

Copyright @ Trent

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A Brief Overview for Instructors

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Presentation Outline

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Introduction

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Trent University is committed to following copyright laws and regulations which provide for a fair and balanced approach to the dissemination of knowledge and materials within an educational institution. Faculty, staff, and students are responsible for abiding by Trent University's Copyright Guidelines which are based on the *Copyright Act*, the CAUT Guidelines for the Use of Copyrighted Material, and the AUCC Fair Dealing Guidelines.

Recently several significant events related to copyright law in Canada have given greater freedom and provided clarity on copyright issues within an educational setting:

- On June 29, 2012 the Copyright Modernization Act received royal assent.
- On July 5, 2012 the Supreme Court released five court case rulings providing greater clarification as to how copyright law should be interpreted to balance the rights of owners and users of copyrighted material.
- Finally, on November 7, 2012 many of the provisions for Bill C-11 came into force.
- Overall, the educational exceptions in Bill C-11 allow Trent faculty to rely on educational exceptions to reproduce and display works within the university environment.

Bill C-11: The Copyright Modernization Act

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For educational purposes faculty are able to:

- reproduce a work, or do any other necessary act, in order to display it.
- communicate by telecommunication and perform for students, works that are available on the internet, subject to various conditions.
- make a single copy of a news program or a news commentary excluding documentaries, for the purposes of performing the copy for the students. Please note: documentaries should be treated as films with respect to copying.
- communicate lessons to enrolled students by telecommunication and distance learning and the recording of such lessons is permitted, subject to certain provisions.
- Please visit www.trentu.ca/copyright for further information on Copyright @ Trent.
- Please visit <http://laws-lois.justice.gc.ca/eng/acts/C-42/index.html> to view the *Copyright Act*.

Bill C-11: Summary of Key Changes

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- **Fair Dealing:** *Fair dealing for the purpose of research, private study, education, parody or satire does not infringe copyright.*
<http://laws-lois.justice.gc.ca/eng/acts/C-42/page-18.html#h-25>
- **Expanded Educational Exceptions:** An educational institution or a person acting under its authority, for education or training purposes on its premises, can:
 - reproduce a work, or do any other necessary act, in order to display it
 - perform a film or other cinematographic work in the classroom, as long as such work is not an infringing copy and was legally obtained
 - reproduce, communicate by telecommunication and perform for students, legitimately posted works that are available through the Internet, provided that the source and author are attributed, **unless:**
 - the works are protected by “digital locks.”
 - a clearly visible notice (and not merely the copyright symbol alone) prohibiting such act is posted on the website or on the work itself.
 - the educational institution knows or should have known that the works are available on the Internet in violation of the copyright owner’s rights.

Bill C-11: Summary of Key Changes

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- Faculty using news and commentary under the educational exception do not have to pay royalties, destroy copies of news or commentary programs after one year, or keep records of the copies made of news or commentary programs.
- **Lessons by Telecommunications:** Faculty may communicate via telecommunication and distance learning to students enrolled in the course and record such lessons. The student can also make a copy of such telecommunicated lesson to be viewed or listened to at a later time, provided that:
 - the student and the institution must destroy the recording or copy within 30 days after receipt by students of their final course evaluations.
 - the institution must take measures (e.g. installing digital locks) to limit the audience to students only, and to protect the lesson itself.
- **Reduced Statutory Damages for Non-Commercial Infringements:** Statutory damages for copyright infringements with non-commercial purposes have been reduced from the current \$500 to \$20,000 per work infringed, to \$100 to \$5,000 for all infringements in a single proceeding for all works (not for *each* work infringed).

Fair Dealing: 6 Factors to Consider

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Six criteria for Fair Dealing established in *CCH Canadian Limited v. Law Society of Upper Canada*

- 1. **Purpose:** “Fair dealing for the purpose of **research, private study, education, parody, or satire does not infringe copyright**” (section 29)
- 2. **Character:** refers to the number and distribution of copies. The creation of a single copy for a defined audience is more likely to be considered fair.
- 3. **Amount:** refers to the portion of the work copied.
OKAY to copy without permission: an entire article, book chapter (not exceeding approximately 10% of the work), entire poem, or photograph.
- 4. **Alternatives:** It is reasonably necessary to achieve a particular purpose and there are no practical alternatives to using the particular work. Education or private study would likely meet this criteria. (For criticism purposes: reproducing the entire work is considered unfair).
- 5. **Nature of the Work:** an academic article published to disseminate ideas, with usually no motive for financial gain would likely be found to be fair in terms of this specific criteria.
- 6. **Effect of the Dealing on the Work:** how copying the work affects the market.
Consider: Does copying replace the purchase of the course materials in their entirety? Copying is more likely to be fair to reproduce supplementary course materials and only 5% of textbook materials. When it comes to textbooks copying beyond 5% of the work copyright permission should be obtained.

