

Copyright Fall 2019 Update

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by **Michelle Gonzales and Joy Muller, Seneca Libraries**

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It's an interesting time for Canadian copyright considering recent and possible modifications to copyright legislation and upcoming decisions by the Copyright Board of Canada. One particularly important development is the June 2019 release of the House of Commons Standing Committee on Industry, Science and Technology's (INDU) [official report](#) on its review of the Copyright Act. The extensive review of the Canadian copyright legislation involved months of study and input from various stakeholders, including publishers, authors, post-secondary academic institutions, and library consortiums and associations.

INDU Committee's Statutory Review of the Copyright Act included 36 recommendations to better improve current copyright legislation (Ruimy, 2019). Educational fair dealing was a particularly hot issue during the review with multiple stakeholders presenting their views on fair dealing. For more information about Fair Dealing, visit [Seneca Libraries' website](#). Even though stakeholders' position on fair dealing were divided, the Committee's final recommendation sheds a positive light on the future of fair dealing. Among the Committee recommendations include expanding fair dealing by "making the current list of fair dealing purposes illustrative rather than exhaustive" (Geist, 2019, para. 2). This will potentially increase the flexibility of fair dealing by providing users a wider range of acceptable purpose for applying the fair dealing exemption (Geist, 2019).

On the other side of the spectrum, there are also some copyright issues which may present challenges when using copyrighted works. The [USMCA/CUSMA](#) trade agreement, for example, will eventually lead to the increase of copyright term in Canada to life of the author plus 70 years (Bill C-100, 2019). This will delay any new titles coming into the public domain for a period of 20 years. Recent court cases, such as the Federal Court's decision against York University v. Access Copyright and the Federal Court of Appeal's decision on the same case is also coming up and may impact fair dealing applications within academic institutions.

Upcoming in the new year is a decision regarding Access Copyright's (AC) filing for tariffs from post-secondary institutions. Seneca had opted out of Access Copyright tariffs in 2012 by reasoning that the new tariff proposed at the time was a 900% increase (from \$3.50 per FTE to \$35.00 per FTE) which was simply not feasible for colleges. In addition, the potential for duplication of licensed materials in our purchased library databases with the Access Copyright repository, as well as permitted uses under the fair dealing exemptions for education, allowed Ontario colleges to choose to opt out. The Copyright Board of Canada (2019) has recently posted the most recent AC proposed tariff based on FTE, with objectors only having 30 days to file. If approved, the retroactive application of the tariffs would negatively affect institutions who have previously opted out of the tariffs. Many library and educational associations such as CICan, CARL, and others across Canada, are filing objections to this latest tariff.

The changing landscape of Canadian copyright presents an excellent opportunity to be reminded of the challenges and importance of complying with copyright legislation. Seneca's [Copyright Policy](#) and [Fair Dealing Policy](#) closely align with the Copyright Act and guide the Seneca community in complying with copyright legislation.

Seneca's [Copyright Guide](#) defines copyright and fair dealing responsibilities of the Seneca community and best practices for using copyrighted materials at the college. The Copyright Team (copyright@senecacollege.ca) is available to help answer copyright and fair dealing questions and has made the following resources available to guide the Seneca community with using copyrighted works:

- [Copyright Guide](#)
- [Fair Dealing Assessment Tool](#)
- [Copyright Literacy Modules](#)

In addition to current copyright policies and resources, the Copyright Team, in collaboration with ITS and the Centre for Institutional Data and Enterprise Analytics, and with support from Academic College Council, is undertaking a new initiative in 2020 which would assist in gathering insight on the use of copyrighted materials in instruction at the college. This initiative involves a random and anonymous review of files uploaded to Blackboard courses, and a survey on current practices regarding the use of copyrighted materials. The initiative will provide a snapshot, enabling Seneca to confirm that we are compliant with copyright and fair dealing guidelines and legislation. The findings from the initiative will also identify opportunities for copyright and fair dealing education, enhancing current copyright resources, and developing new copyright & fair dealing tools. If you would like to learn more about copyright, we encourage you to check out the [copyright literacy modules](#). If you have any copyright and fair dealing questions, please don't hesitate to reach out to copyright@senecacollege.ca.

References

Bill C-100: An Act to implement the agreement between Canada, the United States of America and the United Mexican States. (2019). 1st Reading May 29, 2019, 42nd Parliament, 1st Session. Retrieved from <https://www.parl.ca/DocumentViewer/en/42-1/bill/C-100/first-reading>

Copyright Board of Canada. (2019). *Access Copyright post-secondary educational institution tariff, 2021-2023*. Retrieved from <https://cb-cda.gc.ca/tariffs-tarifs/proposed-proposes/2019/ACCESS-07112019.pdf>
Geist, M. (2019, June 3). The authoritative Canadian copyright review: Industry Committee issues balanced, forward-looking report on the future of Canadian copyright law [Blog post]. Retrieved from <http://www.michaelgeist.ca/2019/06/the-authoritative-canadian-copyright-review-report-industry-committee/>

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