What has changed?

- Supreme Court of Canada rulings on Fair Dealing – summer 2012
- Copyright Modernization Act
Fair Dealing

- Exception under the Copyright Act (section 29)

- Allows copying of copyrighted material if the use is “fair”

- To be “fair”, the copying is viewed against 6 tests.

- It MUST pass the first test
Fair Dealing
Fair Dealing – the First test

1. Purpose of the reproduction
   - Research
   - Private Study
   - Criticism
   - Review
   - News Reporting
   - Education
   - Parody
   - Satire
Fair Dealing – the rest of the tests

2. The character of the reproduction
   - How many copies are being made?
   - What is the existing custom and practice?

3. The amount of the reproduction
   - How much of a complete work will be copied?

6. Alternatives to the reproduction
   - Is the copy reasonably necessary to achieve the purpose?
   - Are any suitable non-copyrighted alternatives to the work available?

7. The nature of the work
   - Has the work been published?
   - Does it contain confidential or privileged content?

8. The effect of the reproduction on the work
   - Will the copying have an economic consequence to the rightsholder?
Carleton’s Fair Dealing Policy

If your need isn’t covered here, contact copyright@carleton.ca
Fair Dealing Policy

- Aimed at faculty and staff of Carleton University
  - How to use fair dealing for teaching
- Allows copies of a short-excerpt to be distributed as a:
  - Class handout
  - Posting to a CMS (ie CULearn) that is restricted to students of Carleton University
  - Part of a course pack
- Covers copyright-protected works including:
  - Literary works, musical scores, maps
  - Images, figures, graphs
  - Sound recordings, audio-visual works
A short excerpt includes:

- Up to 10% of a copyright-protected work
- One chapter from a book
- A single article from a periodical issue
- An entire newspaper article or page
- An entry from an encyclopedia, annotated bibliography, dictionary or similar reference work
A Short Excerpt also includes:

- An entire single poem or musical score from a publication containing other poems or musical scores

- An entire individual artistic work from a work containing other artistic works such as a
  - Painting
  - Print
  - Photograph
  - Diagram
  - Map
  - Chart
  - Plan
Careful! Licenses take precedence!
Other Exceptions in the Copyright Act
Other Exceptions in the Copyright Act

- Display for Instructional Purposes (section 29.4)
  - Technological neutrality. No longer limited to projectors and overheads!

- Performances and cinematographic works (section 29.5)
  - Public Performance licenses no longer required to show a film or video
  - Must be a non-infringing copy
  - At an educational institution
  - To students (primarily) for educational purposes
Other Exceptions in the Copyright Act

- Copying of News Broadcasts (section 29.6)
  - No longer required to view within 1 year of copying
  - No need to pay royalties if showing to students

- Copying of TV and Radio Broadcasts (section 29.7)
  - no change

- Examinations (section 29.4)
  - no change
NEW Exceptions in the Copyright Act

- Creation of Non-Commercial User Generated Content (29.21)
  (aka the “Mash-up” or “YouTube” exception)
  - Must cite the source
  - Cannot break digital lock (includes passwords)
  - Must not use infringing copies
  - New work must not have adverse effect on market for original work

- Copying of Publicly Available Internet Materials (30.04)
  - Must cite the source
  - Does not apply if there is a clearly visible notice on the work or on the site prohibiting the copying
  - Cannot break digital lock (includes passwords)
  - Must not use infringing copies
NEW Exceptions in the Copyright Act

- **Online Lessons** *(section 30.01)*
  (Allows copying and communication of works to students online for distance education)
  - Cannot break digital lock (includes passwords)
  - Must not use infringing copies
  - *Copy must be destroyed within 30 days of the course ending*
  - *Educational institution must take measures to prevent copying and distribution*

- **Copying for persons with Perceptual Disabilities** *(section 32)*
  - Does not include cinematographic works or large-print books
Further information
Services offered by the Library

- Library Reserves staff are available to assist:
  - determining which materials are covered by licenses
  - Obtaining permissions, clearing copyright

- Ares software to help manage reading lists and copyright clearances – automatically tied in to CULearn

- Copyright website with FAQs and in-depth information

- “How to” sessions & guides on copyright and using Ares
Contact:

- Copyright@carleton.ca

- Valerie Critchley
  - AUL Buildings, Operations and Copyright
  - 613-520-2600 x1808
  - Valerie_critchley@carleton.ca