



Ontario Catholic School
Trustees' Association

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Patrick Daly, *President*
Beverley Eckensweiler, *Vice President*
Nick Milanetti, *Executive Director*

July 12, 2017

TO: Chairpersons and Directors of Education
- All Catholic District School Boards

FROM: Patrick Daly, President

SUBJECT: Copyright Act Review

As you are aware, the federal government will be reviewing the Copyright Act later this fall. This legislation was amended in 2012 to change the fair dealings provision of the Act that allowed teachers' use of copyright protected works in small quantities. The Supreme Court of Canada in July 2012 issued a decision outlining the requirements of fair dealings in support of the amendments to the Copyright Act.

Access Copyright and various publisher groups are currently lobbying the federal government and various Members of Parliament across Canada in an effort to reopen the fair dealings provision in the Copyright Act as it applies to education. This could have a negative impact on school boards and the education sector across Canada by forcing the payment of royalties to publishers for any copying of materials.

In an effort to assist the Council of Ministers of Education, and CMEC Copyright Consortium, OCSTA has sent the attached letters to the key Ministers responsible for the review of the Copyright Act this fall. These letters may be useful in any discussions on these matters boards may have with their local federal Member of Parliament.

We extend our thanks to Elizabeth Crowe, Vice Chair, York Catholic District School Board, for her on-going and important work with the CMEC.

If you have any questions, please do not hesitate to contact me or Stephen Andrews at sandrews@ocsta.on.ca.

Attachments



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July 11, 2017

The Honourable Navdeep Bains, MP
Minister of Innovation, Science and Economic Development
House of Commons
Ottawa ON K1A 0A6

RE: Review of the Canadian Copyright Act

Dear Minister Bains:

I am writing to you and your colleague, the Honourable Mélanie Joly, Minister of Canadian Heritage, in your capacity as ministers jointly responsible for the federal government's review of the *Copyright Act*.

The Ontario Catholic School Trustees' Association ("OCSTA") represents 29 Catholic District School Boards in Ontario. We support the principles of fair dealing that allow teachers in our elementary and secondary schools to use short excerpts from copyright-protected material for students in their classes. OCSTA is an active participant in the Copyright Consortium of the Council of Ministers of Education, Canada ("CMEC"), which promotes both fair dealing compliance and greater copyright awareness among teachers.

Fair dealing and copyright law directly affect educators from Kindergarten through postsecondary education. With provincial jurisdiction over education in Canada, OCSTA views the balance that was achieved with the 2012 changes to educational fair dealing as sound public policy. That balance supports learning, fosters innovation, and drives knowledge creation. It provides the framework for Canadian students to acquire the knowledge and skills needed to be competitive on the international stage.

Given that it has been only five years since the legislative amendments and the Supreme Court of Canada's decision respecting educational fair dealing were made, it is the position of OCSTA that reviewing this matter as part of the fall legislative review of the *Copyright Act* is unnecessary. There has been a decade of litigation—a prolonged Parliamentary process that included a contentious review of fair dealing and a Supreme Court decision that has interpreted how fair dealing applies in Canadian classrooms. Therefore, we are not in agreement with Access Copyright, educational publishers, and writers' groups who seek to reopen the fair dealing provision as it applies to education.

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Furthermore, fair dealing is still before the Federal Court, the Federal Court of Appeal, and the Copyright Board of Canada in three separate cases. These various litigious actions were initiated by the same groups that are now asking Members of Parliament to reopen the same fair dealing issues that have been, and continue to be, litigated in the courts.

For these reasons, it is OCSTA's view that a re-examination of the fair dealing provision as it applies to education as part of the federal government's legislative review of the *Copyright Act* would create great uncertainty for our school boards and in the courts where this issue continues to be litigated.

OCSTA welcomes the opportunity to provide further input into the federal legislative review of the *Copyright Act* when it is announced later this year. We will be active within the CMEC Copyright Consortium in voicing its policy concerns about how copyright impacts our teachers, our students, and the quality of education in Canada.

Yours very truly,

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Patrick Daly
President



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The Honourable Melanie Joly, MP
Minister of Canadian Heritage
House of Commons
Ottawa ON K1A 0A6

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