

COPYRIGHT BOARD

Proposed Statement of Royalties to Be Collected for the Reproduction, Communication to the Public by Telecommunication or Making Available to the Public by Telecommunication, or the Authorization of any Such Act

In accordance PROPOSED TARIFF

Filed with section 70.14 of the Copyright Act, the Copyright Board hereby publishes the proposed statement of royalties filed by The Canadian Copyright Licensing Agency (by ACCESS COPYRIGHT on 2021-10-15 pursuant to subsection 67(1) of the Copyright Act

Proposed Tariff Title: Access Copyright) on March 28, 2019, with respect to royalties it proposes to collect for Elementary and Secondary School Tariff, 2023-2025

For the reproduction, and communication to the public by telecommunication of works in the repertoire of Access Copyright (including making such works available to the public by telecommunication, in a way that allows a member of the public to have access to them from a place and at a time individually chosen by that member of the public), in any form or by any method or process whatsoever, or the authorization of any such act, in Canada, of works in its repertoire by educational institutions and persons acting under their authority for the years 2020 to 2022 for the purposes of elementary or secondary education.

Effective Period: 2023-01-01 – 2025-12-31

ACCESS COPYRIGHT ELEMENTARY AND SECONDARY SCHOOL TARIFF, 2023-2025

[NOTE TO PROSPECTIVE USERS: ACCESS COPYRIGHT files the present tariff with the Copyright Board (the “Board”) for the first time since the decision of the Supreme Court of Canada in *York University v. Canadian Copyright Licensing Agency (Access Copyright)*, 2021 SCC 32, dated July 30, 2021 (the “York Decision”). As of the date of filing, the Supreme Court of Canada had also accepted leave in *Society of Composers, Authors and Music Publishers of Canada, et al. v. Entertainment Software Association, et al.*, file no. 39418, which raises questions as to the intended scope of the “making available” right in subsection 2.4(1.1) of the Copyright Act (the “Pending Appeal”).

The York Decision and the Pending Appeal, and other recent developments raise a number of issues, including the role of the Board and its processes, and the appropriateness of: (a) the Copyright Act’s historical framework for the collective administration of copyright in the current

environment of use of protected works; (b) the Act's current fair dealing provisions, particularly in regard to educational institutions; (c) the scope and valuation of the "making available" right and (d) the potential for copyright reform.

Notwithstanding the above, ACCESS COPYRIGHT maintains that its tariff proposal is fair and equitable by any measure, including in regard to the findings of the York Decision. However, given the potential for policy, legal or regulatory changes that could result from the York Decision, the Pending Appeal, or other copyright developments, ACCESS COPYRIGHT files its tariff with the recognition that modifications may be appropriate or necessary, and reserves the right to propose such changes or withdraw its proposed tariff in accordance with the Act and the Board's process as may be justified.]

PROPOSED STATEMENT OF ROYALTIES TO BE COLLECTED
BY THE CANADIAN COPYRIGHT LICENSING
AGENCY (ACCESS COPYRIGHT)

For the reproduction, and communication to the public by telecommunication of works in the repertoire of Access Copyright (including making such works available to the public by telecommunication, in a way that allows a member of the public to have access to them from a place and at a time individually chosen by that member of the public), in any form or by any method or process whatsoever, or the authorization of any such act, in Canada, in 2020 to 2022, of works in the repertoire of Access Copyright for the purposes of elementary or secondary education during the years 2023 to 2025.

