



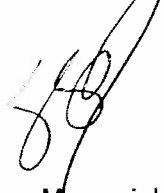
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MEMORANDUM

August 19, 2011

TO: Senior Academic Administrators Group (SAAG)

FROM: Grant Gardner, Associate Vice-President (Academic) and
Chair, Vice-President Academic's Copyright Committee 

SUBJECT: Copyright and Fair Dealing – Important Notice for the Memorial University
Community

Along with many other Canadian universities, Memorial University is changing the way we deal with copyrighted materials. For many years Memorial had a license with Access Copyright (AC) which allowed us to make copies of certain materials. Over time, as Memorial began to purchase more licenses directly from publishers (i.e. e-resources), the AC license decreased in value to the point where it was practically without value. In reaction to this situation AC applied to the Canadian Copyright Board for a tariff that would see each university pay \$45 annually per FTE student, up from \$3.38 annually per FTE student. The proposed tariff would also require each university to grant AC access to all records regarding copyrighted materials so that they may conduct surveillance of copying activities at the university. Memorial finds this increase in fees and proposed intrusion objectionable and has been working with legal counsel and the Association of Universities and Colleges of Canada (AUCC) to file objections to the proposed tariff.

In the meantime the Copyright Board granted an interim tariff which has been in place since early 2011. Canadian universities were given an option to operate outside of this tariff and risk potential litigation if copyright infringement was found to be occurring at the university. After a year of observation and preparation Memorial has decided to operate outside of the interim tariff effective August 31, 2011. Memorial is not alone in taking this step. More than 25 other Canadian universities have also notified AC of their intention to operate outside of the tariff including: Dalhousie University, University of New Brunswick, Acadia University, York University, University of Calgary, University of British Columbia, Queen's University, University of PEI and University of Manitoba.

In order to comply with the Copyright Act and Regulations all copying at Memorial (paper, digital or otherwise) must now be either permitted by the relevant license or, covered under the educational exceptions or fair dealing provisions found in the Copyright Act. This may change the way you as a teacher, researcher, student or staff will deal with copyrighted materials.

Memorial is working hard to provide all faculty, staff and students with the support they need to be compliant with the Copyright Act. For more information please look at Memorial's updated copyright webpage: http://www.mun.ca/copyright/copyright_clearance.php. This webpage presents the guidelines needed to use copyrighted materials in a way that is consistent with Memorial's new copyright regime. It is advised that all faculty, staff and students read this webpage carefully in order to avoid infringing activities. If you have any questions regarding copyright please contact Memorial's Copyright Office (address below). The Copyright Office will respond to your questions and provide you with advice on how to use copyrighted materials without infringing copyright.

In addition, during this transition period, the Vice-President Academic has established a Copyright Committee to oversee the transition and provide advice to our community regarding the appropriate use of copyrighted materials. The Offices of the Vice Presidents Academic and Administration and Finance, the Library, the Copyright Office, DELTS, Faculty Relations, the General Counsel and representatives from both Grenfell Campus and the MI are members of this Committee.

It is crucial that faculty, staff and students are compliant with Memorial's new copyright policies when making copies of copyrighted materials, whether paper, digital or otherwise. Failure to comply with the Copyright Act may result in serious consequences for the university and the individuals involved in any instance of copyright infringement. Materials that are not licensed for copying will have to be cleared through the Copyright Office (address below). Some materials may be copied pursuant to the fair dealing provisions in the Copyright Act. For information on fair dealing please see Memorial's Fair Dealing Policy available at http://www.mun.ca/copyright/fair_dealing_at_memorial.php or contact the Copyright Office. Although other organizations may endorse different interpretations of fair dealing, this Fair Dealing Policy has been formally endorsed by the Board of Regents at Memorial University. It is the policy that must be followed by all faculty, staff and students at Memorial.

Some areas where you will notice immediate changes include the creation of course packs and manuals, obtaining copies from Printing Services and distributing materials electronically.

If your course pack or manual was printed prior to August 31, 2011, with Copyright Office approval it is covered by the tariff and may be used for the upcoming semester. Any course packs created after August 31, 2011 must be accompanied by copyright clearances obtained through the Copyright Office (address below) using a Copyright Clearance Request Form available at http://www.mun.ca/copyright/copyright_clearance.php. Printing Services will have a revised Printing Requisition Form which requires that copyright clearances are obtained before copies of any materials will be printed.

All materials that are distributed electronically must also adhere to Memorial's copyright policy. For example: materials appearing on course management systems (e.g. D2L, Sharepoint, etc.) must follow the guidelines available on our webpage at http://www.mun.ca/copyright/Spec_Top_Course_Mgmt_Systems.pdf. All materials appearing on personal web pages must follow the guidelines available at http://www.mun.ca/copyright/Spec_Top_Personal_Web_Pages.pdf.

To reduce the risk of university and personal liability due to copyright infringement, it is very important to adhere to these guidelines by posting only:

- Content that is in the public domain (this includes materials for which the term of copyright protection has expired)

- Materials which are clearly labeled as Open Access (this includes materials which are subject to a Creative Commons license)
- Library-licensed materials, such as e-journals or e-books, if the license allows (for license terms, contact Jeannie Bail, Copyright Coordinator in the Library, jbail@mun.ca)
- Materials for which a transactional license has been obtained (for a transactional license contact the Copyright Office, address below)
- Web links to the work
- Materials created by the instructor of the course (this requires that every part of the work, including text, images, figures etc. were originally created by the instructor)

We appreciate your cooperation and assure you that Memorial is working with the AUCC to defend the rights of universities and to promote a culture of fair copyright.

If you have any questions or comments, please contact the Copyright Office in the G.A. Hickman Building, Room ED-3006, Tel: (709) 864-2089, nsimmons@mun.ca.