



PDAD&C #15, 2013-14

To: PDAD&C
From: Cheryl Regehr, Vice President and Provost
Date: September 5, 2013
Re: **Update on Copyright Compliance at the University of Toronto**

PLEASE CIRCULATE WIDELY TO FACULTY MEMBERS AND STAFF.

With a new term commencing, it is a good time to provide you with an update on copyright compliance at the University of Toronto and on the options for faculty to make “in copyright” materials available to students.

The University takes its copyright obligations seriously. As such, we are committed to providing faculty, staff, and students with accurate and up to date copyright information. The copyright landscape in Canada has changed significantly in the last few years. In 2012, the Copyright Act was significantly amended, including among other things a broadening of educational use provisions. Also in 2012, the Supreme Court of Canada released a series of decisions that point to a broader and more generous interpretation of “user rights,” including fair dealing. There have been developments in the area of Open Access, and the expectations regarding copyright in the scholarly publishing world are evolving. Technology continues to change rapidly. The expectations of content creators and content users are being tested in a variety of ways, including in litigation.

Attached to this memo are links to a suite of resources that will assist you, as a faculty member or staff member, as you navigate these rapidly changing waters.

- [Copyright Basics and Copyright FAQs](#): This is a new, updated document that presents detailed information on your rights and obligations under Canadian Copyright Law and our license with Access Copyright.
- [Copyright Roadmap](#) (attached): This document lays out a brief set of steps to consider as you analyze a copyright issue.
- [Fair Dealing Guidelines](#): Published in 2012, these guidelines remain a very important tool in assessing fair dealing.
- [List of copy shops licensed by Access Copyright for printing and sale of course packs](#): Faculty should only use these licensed copy shops or the University of Toronto Bookstore operated by the University of Toronto Press for paper coursepack printing and distribution. It is important to note that the University continues to work closely with the University of Toronto Bookstore to provide course materials to students. To produce a paper coursepack, faculty members can contact their usual textbook coordinator at the Bookstore who can explain the process or

contact CSPI directly at 416-929-2774 or email info@coursepack.ca. Please note that when paper coursepacks are not pedagogically necessary, you will be able to save students money by linking in Blackboard directly to resources licensed by the library or by scanning a document directly into Blackboard as permitted under the Fair Dealing Guidelines or our Access Copyright license. Please refer to the [Copyright Basics and Copyright FAQs site for more detailed information](#).

- Please do not hesitate to contact Bobby Glushko, the Scholarly Communications and Copyright Librarian, at copyright@library.utoronto.ca with any copyright related questions.

We hope that these resources are of assistance.

Copyright Roadmap

It can be easy to get overwhelmed by the complexity of copyright regulation, but here are some basic steps to consider as you analyze copyright issues:

1. Is the material “in copyright”?

The Copyright Act provides that copyright subsists in every original literary, dramatic, musical and artistic work, in most cases for the life of the author plus 50 years. Copyright also subsists in certain “non-traditional” subject matter, such as performer’s performances, sound recordings, and broadcast signals, where the clock starts running from the first performance. So, a first step is to consider whether copyright applies at all. Much of the material that you will use will fall within Canadian copyright protection.

2. Does permission exist in the form of a license?

The University has licensed a huge amount of material, and it also (until December 31, 2013, subject to negotiations regarding renewal) has a broad license from Access Copyright, the collective that administers copyright on behalf of a very large number of authors. If the material is licensed, and the use that you propose is permitted by the license (two separate questions) then you will be able to use the material without further permission or payment. Here is where you can go to check whether the material is licensed: <http://www.accesscopyright.ca/look-up-tool>.

3. Whether or not it is licensed, is the proposed use a “substantial use”?

Here is where it can get complicated. Copyright only applies to the reproduction of the work “or a substantial part thereof” (s. 3 of the Copyright Act). Copying that is not substantial does not require permission or further payment. But, what is substantial is a matter of degree and context. For more guidance on how to ascertain if the proposed reproduction is substantial, please refer to the Fair Dealing Guidelines: <http://www.provost.utoronto.ca/Assets/Provost+Digital+Assets/26.pdf>.

4. Fair Dealing

In the educational context, there is considerable scope for copying, without the necessity of seeking permission from the rights holder, where the copying would be considered “fair dealing” within the meaning of the Copyright Act. To fall within this exception the dealing must be for an allowable purpose: research, private study, education, parody, satire, criticism or news reporting. And the dealing itself must be “fair” having regard to: the purpose of the dealing; the character of the dealing; the amount of the dealing; the nature of the work; available alternatives to the dealing; the effect of the dealing on the work. This is obviously a fact-specific, nuanced assessment. But see the Fair Dealing Guidelines, and section 4 in particular, for more information: <http://www.provost.utoronto.ca/Assets/Provost+Digital+Assets/26.pdf>.

5. Coursepacks

Many faculty members have chosen to reduce the use of coursepacks, and upload material to the secure environment of Blackboard for course use. Others, for pedagogical reasons, prefer to continue with paper coursepacks. At present, the Access Copyright License provides good ability to upload material without additional charges. And even if the License is not renewed the Library possesses a large number of licenses that permit such uploading. But if you choose to use a coursepack, it is ensure that you follow a method that complies with copyright. For any material in the Access Copyright repertoire you can use one of the local licensed copy shops identified here: <http://onesearch.library.utoronto.ca/sites/default/files/copyright/Authorized%20Copyshops%20for%20U%20of%20T%20Aug%20%2012-13.pdf>. Or you may choose to use the UTSC copy shop, which is licensed by Access Copyright. Or you may choose to use the U of T Bookstore, at the St. George Campus, which arranges production through a licensed entity. Obviously, it is of benefit to the University if you use either the Bookstore or the UTSC copy shop, but provided that you respect copyright, you can use the method that best suits your needs.

6. What does the future hold?

It should not be any surprise that in the information age there is greater attention than ever before being paid to issues like creators' rights, copyright, open access, and related matters. This attention gets focussed in different ways, such as legislation, litigation, technological development, and scholarly norms and expectations. You, as both a content creator and a content user, and, especially, as a faculty member in an institution devoted to teaching and research, have a vital role to play in these developments, but that role will require more attention and care than may have occurred previously, and greater use of our excellent resources, both within the Library and elsewhere.