Short Title

1. This tariff may be cited as the Access Copyright Elementary and Secondary School Tariff, 2020-2022/2023-2025.

Definitions

2. In this tariff,

“authorized person” means employees, agents or others acting under the authority of school boards or schools, including the teacher, staff, student or parent or guardian of the student; (« *personne autorisée* »)

“copy and/or communicate” means any reproduction, communication to the public by telecommunication or making available to the public by telecommunication, in any form or by any method or process whatsoever, or the authorization of any such act, including one that is made by, as a consequence of, or for the purpose of any of the following activities:

(a) photocopying, printing and xerography;

- (b) reproducing onto microform (including microfilm and microfiche);
 - (c) reproducing by
 - (i) typing or word-processing without adaptation,
 - (ii) hand transcription or drawing (including tracing) onto acetate or other media, and
 - (iii) duplicating from a stencil;
 - (d) reproducing by a machine, device or computer that makes a digital copy, including scanning;
 - (e) transmitting a published work by any means or process including by SMS (short message service), text, electronic mail or facsimile;
 - (f) copying onto or storing on a storage device or medium, including onto a computer, USB key (universal serial bus), tablet or other mobile device;
 - (g) providing access to a work including by posting, uploading, copying onto or storing on a secure network;
 - (h) transmitting or downloading from a secure network and copying onto or storing on a storage device or medium, including onto a computer, USB key, tablet or other mobile device;
 - (i) projecting an image using a medium or device, including a computer, tablet or other mobile device; or
 - (j) displaying on a medium or device, including a computer, tablet or other mobile device.
- (« *copie ou communiquer* »)

“course collection” means copies of published works in the repertoire assembled into paper course packs or into digital course packs or published works in the repertoire posted, uploaded, or stored on a secure network and made available to authorized persons. (« *recueil de cours* »)

“digital copy” means a reproduction of a published work in any digital form including on a medium or device, tangible or not, using information technologies be they electronic, magnetic, optical, wireless or other, or a combination of technologies. (« *copie numérique* »)

“educational institution” means a public educational institution and a private educational institution. (« *établissement d’enseignement* »)

“FTE determination date” means the date as of which the number of full-time equivalent students is calculated for any given year. (« *date de détermination de l’ÉTP* »)

“full-time equivalent student” means a full-time student or the equivalent of one student qualifying as a full-time student of an educational institution. (« *étudiant équivalent à temps plein* »)

“library” means a resource or learning centre or any similar collection of published works that is operated under the authority of a licensee. (« *bibliothèque* »)

“licensee” means any ministry, school board, public educational institution or private educational institution licensed pursuant to this tariff and persons acting under their authority. (« *titulaire de licence* »)

“minister” means the person appointed as responsible for a ministry. (« *ministre* »)

“ministry” means Alberta Education; British Columbia Ministry of Education; Manitoba Education and Training; New Brunswick Department of Education and Early Childhood Development; Newfoundland and Labrador Department of Education and Early Childhood Development; Nova Scotia Department of Education and Early Childhood Development; Northwest Territories Department of Education, Culture and Employment; Nunavut Department of Education; Ontario Ministry of Education; Prince Edward Island Department of Education, Early Learning and Culture; Saskatchewan Ministry of Education; Yukon Department of Education; or any successor or substituted ministry resulting from a reorganization of the government of a province or territory. (« *ministère* »)

“private educational institution” means an institution providing primary, elementary or secondary school programming that is not a public educational institution. (« *établissement d’enseignement privé* »)

“public educational institution” means any institution providing primary, elementary or secondary school programming funded by a minister, ministry or school board and operated under the authority of a minister, ministry or school board. (« *établissement d’enseignement public* »)

“published work” means a literary, dramatic or artistic work protected by copyright in Canada, of which copies have been made available to the public. (« *œuvre publiée* »)

“repertoire” includes all published works by any author or publisher, estate of an author or publisher or other person with a copyright interest in a given published work who, by assignment, grant of licence or by appointment as an agent or otherwise, has authorized Access Copyright to collectively administer the reproduction right, the communication to the public by telecommunication or making available to the public by telecommunication right in and to that published work, and/or all published works authorized by another collective management organization. (« *répertoire* »)

“secure network” means an electronic network, Internet or other digital network, learning management system, or cloud-based storage service that is operated or used by the ministry, school board or educational institution, or for the ministry, school board or educational institution, that is designed to be accessible only to persons authorized by the licensee. (« *réseau sécurisé* »)