Course Materials

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- Faculty wishing to make works available to students on Reserve, E-reserve, or Blackboard should fill out the appropriate online request form.
 - On reserve in the Bata Library
 - <http://magnificat.trentu.ca:8080/forms/reserves/bookrequest.php>
 - On Reserve in the Oshawa Library
 - <http://magnificat.trentu.ca:8080/forms/reserves/oshbookrequest.php>
 - On E-Reserve or Blackboard
 - <http://magnificat.trentu.ca:8080/forms/reserves/reserve.php>
- The *Copyright Clearance Form* is for E-reserve and Blackboard requests. There is a dropdown menu on the form allowing you to select your request type.

Course Materials: *e-Res*

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- Faculty wishing to have items placed in **e-Res** must fill out the Copyright Clearance Request Form.
- The Library uses the E-reserves system for the management of electronic reserve materials.
- Each instructor has her own account and each course has its own course homepage within e-Res, which is only available to registered students for the duration of the course.
- Faculty are responsible for providing a digitized copy of the work to be placed on e-Res. A copy of the work to be placed on e-Res must be e-mailed as an attachment to reserves@trentu.ca with the course code displayed in the subject line. This allows e-Res staff to match the request material to the appropriate copyright request form.
- Faculty will be notified by e-mail when the work is available on their e-Res course page. At the end of the each semester or year, works will no longer be visible to students and faculty.
- A persistent link will be used in e-Res whenever the requested work is available in one of Trent's licensed databases, and licensing permits.

Course Materials: Blackboard, Links, and Licenses

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- Faculty wishing to post course materials in Blackboard must fill out the Copyright Clearance Form.
- Faculty will be notified when the request is complete. If the work is available through one of Trent's licensed databases and linking is permitted according to the license information, the instructor will be provided with a persistent link to post in blackboard. If linking or posting to a course page is not permitted copyright staff will assess the copyright cost and the instructor will be notified of the situation.
- For instructions on how to create a persistent link please see the Faculty Resources page on the library website, select Reserves and Required Readings, and select Creating Persistent Links. http://www.trentu.ca/library/help/persistent_links.htm
- If the work is available through Trent, faculty must also check the License Information Database to make sure providing a link to the work is permitted.
- License Information Database: <https://trent.scholarsportal.info/licenses/>

Faculty Checklist

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Things to think about before posting works to Blackboard or distributing in class to students:

- Is the work protected by Copyright?
- Is the work available in the public domain or more specifically through a Creative Commons or Open Access forum?
- Is the work available through one of Trent's licensed databases?
- If the work is available through one of Trent's databases, do the Terms of Use associated with the database permit linking or posting works to course websites?
- Does Fair Dealing apply?
- Is the work protected by a particular license agreement that restricts access, for example is the work in Access Copyright's Repertoire?

FAQ

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- **What is copyright?**
The *Copyright Act* defines copyright as: "the sole right to produce or reproduce the work or any substantial part thereof in any material form whatever, to perform the work or any substantial part thereof in public or, if the work is unpublished, to publish the work or any substantial part thereof." ([Copyright Act, Section 3](#))
- **What laws and policies govern use of copyrighted material at Trent University?**
Use of copyright material should comply with [Canada's Copyright Act](#). Trent's copyright guidelines are based on the CAUT guidelines and the AUCC guidelines for fair dealing.
- **How do I know if a work is protected by copyright?**
The Copyright Act advises that copyright exists in "every original literary, dramatic, musical and artistic work" (see [Section 5](#) for more information).
- **What is fair dealing and what rights does this give me?**
[Section 29](#) of the Copyright Act addresses fair dealing, specifying that "Fair dealing for the purpose of research or private study, education, parody or satire does not infringe copyright."
- **Does Trent University hold any licenses or agreements that enhance my copying rights?**
Yes, the Trent Library licenses electronic content (databases, e-journals, etc.) and many of these licenses allow use beyond that outlined in the Copyright Act.

FAQ

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- **Are student works protected by copyright?**

Yes. The *Copyright Act* specifies that “every original literary, dramatic, musical and artistic work” is protected by copyright, and this includes student work. This means that you need permission in order to keep a copy of a student work or to share it with future students.

- **What are the implications of copyright restrictions on my distribution of lecture notes?**

You can post your own notes wherever you wish, as long as you are the creator of the content. You must seek permission to include the works of others if the amount used is larger than an insubstantial portion.

- **What steps do I need to take before showing a video in my class?**

The Copyright Act (section 29.5) allows for the showing of any cinematographic videos without the need to obtain permission. One can therefore use one's own DVDs provided they are non-infringing copies.

If you have any further questions please e-mail copyright@trentu.ca or call Susan @ ext. 5063.