Copyright at MRU
Frequently Asked Questions

Mount Royal University has made the decision to operate outside the proposed Access Copyright Tariff and to align its policies and procedures to the rights and responsibilities found in the Canadian copyright legislation.\(^1\) As such there are a number of changes that may affect your teaching practices in the classroom. The greatest impact will be felt in the area of course packs, in class handouts and library reserves.

The following document outlines the key changes and provides some clarity around the use of copyrighted material in the educational setting.

If you have additional questions about copyright that are not answered in this document please feel free to submit your request for information via MRUcopyright@mtroyal.ca or contact Carol Shepstone, University Librarian.

\(^1\) The University’s decision to sign on to the interim tariff implemented by the Copyright Board of Canada on December 23 2010 is only intended to extend our educational timeframe and allow time for reviewing the impact of these changes.
Course packs

The Bookstore will continue to handle faculty requests for course packs and will follow the established deadlines for submissions. Items requested for inclusion in course packs will be checked against the Library holdings. Persistent links to any electronic resources already purchased by the Library will be provided to faculty members for inclusion in Blackboard course sites. Library reserve staff will be happy to assistance with any linking questions. The Bookstore will seek direct permission from copyright holders for any remaining course pack items unavailable through Library e-resources. Permissions will be sought for both print and digital formats for each item, giving students a choice between purchasing a “traditional” print course pack or, where available, a “key” to a digital version.

In order to maximize the use of e-resources already purchased by the University through the Library, and to ensure convenience and reduced costs for students, faculty should use linked reading lists whenever possible and practical.

Is the copyright holder the same as the author of a work?

No. The copyright holder may be the author of the work or may be the publisher, if the author has signed over copyright. In most cases, copyright of a published work is held by the publisher unless an author has exercised the option to retain some rights through an author’s addendum (e.g. from a publisher, or SPARC Canadian Author Addendum) or through other licensing arrangements such as Creative Commons.

If I am the author of a work, do I need to ask permission to use the work in a course pack?

If you hold copyright then you have the authority to grant permission for the use of the work in a course pack, handout etc. If you have assigned your copyright to a publisher you do not have this authority.
Can I post a PDF of the digital article to my Blackboard site rather than link to the e-resource?

No. Posting a PDF is considered “distributing a copy” of a to your students and would fall outside what is permissible through fair dealing and other exceptions in the Copyright Act.

This restriction also applies to articles purchased by the Library in electronic format.

Linking to an e-resource however, is not considered “distribution of a copy” and therefore permissible – remember: *When in doubt…link it out!*

Can I link to a freely available internet resource on my Blackboard site without permission?

Yes. Although the content is protected under copyright (unless it is identified otherwise), a link to a resource or site does not constitute making or distributing a copy and is permissible unless a site expressly prohibits such linking.

Does it a matter if the internet source is legally posted or not?

Yes. You should not link to a resource that you know, or suspect, is not legally posted. If you have questions about a particular site or its content, please ask at MRUcopyright@mtroyal.ca.

Classroom Handouts

The Copyright Board of Canada and the Federal Court of Appeal (*Canadian Copyright Licensing Agency v. Alberta* 2006 FCA 108 Date: March 14, 2006) have held that the making of multiple copies to hand out to students for the purpose of education is not considered a “fair dealing” purpose under the Act. This is perhaps the biggest change in practice resulting from the operation outside of the tariff process. Alternatives to class handouts include: providing students with a citation to a print resource or a link to an e-resource (e-book chapter or article, etc.); projecting the article onto a screen in class (if practical); or seeking permission from the copyright holder for handouts (prior to distribution in class).
How can I get permission to distribute a copyrighted work as an in-class handout?

Permission needs to be sought directly from the copyright holder which is typically the author or the publisher. Permission should be sought and received in writing. Email is sufficient and all documentation should be retained.

In some cases, educational use is granted as a “blanket permission” with a notation on the publishers’ website. In other cases, a specific request will need to be made which includes information such as: your role and affiliation, citation for work, type of use (educational in class handouts, course of study), number of students using copied material, number of copies to be made, format of copy, etc. Given that these are educational uses we recommend requesting royalty-free usage in most cases. Copyright holders are of course within their rights to request a royalty payment of use, if they so choose.