“school board” means a school board, school district, divisional education council, conseil scolaire or similar entity or organization established by, and operating under, the authority of a minister or ministry. (« *commission scolaire* »)

“school year” means from September 1 to August 31. (« *année scolaire* »)

“year” means a calendar year. (« *année* »)

Application

3. (1) Subject to subsection 3(2) and section 4, this tariff entitles an authorized person to copy

and/or communicate published works in the repertoire, for any not-for-profit purpose within or in support of the mandate of educational institutions in Canada, including

- (a) educational (including testing and examination activities), professional, research, archival, administrative and recreational activities;
- (b) communicating with and the provision of information to parents or guardians, school advisory/parent councils and other members of the community served by an educational institution;
- (c) production of teacher implementation documents, correspondence school and distance learning courses, curriculum documents, workshop packages, provincial examinations and all other similar activities; and
- (d) making a reasonable number of copies for on-site consultation in a library or loan by a library.

(2) Subject to section 4, an authorized person may only

(a) copy and/or communicate, including for use in a course collection, up to 15 per cent of a published work in the repertoire, provided that such limit may be exceeded in respect of

- (i) an entire newspaper article or page,
- (ii) an entire single short story, play, essay, article or poem from a published work that contains other published works,
- (iii) an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work,
- (iv) an entire reproduction of an artistic work (including drawings, paintings, prints, photographs and reproductions of works of sculpture, architectural works of art and works of artistic craftsmanship), from a published work that contains other published works,
- (v) one chapter, provided it is no more than 20 per cent of a book, and
- (vi) up to 100 per cent of reproducibles such as blackline masters; and

(b) except where otherwise stated, copy and/or communicate published works in the repertoire that are sufficient to permit each student to have one copy only for his or her personal use and each teacher to have two copies.

(3) Subject to subsection 3(2) and section 4, this tariff entitles ministries and persons acting under their authority to copy and/or communicate published works in the repertoire for inclusion in tests or examinations or in distance education materials.

4. (1) There shall be no repeated, systematic or cumulative copying and/or communicating from the same published work in the repertoire beyond the limits set out in paragraph 3(2)(a) for one course of study or program in one school year or over time for retention in files maintained by a library or any individual making copies and/or communicating under the authority of a licensee.

(2) Copies and/or communications of published works in the repertoire shall not be made

available, distributed, or transmitted to a person who is not an authorized person.

(3) Copies and/or communications of published works in the repertoire shall not be made available or used in a manner that would infringe the moral rights of any author, artist or illustrator.

(4) Copies and/or communications of published works in the repertoire shall not be sold for an amount that exceeds the direct cost of producing and distributing such copies and/or communications, including an allowance for the royalties payable under this tariff.

(5) Copies and/or communications of published works in the repertoire shall not be used in connection with advertising products and services.

(6) Copies and/or communications of published works in the repertoire shall only be made from published works that are lawfully obtained by the authorized person making or communicating the copies, but without violating any licensing or other contractual terms with any person that prohibit such copying or communicating.

(7) Digital copies shall not be made available, distributed, or transmitted on any computer, computer network, or other digital network in such a way as to be made publicly available or accessible otherwise than by a secure network.

(8) Nothing in this tariff authorizes any person to descramble a scrambled work or decrypt an encrypted work or to otherwise avoid, bypass, remove, deactivate, impair, or otherwise circumvent a technological measure that restricts or controls access to, copying of, retention of, distribution of, or transmission of a published work in the repertoire.

Attribution

5. To the extent possible, copies and/or communications of published works in the repertoire used pursuant to this tariff shall include, on at least one page, a credit to the author, artist or illustrator, and to the source.

