



To: University of Waterloo Community
From: James W.E. Rush, Vice-President Academic & Provost
Date: July 27, 2020
Subject: Update on Copyright and Fair Dealing at the Federal Court of Appeal
Note: This email is for information

- **A recent Federal Court of Appeal decision has implications for copyright on campus**
- **The University will continue to focus on copyright and Fair Dealing awareness**
- **Copyright resources and supports are available to you**
- **Visit the [Copyright Advisory Committee website](#) for more information**

On 22 April 2020, the Federal Court of Appeal (FCA) released its decision in the case of [York University v. The Canadian Copyright Licensing Agency \(Access Copyright\)](#).

There were two main issues in this case:

1. Whether the Copyright Board's Post-Secondary Tariff is mandatory in its application to institutions; and,
2. Whether confirming with York University's 2012 Fair Dealing Guidelines constitutes fair dealing under the [Copyright Act](#).

On the first issue, the FCA found in York University's favour and confirmed that the Copyright Board tariff was not mandatory and therefore not enforceable against York University.

On the second issue, the FCA found in favour of Access Copyright and upheld the decision of the Federal Court of Canada. The FCA found that York University's 2012 Fair Dealing Guidelines would not necessarily constitute fair dealing under the *Copyright Act*.

Both Access Copyright and York University have filed applications for leave to appeal the FCA decision to the Supreme Court of Canada.

Here at the University of Waterloo, we intend to continue our focus on Copyright and Fair Dealing awareness and education to support broad uptake of compliance by instructors, students, and the overall University community.

All students, faculty and staff should continue to follow the University of Waterloo Fair Dealing Guidelines. When considering copyright issues in your instruction and research, please review the following UWaterloo resources:

- Fair Dealing Advisory Guidelines web page (<https://uwaterloo.ca/copyright-at-waterloo/fair-dealing-advisory>)
- Copyright guidance for online instruction on the University's Keep Learning website (<https://uwaterloo.ca/copyright-at-waterloo/copyright-teaching-online>)
- An expert is available to assist with your copyright questions at copyright@uwaterloo.ca

In its ongoing copyright awareness efforts, the University will continue to make supports available to students, faculty and staff using the above web resources, email, social media, and individual consultation opportunities.

Please consult the Copyright Advisory Committee website for the most recent updates on this and related matters (<https://uwaterloo.ca/copyright-at-waterloo/>). If you have any copyright questions, you are encouraged to contact Lauren Byl, the Copyright and Licensing Librarian at copyright@uwaterloo.ca