

Draft Policy for Consultation
Use of Copyright Materials Policy
Feedback can be sent to Policy@Mun.ca



Memorial University of Newfoundland

Use of Copyright Materials

Approval Date: 2011-05-09

Effective Date: 2013-04-09

Review Date: 2019-05-19

Authority:

Vice-President (Academic)

Principle

As an institution dedicated to excellence, Memorial University of Newfoundland (Memorial University) is committed to ethical behaviour and integrity in all activities including the use of [published and unpublished](#) copyright materials.

Purpose

~~This policy does not deal with questions of ownership of copyright materials created by Memorial University faculty, staff or students.~~

The policy outlines Memorial University's position on the use of copyright material by [the Memorial University Community](#). ~~members of the institution.~~ Effectively, this policy will:

- state Memorial University's position on the legal use of copyright materials by members of this institution;
- state Memorial University's position on the interpretation and application of the *Copyright Act* and related laws;
- serve to limit any potential legal liability of Memorial University and [the Memorial University Community](#) ~~its faculty, staff and students~~ for copyright infringement through the exercise of due diligence in use of copyright material; and
- be the basis to identify and implement specific procedures to effect compliance with copyright laws.

• [This policy does not deal with questions of ownership of copyright materials created by the Memorial University Community.](#)

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Scope

This policy applies to Memorial University and its separately incorporated entities. For greater certainty, it applies to anyone, including ~~the Memorial University community, but not limited to, faculty, staff and students of Memorial University~~ and the separately incorporated entities, who use copyright material at Memorial University or through a website run by Memorial University.

Definitions

Author — The person(s) who created and fixed the form of the copyright work, and who are normally the first owner(s) of the copyright in the work.

Copyright Act/Copyright Laws — A Federal Act governing matters related to copyright, including regulations thereunder, and including case law which interprets the Copyright Act.

Copyright Material/Work — Any original work, published or unpublished, original literary, dramatic, musical or artistic work created with skill and judgment.

Copyright Owner/Rightsholder — The legal owner of a copyright work who can assert the rights of ownership.

[Fair Dealing: Memorial University has adopted AUCC's \(now Universities Canada\) "Fair Dealing Policy for Universities" as a Fair Dealing requirements document to support Memorial's Use of Copyright Materials Policy. These requirements were approved by the Board of Regents on December 6, 2012.](#)

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Infringement — It is an infringement of copyright for any person to do, without the consent of the owner of the copyright, anything that the Copyright Act specifies the owner of the copyright has the exclusive right to do (see Rights of Ownership below).

~~**Licenees**~~**Licenses** — Agreements between copyright owners or their licensing agents and end-users to allow for the use of their copyright works by granting prior permission that may be subject to certain terms. Memorial University has entered into agreements with some copyright owners to allow the ongoing use of some specific copyright material.

Licensing Agent — An individual or organization authorized by the copyright owner to act on their behalf.

[Memorial University Community - - For the purposes of this policy, this includes any person who teaches, conducts research, studies or works at or under the auspices of the University and includes, without limitation, all employees, all students, retirees; and any other person\(s\) while they are acting on behalf of or at the request of the University.](#)

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Rights of Ownership — In relation to a copyright work, Section 3(1) of the Copyright Act refers to copyright ownership 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. Moreover, copyright owners are solely entitled to exploit rights related to translation; conversion; recording; adaptation; communication by telecommunication; public exhibition; rental rights; and have the right to authorize any of the above. Respectively, Sections 15, 18, and 21 of the [Copyright Act](#) deal with: performers' rights; rights of sound recording makers; rights of broadcasters.

Use — Use of a copyright work can include reproduction, transmission, public performance, display and translation.

User — A User is any individual and/or party that uses copyrighted material owned by another.

User Rights — Specific legal rights provided by the Copyright Act to facilitate limited use of copyright works without the need for the consent of the copyright owner. Most significant for Memorial University is the right of "fair dealing", and the specific exceptions for educational institutions, libraries, archives and museums.

Policy

Memorial University is committed to compliance with copyright laws. The *Copyright Act* as well as related Memorial University policy and procedure govern the utilization of all copyright works by members of Memorial University. As members, all faculty, staff and students will endeavor to inform themselves of their legal duty and conduct their actions accordingly.

To use copyright works, members of Memorial University will have a number of options, depending on the copyright works to be used. In some cases, Memorial University has acquired licenses allowing users access to specific works, or collections of work, for limited uses pursuant to negotiated contract terms. These licenses are most often through Memorial University Libraries. Some uses of copyright works may fall within the user rights provided under the *Copyright Act* for which no permission is required. Some further uses may require a process of seeking an express permission from the author or copyright owner prior to use. Where information and/or clarification are required to facilitate compliance, users may consult with Memorial University Libraries.

Copyright clearance services for course material, both in person and online, will be delivered by Memorial University Libraries through the library's online course reserves system. The University will provide university-wide copyright advisory services through a network of professional staff consisting of the Dean of Libraries (University Librarian), librarians and archivists, and the University's legal counsel. The University will prepare and deliver presentations and workshops to engage and educate university community creators and users of copyright materials, as well as to train librarians and staff providing copyright advice and support. Memorial University Libraries working together with other related units will deliver this service.

As unauthorized use of copyright works is contrary to law and subject to legal recourse, it is the responsibility of each member of the Memorial University Community at Memorial University

to exercise care in ensuring proper authorization has been obtained for their particular use. In addition to the entitlement of a copyright owner or their licensing agent to sue Memorial University and [members of the Memorial University Community](#) ~~faculty, staff or students~~ for infringement, Memorial University takes breaches of policy seriously. Memorial University is entitled to pursue incidents of non-compliance internally and/or under the relevant collective agreement.

Deans, Directors, Division Heads, Heads of Schools, Department Heads and Chairs are responsible for taking reasonable steps to implement the policy and ensure the necessary supports are in place to facilitate ongoing compliance.

Related Documents

[Copyright Act and Regulations \(Department of Justice, Canada\)](#)

[Memorial University Libraries Copyright Support](#)

[AUCC Fair Dealing for Universities](#)

[Intellectual Property Policy](#)

[Academic Misconduct Regulations](#)

For inquiries related to this policy:

[Memorial University Libraries](#)

Sponsor: Provost and Vice-President (Academic)

Category: Academic Affairs

Previous Versions:

There is at least one previous version of this policy. Contact the [Policy Office](#) to view earlier version(s)

Approval Date 2011-05-19 Effective Date 2011-05-19

Policy Amendment History

Action: REPLACED

Date: 2019-05-31 09:36:16

This policy was replaced with a new version. Comment provided: Connected definitions using the definitions from the glossary.

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Field Code Changed

Action: REPLACED

Date: 2022-08-31 08:30:16

This policy was replaced with a new version. Comment provided: 8/31/22 fixed links

Action: REPLACED

Date: 2023-11-07 09:28:37

This policy was replaced with a new version. Comment provided: Incidental Amendments approved by PEC in 2022