Notification of the Terms and Conditions of Copying and/or Communicating

6. Access Copyright may provide, for free, a notice in the form set out in Appendix A. Each licensee shall affix the notice within the immediate vicinity of each machine or device used for making, viewing or transmitting copies of published works in the repertoire in a place and manner that is readily visible and legible to persons using such machine or device.

Royalties

7. (1) The licensee shall pay an annual royalty to Access Copyright, calculated by multiplying the royalty rate of \$5.50 by the number of its full-time equivalent students.

(2) Royalties shall be calculated on an annual basis with reference to full-time equivalent student statistics provided pursuant to subsection 8(4).

Reporting and Payment

8. (1) Royalties shall be payable in two equal instalments.

(2) The first instalment shall be paid on or before the later of April 30 of each year and 60 days after the licensee has received the invoice required pursuant to subsection 8(5) in respect of that instalment.

(3) The second instalment shall be paid on or before the later of October 31 of each year and 60 days after the licensee has received the invoice required pursuant to subsection 8(5) in respect of that instalment.

(4) The licensee shall deliver to Access Copyright a written notice specifying the number of full-time equivalent students, as of the FTE determination date, in the current school year by no later than January 31 of each school year.

(5) Access Copyright shall issue to the licensee invoices setting out the manner in which the royalties were calculated and the amounts payable on each of the instalment dates specified in subsections 8(2) and 8(3).

(6) Royalties payable under this tariff are exclusive of any federal, provincial, or other governmental taxes.

Interest on Late Payments

9. Any amount not received by the due date shall bear interest from that date until the date the amount is received. Interest shall be calculated daily, at a rate equal to one per cent above the Bank Rate effective on the last day of the previous month (as published by the Bank of Canada). Interest shall not compound.

Bibliographic Surveys

10. (1) Once every school year, Access Copyright may advise all licensees of its intention to conduct a paper and digital bibliographic survey in educational institutions under their authority.

(2) Within 10 days of receiving a notice pursuant to subsection 10(1), a licensee shall provide to Access Copyright the name, address, grade levels and enrolment of each educational institution that is under its authority.

(3) Within 10 days of receiving the list requested pursuant to subsection 10(2), Access Copyright shall provide to each licensee a list of the educational institutions under its authority that Access Copyright intends to include in the survey.

(4) Within 10 days of receiving a list pursuant to subsection 10(3), a licensee may advise Access Copyright that an educational institution is, on reasonable grounds that shall be provided to Access Copyright, unable to participate in the survey.

(5) Within 7 days of receiving a notice pursuant to subsection 10(4), Access Copyright may

provide to the licensee the name of another educational institution it wishes to survey. Subsection 10(4) then applies, with any necessary modifications, in respect of that other educational institution.

(6) Within 10 days after the list of educational institutions to be surveyed is finalized, a licensee shall supply to Access Copyright, with respect to each such educational institution, the name, address, telephone number and, where available, the email address of the school principal or of the person who will coordinate the survey within the educational institution, unless the information was on the list supplied pursuant to subsection 10(2).

(7) Within 10 days after the list of educational institutions to be surveyed is finalized, a licensee that is not a school board shall send to the director of education of each school board responsible for an educational institution to be surveyed a letter substantially in the form set out in Appendix B and a copy of Appendix D. The licensee shall send a copy of the letter to Access Copyright.

(8) No less than 15 days after the list of educational institutions to be surveyed is finalized and no later than 30 days before the survey period for an educational institution, Access Copyright shall send to the director of education for the educational institution a letter substantially in the form set out in Appendix C and attach Appendix D to the letter.

(9) Within 5 school days of receiving a letter pursuant to subsection 10(8), a director of education shall send to the principal of each educational institution mentioned in the letter a memorandum substantially in the form set out in Appendix D.

(10) Within 10 school days of receiving a letter pursuant to subsection 10(8), a director of education may advise Access Copyright that an educational institution is, on reasonable grounds that shall be provided to Access Copyright, unable to participate in the survey.

