
- understand that the Board will not support legal fees or damage awards incurred by staff who violate the Copyright Act; obtain Municipal Freedom of Information and Protection of Privacy Act ([MFIPPA](#)) permission(s) for any projects for which it may be required, when *using* resources that contain personal information
- adhere to the Public Performance guidelines as outlined in the Fair Dealing Guidelines;
- secure written permission before reproducing for distribution singularly or in volume, in part or as a whole, Board documents for use outside the Board;
- obtain the permission of their supervisor to officiate at athletic events or competitions or to act as workshop leaders, lecturers, or speakers to district school boards or educational institutions when their services are requested for events on regular school days;
- not receive any remuneration for services other than reimbursements for out-of-pocket expenses including, but not limited to, staff being used as actors in educationally-based video/television productions while working on Board time and being paid by the Board; and
- comply with the Conflict of Interest policy and procedure and;
- understand that the Board will not support legal fees or damage awards incurred by staff who violate the Copyright Act.

Students shall:

- understand that the Fair Dealing Guidelines apply to the resources they use in and out of school for educational purposes and that, under the guidance of teachers and school administration, all resources that may be reproduced by students must comply with Fair Dealing Guidelines; and
- understand and act in compliance with the Fair Dealing Guidelines as they apply to physical and digital reproduction such as, but not limited to, Engagement Platforms, Virtual Learning Environments (VLE), Learning Management Systems (LMS) or Content Management Systems (CMS), both within the Board infrastructure and beyond.
- Inform a staff member when engaging in intellectual property development that is pecuniary in nature while on school property or using Board resources;
- abide by copyright legislation; and
- understand that the Copyright Act permits students with special needs to make a copy in certain formats to support their learning needs; and that they can obtain further information through the [Ontario with Disabilities Act](#).

External Partners and members of the public shall:

- understand that under common law, unless otherwise agreed upon in writing, the Board retains ownership of the commodity, where the Board's resources or expertise are used to create a product or practice that may have commercial significance;
- understand the opportunities and constraints of copyright Fair Dealing Guidelines as they apply to reproducing materials for learning and working with schools to ensure compliance with regulations;

- understand that any for-profit products created as a result of an agreement become the joint property of the developer and the York Region District School Board as spelled out in the agreement unless otherwise agreed to by the Director; and
- understand that any product developed as part of a partnership will be made available to the York Region District School Board at no cost for internal use only.
- comply with the all relevant Board policies and procedures including Intellectual Property, Copyright and Professional Services and legislation.

History

Working Document December 2012

Revised October 2013

Revision drafted March 19, 2018