

From: [Copyright Office](#)
To: [Copyright Office](#)
Subject: Recent Access Copyright v York University decision and its impact on the University of Victoria
Date: September 18, 2017 10:34:06 AM
Attachments:
Importance: High

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Good Morning Everyone,

Jonathan Bengtson, the University Librarian, has asked me to pass the following message on.

Please can you distribute as broadly as possible to faculty members, staff and course instructors within your area.

Thank you
Inba Kehoe, Copyright Officer

Recent Access Copyright v York University decision and its impact on the University of Victoria

On July 12, 2017 the Federal Court issued its judgment in the first phase of the [Access Copyright v York University](#) litigation. The Court concluded that copying done by York employees was covered by a tariff issued by the Copyright Board, and that this copying was not within the proper scope of the ‘fair dealing’ exception set out in the *Copyright Act*. Accordingly, York was ordered to pay royalties, in amounts the Court is yet to determine, applicable to the 2011-2013 period. The Court found that York’s Fair Dealing Guidelines were not fair in their terms or in their application at the time of the activities that were the subject of the litigation.

York University has announced its decision to appeal the ruling to the Federal Court of Appeal in advance of the October 2, 2017 deadline.

It is important to note that the York decision is highly fact-specific, and binding only on the parties to that litigation, but not on others, whose practices may differ significantly.

It is also important to note that the decision does not prevent ‘fair dealing’ copying of copyrighted material in appropriate circumstances. As the Supreme Court of Canada has indicated on multiple occasions, the fair dealing provisions of the *Copyright Act* set out important “user rights” for those wishing to use copyrighted materials.

To reiterate, the decision is fact-specific to York University and, as the University of Victoria was not party to the litigation, it is not subject to the court’s Order. All faculty and course instructors should continue to respect copyright law through a comprehensive system, including UVic’s [Copyright Policy & Fair Dealing Guidelines](#), library database licenses and acquisitions, and transactional licenses. We also encourage faculty and instructors to continue to submit course

materials through the Library Reserves systems or the University Bookstore's Coursepack service. Faculty and instructors should seek guidance from the Copyright Office (copyright@uvic.ca) in the event of any uncertainty.

For more information on Fair Dealing in Canada,

see: http://www.uvic.ca/library/featured/copyright/fairdealing/mythsfacts/CARL_FD_myths_facts_EN.pdf



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