(11) Within 5 days of receiving a notice pursuant to subsection 10(10), Access Copyright may provide to the director of education the name of another educational institution it wishes to survey. Subsection 10(10) then applies, with any necessary modifications, in respect of that other educational institution.

(12) No less than 10 school days before the start of the survey period for an educational institution, Access Copyright shall send to the educational institution a letter substantially in the form set out in Appendix E.

(13) A paper survey shall last 10 consecutive school days. During the survey, an educational institution shall make a copy of the page of each copied published work that contains the most bibliographic information and shall indicate, on a sticker supplied by Access Copyright and to be affixed to the back of the copy, the date the copy was made, the number of original pages copied from the published work and the number of sets of copies made.

(14) A digital survey shall last 20 consecutive school days. A digital survey shall cover all digital

copies of published works made available to authorized persons on a secure network during the survey period. Staff at the educational institution shall provide Access Copyright with a digital copy of all digital copies of published works made available to authorized persons on a secure network during the survey period and the corresponding number of authorized persons that had access to each digital copy during the survey period. If available, they shall also provide metadata containing any bibliographic information.

(15) A representative of Access Copyright may, with the prior authorization of the principal of the educational institution being surveyed, monitor the conduct of all or part of the survey. The authorization shall not be unreasonably withheld. Before granting the authorization, the principal may require Access Copyright to provide information required by law or pursuant to school board policy regarding access to school premises.

(16) The information set out in subsections 10(13) and 10(14) shall be provided to Access Copyright no later than 14 days after the end of the survey period.

(17) An educational institution that has participated in a survey during a school year cannot be surveyed in the next two school years.

(18) An educational institution that unreasonably refuses to participate in the survey, that unreasonably withholds the authorization mentioned in subsection 10(15) or that otherwise does not comply with this section ceases to be entitled to the benefit of this tariff until it so complies.

Records and Audits

11. (1) The licensees shall keep and preserve, for a period of six years after the end of the school year to which they relate, records (which may include internal audits) from which the royalties payable pursuant to this tariff can be readily ascertained.

(2) No more than once per school year, Access Copyright may audit these records on seven days' written notice to the licensees and during normal business hours.

(3) Access Copyright shall, upon receipt, supply a copy of the report of the audit to the licensee which was the subject of the audit.

(4) If an audit discloses that royalties due have been understated in respect of any instalment by more than 10 per cent, the licensee shall pay the reasonable costs of the audit.

Adjustments

12. Adjustments in the amount of royalties owed (including overpayments) as a result of the discovery of an error or otherwise, shall be applied to the next invoice issued by Access Copyright to the licensee or, if the tariff no longer applies, within 60 days.

Addresses for Notices and Payment

13. (1) Anything that a licensee sends to Access Copyright shall be sent to

President & CEO, Access Copyright
The Canadian Copyright Licensing Agency
69 Yonge Street, Suite 1100
Toronto, Ontario
M5E 1K3
Telephone: 416-868-1620
Fax: 416-868-1621
Email: schooltariff@accesscopyright.ca

(2) Anything that Access Copyright sends to a licensee shall be sent to the last address of which Access Copyright has been notified in writing.

Delivery of Notices and Payments

14. (1) A notice may be delivered by hand, by postage-paid mail, by fax or by email. A payment may be delivered by hand, by postage-paid mail or by electronic bank transfer.

(2) Anything mailed in Canada shall be presumed to have been received three business days after the day it was mailed.

(3) Anything sent by fax, by email or by electronic bank transfer shall be presumed to have been received on the first business day following the day it is transmitted.

