



## OFFICE OF LEGAL COUNSEL

### Access Copyright – What to Know

Most faculty and staff probably have at least a vague idea about what the rules are relating to the photocopying and use of published works but the importance of knowing and following those rules has recently increased; why the shift?

Over the past year, a dispute has been brewing between universities and Access Copyright concerning the costs or tariffs associated with the photocopying and use of some published works.

Access Copyright was created in 1988 by authors and publishers to manage the licensing fees and permissions needed to copy protected material for a fee. On October 13, 2010, Access Copyright filed an application with the Copyright Board of Canada for an interim tariff which would, effective January 1, 2011, increase the University of Guelph tariff costs from \$60,000 to \$800,000 per year. Obviously, those kinds of increases would have to be absorbed by an already cash-strapped institution or passed on to students.



#### What We Do:

- ◆ Contract & Legal Agreement reviews
- ◆ Advice to Senior Administration on wide range of issues
- ◆ Notary and Commissioner of Oath services for documents pertaining to **University business**
- ◆ Central legal contact for external parties including lawyers, paralegals and process servers

Steps were taken by universities through the Association of Universities and Colleges of Canada ('AUCC'), to oppose the proposed tariff. That process is still on-going yet in the meantime, some universities decided to sign an interim agreement with Access Copyright based on the existing tariff. Other universities, including the University of Guelph, decided not to re-sign, opting for self-management in obtaining necessary copyright permissions. It was anticipated that a number of the universities who proceeded under an interim agreement, would not re-sign when those agreements expired in August 2011.

As part of the University of Guelph's decision to proceed outside Access Copyright's tariff, the University advised faculty and staff of its decision and provided direction on the appropriate steps to be taken to avoid copyright infringement. That direction stated in part,

“copies made for the purpose of research, private study, criticism or review can continue to be made using the ‘fair dealing’ exception in the Copyright Act, as can copies made with the permission of the copyright owner. However, copying done for the purpose of teaching or instruction is not generally considered fair dealing. Consequently, faculty and staff making copies in paper or electronic formats without yet obtaining the permission of the copyright owner should seek assistance in order to ensure that their copying is not infringing. Members of the University community who have questions, require assistance in determining what can and can not be copied, or need to seek copyright permission, should email [fairdealing@uoguelph.ca](mailto:fairdealing@uoguelph.ca) or contact **Heather Martin** in the Library's **E-Learning and Resources** area, at **extension 54701**. Additional copyright information, including the University's Fair Dealing Policy, is also available on the Library's website. “

Any faculty or staff who, in the course of their responsibilities, make a copy of a work without obtaining proper permissions, could create legal liability for the University. The costs associated with that could be borne by everyone. Therefore, as another academic year begins, please refresh your understanding of the “do's and don'ts” related to copyright. It's in everyone's best interest.

#### Contact us:

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