MRU is currently exploring the viability and efficacy of providing a centralized permission clearance system for such requests.

Can I make copies of an article for my students as an in-class handout if I require the students to return the handout at the end of class?

No. The fact you are “taking back” the handout(s) does not change the fact that you have made and distributed multiple copies for instructional purposes for your students.

Can the students in a class assign their fair dealing rights to their professor to enable the professor to make copies to hand out to the students in class?

No. Under section 30.2 of the Copyright Act a library, archive or museum (as that term is defined in the Act) may, in limited circumstances, do anything on behalf of any person that that person could do under fair dealing. The section does not, however, extend to permit a university (through a professor) to make a fair dealing copy for a student. In this case, the fair dealing rights cannot be assigned.
What if I am handing out copies of my PPT slides and there are copyrighted images in the slides. Is that OK?

No. Section 29 (4) (reproduction for instruction) in the Copyright Act permits the creation of a copy for projection for instructional purposes in the classroom. In most cases the inclusion of copyright protected images in slides for projection would be allowed; however when these slides are printed and handed out to students in class, or are posted on the course Blackboard site it would be considered a contravention of the Act without the copyright holder’s permission.

Slides would need to be stripped of such images before distribution via printing or posting. For information please see the images section of this FAQ.

Do my students also have to follow these rules around handouts?

Yes. Students should be advised, when they are assigned class presentations or similar assignments, of the responsibilities associated with copyright compliance – particularly around in class handouts and video public performance rights.

A tip sheet for students is currently in development and will be posted on the Library’s and ADC’s copyright information pages.

Library Reserves

Photocopies of Library reserve items are also affected by recent legal decisions interpreting Canadian copyright legislation. Changes to reserve readings can be summarized as follows: whenever possible the Library will place an original (rather than a copy) of an item on reserve; Library reserve staff will provide persistent links to any e-resources the Library has already purchased, which may then be posted to Blackboard or other course websites. Where necessary, Library staff will seek permission from the copyright holder to copy items for reserve purposes. Faculty should be aware that additional time to seek permissions or purchase an original of the work may be required.
Can I put a textbook for my course on reserve?

Yes, original works can be placed on reserve without any concern for copyright. The Library currently reviews course textbook lists and places items held in the collection on reserve to ensure the best access for students.

Can I still put something I own on reserve in the Library?

Yes. The Library is happy to accept your personal copies, provided they are not complimentary sample textbooks for instructor review. No photocopied materials (book chapters, articles etc.) may be placed on reserve without copyright permission. In some circumstances, the Library may purchase original works to place on reserve; please speak to Library reserve staff about such purchases.

I have heard other institutions talking about e-reserves. Is this a service that Mount Royal University Library offers?

No. MRU Library does not currently offer an e-reserves service, where print documents are scanned to digital form for secure/locked posting on either Blackboard, or within the Library’s Integrated Library System.

Images (photos, graphs, diagrams, etc.)

Can I use the images from the course textbook for presentation slides and posting on Blackboard?

It depends. If the textbook expressly identifies that the images in the publication may be used in support of teaching and learning, then indeed, educational use of these images in other documents or presentations should be fine. If the textbook is silent on the matter, permission should be sought or confirmed. Projection in class would be permissible under section 29.4(1)(b) of the Copyright Act.
Posting presentations that contain copyright protected images to Blackboard course sites, would be considered distributing and/or making this work “public”, as Blackboard is outside the definition of the classroom. Permission would be required from the copyright holder. This would also be the case for email distribution or print handouts of such images.

**Where can I find images that do not require confirmed permission from the copyright holder?**

If you are creating a scholarly poster, website, or any work that will be distributed or otherwise made available to the public (even if it is just posted in Blackboard), you may only use images where you have obtained permission from the copyright holder or where the creator has explicitly stated how the image can be used (Creative Commons licenses, public domain images, etc.) For more information on good sources for such images please refer sources identified on the Library and ADC websites.

**Can I bring a movie from home or from a video store and show it in class?**

Yes, if the title falls within a Public Performance Rights (PPR) collective license currently held by the Library. To confirm MRU Library has PPR, for a DVD you want to show, please look for your title on our Audio Cine or Criterion agreements or contact the Library Media Desk at 403.440.6127.