Transitional Provisions

15. (1) Amounts due or overpaid as a result of the certification of this tariff shall be paid [insert date immediately following the publication of the tariff]. These amounts shall be increased by using the multiplying interest factors (based on the Bank Rate as published by the Bank of Canada) set out in the following table with respect to each period [insert table with applicable Bank Rate]:

APPENDIX A

Under the ~~Access Copyright Elementary and Secondary School Tariff, 2020-2022~~2023-2025, employees of school boards and educational institutions may make available, distribute or transmit paper and digital copies, including for use in a course collection, for school purposes, of excerpts of up to 15 per cent of a published work in the repertoire of Access Copyright, provided that such limit may be exceeded in respect of

an entire newspaper article or page;

an entire single short story, play, essay, article or poem from a work that contains other works;

an entire entry from an encyclopaedia, annotated bibliography, dictionary or similar reference work;

an entire reproduction of an artistic work from a work that contains other works;

one chapter, provided it is no more than 20 per cent of a book; and up to 100 per cent of reproducibles such as blackline masters.

Employees must

ensure, to the extent possible, that the author's name and the source appear on at least one page of the paper and/or digital copy;

limit the number of paper and/or digital copies to one per student, two for the teacher and a reasonable amount for administrative purposes, to contact parents or to allow on-site consultation or loan at a library; and

only make paper and digital copies of published works that are lawfully obtained and without violating any licensing or other contractual terms with any person that prohibit such copying.

The tariff does NOT authorize employees to

intentionally "split" paper and/or digital copying runs to exceed the limits mentioned above;

make available, distribute or transmit paper and/or digital copies to a person who is not authorized;

make or use the paper and/or digital copies in a manner that would infringe the moral rights of any author, artist or illustrator;

sell paper and/or digital copies for an amount that exceeds the direct cost of producing and distributing the copies;

use paper and/or digital copies in connection with advertising products or services;

make available, distribute or transmit digital copies on any computer, computer network, or other digital network in such a way as to be made publicly available or accessible otherwise than by a secure network; and

descramble a scrambled work or decrypt an encrypted work or to otherwise avoid, bypass, remove, deactivate, impair, or otherwise circumvent a technological measure that restricts or controls access to, copying of, retention of, distribution of, or transmission of a published work in the repertoire of Access Copyright.

Questions?

Please contact: [CONTACT INFORMATION FOR PERSON WHO DEALS WITH COPYRIGHT ISSUES FOR THE INSTITUTION OR SCHOOL BOARD]

APPENDIX B

Letter to Directors of Education [Access Copyright Tariff, subsection 10(7)]

[~~DATE~~DATE]

[~~ADDRESSEE~~ADDRESSEE]

Director of Education

X School Board

[~~ADDRESS~~ADDRESS]

Dear [~~ADDRESSEE~~ADDRESSEE]:

RE: Bibliographic Survey of Selected Schools

As you may be aware, the Copyright Board of Canada has certified a tariff for the reproduction, communication to the public by telecommunication or making available to the public by telecommunication, and authorization of works in the repertoire of Access Copyright by educational institutions. Schools which are entitled to the benefit of the tariff, through payment of royalties to Access Copyright, may be asked to participate in a paper and digital bibliographic survey of material copied under the tariff. That survey allows Access Copyright to distribute the royalties collected to the appropriate creators and publishers.

Access Copyright is entitled to survey schools every year. Individual schools can only be surveyed once every three school years. The paper survey lasts ten consecutive school days. The digital survey lasts twenty consecutive school days.

During the course of the school year, you will receive one or more letters from Access Copyright informing you of the dates during which the following schools within your board's jurisdiction will be surveyed:

[~~SCHOOL X~~]

[~~SCHOOL Y~~]

[~~ETC. AS REQUIRED~~SCHOOL X]

[SCHOOL Y]

[ETC. AS REQUIRED]

Enclosed with the Access Copyright letter will be a memorandum to be sent to the principal of each school listed above, informing them of the conduct of the survey. A copy of this memorandum is also attached to this letter for your convenience. The tariff requires that you send these memoranda within five school days of receiving the Access Copyright letter.

Your cooperation and participation in this process help to reinforce the importance of copyright awareness in our schools.

Please note that at Access Copyright's discretion, and after being authorized by the school principal, pre-screened and pre-authorized Access Copyright representatives may monitor the

survey process.

Sincerely,

~~[SENDER NAME AND TITLE]~~SENDER NAME AND TITLE]

c.c. Access Copyright

APPENDIX C

Access Copyright Letter to Directors of Education [Access Copyright Tariff, subsection 10(8)]

~~[DATE]~~DATE]

~~[ADDRESSEE]~~ADDRESSEE]

Director of Education

X School Board

~~[ADDRESS]~~ADDRESS]

Dear ~~[ADDRESSEE]~~ADDRESSEE]:

RE: Bibliographic Survey of Selected Schools

As you may be aware, the Copyright Board of Canada has certified a tariff for the reproduction, communication to the public by telecommunication or making available to the public by telecommunication, and authorization of works in the repertoire of Access Copyright by educational institutions. Schools which are entitled to the benefit of the tariff, through payment of royalties to Access Copyright, may be asked to participate in a paper and digital bibliographic survey of material copied under the tariff. That survey allows Access Copyright to distribute the royalties collected to the appropriate creators and publishers.

Access Copyright is entitled to survey schools every year. Individual schools can only be surveyed once every three school years. The paper survey lasts ten consecutive school days. The digital survey lasts twenty consecutive school days.

~~[IF THE DIRECTOR OF EDUCATION RECEIVED A LETTER PURSUANT TO SUBSECTION 10(7), ADD THE FOLLOWING]:~~ On [DATE], [NAME], [TITLE]~~[IF THE DIRECTOR OF EDUCATION RECEIVED A LETTER PURSUANT TO SUBSECTION 10(7), ADD THE FOLLOWING]:~~ On [DATE], [NAME], [TITLE], advised you that during the course of the school year, you would receive one or more letters from Access Copyright informing you of the dates during which certain schools within your board's jurisdiction would be surveyed.

This letter is to inform you that Access Copyright now intends to conduct the paper and digital bibliographic survey in the following schools within your board's jurisdiction, at the dates indicated:

~~[SCHOOL X]~~

~~[SCHOOL Y]~~

~~[ETC. AS REQUIRED]~~ SCHOOL X

[SCHOOL Y]

[ETC. AS REQUIRED]

~~[OMIT IF NOT REQUIRED]~~ [OMIT IF NOT REQUIRED] As you know, other schools within your school board are also to be surveyed. You will receive a letter later on, advising you of the dates on which those other surveys will be conducted.

Enclosed with this letter you will find a memorandum to be sent to the principal of each school listed above, informing them of the conduct of the survey. The tariff requires that the principal of each school be sent this memorandum within 5 school days of receiving this letter.

Please note that at Access Copyright's discretion, and after being authorized by the school principal, pre-screened and pre-authorized Access Copyright representatives may monitor the survey process.

On behalf of Canadian creators and publishers, thank you in advance for supporting this important work. If at any time you have questions or concerns about the survey, please do not hesitate to contact [NAME NAME] at 1-800-893-5777 or 416-868-1620.

Sincerely,

~~[SENDER NAME AND TITLE]~~ SENDER NAME AND TITLE

APPENDIX D

*Memorandum from Directors of Education to Principals of surveyed educational institutions
[Access Copyright Tariff, subsections 10(7), (8), (9)]*

TO: ~~[PRINCIPAL]~~ PRINCIPAL, X School

FROM: ~~[DIRECTOR OF EDUCATION]~~ DIRECTOR OF EDUCATION

DATE:

RE: Bibliographic Survey of Paper and Digital Material Copied ~~[DATES OF SURVEY PERIOD]~~ DATES OF SURVEY PERIOD

The Copyright Board of Canada has certified a tariff for the reproduction, communication to the public by telecommunication or making available to the public by telecommunication, and authorization of works in the repertoire of Access Copyright by educational institutions. All schools which are entitled to the benefit of the tariff, through payment of royalties to Access Copyright, have certain obligations with respect to the survey of material copied under the tariff.