**Do I need to get permission to show an episode of TV show or documentary that is freely available on the internet from the authorized or source site?**

Yes. Like purchased DVDs or other formats of videos, you need to ensure that public performance of the program is allowed, or PPR has been secured. Information on permissible uses is usually found on copyright or use sections of such websites. In some cases, permission to show content for educational purposes, or in an educational setting such as a classroom, is clearly granted right on the site. In other cases, permission use forms or email contacts are provided for easy permission seeking. Permissions may be granted for all videos on a site or may vary from video to video on the same site.
The Library is also happy to consider purchasing DVDs or streaming video products, with proper permissions for your use in the classroom, if it is available. As well, the Library can tape forthcoming television programs and procure the necessary permissions upon request; contact the Media Desk (403.440.6127) for details.

Can I embed YouTube videos in my class Blackboard site?

No, we recommend providing a link to the YouTube video rather than embedding the player. Embedding a player requires permission of YouTube and may create issues around creating copies. Linking to YouTube avoids these issues.

General

What does fair dealing, as defined in the Copyright Act, allow me to do as an individual faculty member, student, or staff member of the University?

Fair dealing is a key exception in the Copyright Act in Canada. This exception attempts to balance user and creator rights by allowing limited copying under specific circumstances; specifically research, private study, review, criticism and in some cases news reporting. Fair dealing is not defined in a prescriptive or detailed manner in the Act itself but rather relies on content of the Act and the six factor review found in the Supreme Court of Canada decision CCH Canadian Ltd. v. Law Society of Upper Canada, [2004] 1 S.C.R. 339, 2004 SCC 13, which recommends the following six factors be used to assess fair dealing on a case by case basis:

(a) the purpose of the proposed copying, including whether it is for research, private study, review or criticism;
(b) the character of the proposed copying, including whether it involves single or multiple copies, and whether the copy is destroyed after it is used for its specific intended purpose;
(c) the amount or proportion of the work which is proposed to be copied and the importance of that work;
(d) alternatives to copying the work, including whether there is a non-copyrighted equivalent available;
(e) the nature of the work, including whether it is published or unpublished; and  
(f) the effect of the copying on the work, including whether the copy will compete with the commercial market of the original work.

Why can’t I exercise the fair dealing exception to make copies for students?

Fair dealing is an exception in the Act that applies to individual use of copyright protected material. The Federal Court of Appeal, in \textit{(Canadian Copyright Licensing Agency v. Alberta 2006 FCA 108 Date: March 14, 2006)}, has held that the distribution of copied material for required instructional purposes is not fair dealing. As a result, copyright permission is required to distribute materials to students.

Under sections 3(1) and 27(1) of the \textit{Copyright Act} copyright is infringed if, without the consent of the owner of copyright, a work or any substantial part is reproduced. How is a substantial part determined?

The term “substantial part” is not defined in the \textit{Copyright Act}. The courts have held that both the quality and the quantity of what is copied must be considered, with the quality being more important than the quantity. In considering what constitutes a substantial part, a court will consider whether the alleged infringer has reproduced the distinct traits of the original work.

How will MRU’s operation outside the Access Copyright Tariff affect my ability to use copyrighted materials in my scholarship and in instructional development?

There should be little to no impact on your individual research and private study uses of material as this would generally be considered to fall under the \textit{fair dealing} exception provided in the \textit{Copyright Act}.

Who is responsible for complying with copyright legislation?
Everyone. All students and employees must abide by the requirements of the *Copyright Act* and are only permitted to make lawful copies of works. Not only is an unauthorized use of copyright works a violation of the law and subject to legal recourse, but it is also a breach of University policy.

**Alternate Formats for People with Disabilities**

According to the 32(1,2 and 3) of the *Copyright Act* it is not an infringement to make a copy of a work (other than a cinematographic work) in a format designed for a person with a perceptual disability provided it is not already commercially available in an appropriate format.

If you have specific questions about what would fall under this exception please do ask (MRUcopyright@mtroyal.ca)

**Background Information**

**Access Copyright’s proposed Tariff**


**Copyright Board of Canada – Decision and Terms of Interim Tariff**


**Copyright Legislation**