Please note that your school has been selected to participate in a Canada-wide paper and digital bibliographic survey of material copied. This survey allows Access Copyright to distribute the

royalties collected to the appropriate creators and publishers.

You will soon be contacted by Access Copyright. This will begin the process for your school's participation in the survey.

At Access Copyright's discretion, and after being authorized by the school principal, pre-screened and pre-authorized Access Copyright representatives may monitor the survey to take place at your school.

Your participation in this endeavour is appreciated. Questions can be directed to your Director of Education's office, to the Ministry of Education, or to your school board, at [~~INSERT CONTACT INFORMATION FOR EACH OF ABOVE~~ INSERT CONTACT INFORMATION FOR EACH OF ABOVE].

APPENDIX E

Access Copyright letter to schools [Access Copyright Tariff, subsection 10(12)]

As you already know, your school has been selected to participate in Access Copyright's paper and digital bibliographic survey of material copied this year.

The survey will be carried out by Access Copyright in accordance with the tariff certified by the Copyright Board of Canada. A copy of the tariff is enclosed for your information.

The paper survey will start on [~~DATE~~DATE] and will last for ten consecutive school days. The digital survey will start on [~~DATE~~DATE] and will last for twenty consecutive school days. The purpose of the survey is to ensure that the correct creators and publishers are paid for those works which are copied. The results, along with those collected from other school jurisdictions, establish the fairest possible basis for the distribution to copyright holders of royalties that are collected from the tariff. Creators and publishers depend on royalties from their works, just as others rely on a salary or business income.

Survey materials will be sent to your school during the week preceding the survey period. Bilingual material will be sent upon request.

A representative from your school will be responsible for informing your staff of the purpose of the paper bibliographic survey, for placing the survey materials next to photocopiers and for making sure that survey materials are accessible at all times during the survey period.

At Access Copyright's discretion and after being authorized by the school's principal, pre-screened and pre-authorized Access Copyright representatives may monitor the implementation of the survey. Such authorization cannot be unreasonably withheld.

For the paper survey all copyright material copied (covered by the tariff or not), users will be asked to make a copy of the page of each copied published work that contains the most bibliographic information and shall indicate, on a sticker supplied by Access Copyright and to be affixed to the

back of the copy, the date the copy was made, the number of original pages copied from the work and the number of sets of copies made. This information will be placed in a box adjacent to the photocopier.

Technology permitting, and at the discretion of the school, alternative delivery methods (e.g. storing a second copy of the transactions on a hard drive, electronic transmission of the same over the Internet) could be implemented.

The information will be sent to Access Copyright at the end of your school's survey period at Access Copyright's expense.

A representative from your school will be responsible for informing your staff of the purpose of the digital bibliographic survey, including instructions on how to deliver the digital copies to the representative.

For the digital survey, a digital copy of all digital copies of copyright material (covered by the tariff or not) made available by the school to persons under its authority on a secure network during the survey period will need to be provided to Access Copyright with the corresponding number of authorized persons that had access to each copyright work. If available, you will also need to provide metadata containing any bibliographic information.

A representative from Access Copyright will be contacting you shortly. We will have two additional questions for you when we call. First, how many copiers are there in your school? We need this information if we are to deliver a sufficient number of survey kits to your school. Second, what is the name of the staff member at your school who will oversee the survey and act as Access Copyright's contact? We thank you for assembling this information now, in anticipation of our call.

On behalf of Canadian creators and publishers, thank you in advance for supporting this important work. If at any time you have questions or concerns about the survey, please do not hesitate to contact [~~NAME~~NAME] at 1-800-893-5777 or 416-868-1620.

Sincerely,

[~~SENDER NAME AND TITLE~~SENDER NAME AND TITLE]

c.c. School Board