

Profs ditch course material over copyright confusion

The Canadian Press Updated: Thu. Sep. 15 2011 6:09 PM ET

OTTAWA — Post-secondary students and faculty across Canada can add one more point of confusion this year to the usual back-to-school chaos: Copyright.

Nearly three dozen colleges and universities are pulling out of the body that collects money on behalf of authors and publishers, forcing a sudden copyright crash course on campus.

The resulting wariness means students aren't getting the same course material they received in the past as guarded professors choose to simply eliminate material from classes they teach rather than risk a lawsuit.

What can professors photocopy? What can they post to their websites? Are links OK? What about putting articles on reserve in libraries and resource centres?

Access Copyright used to make these types of questions moot, acting as the middleman between schools and the publishing industry for 17 years. A flat rate of about \$3.38 per full-time student, plus 10-cents per copy, was levied from the post-secondary institutions in exchange for near-free rein to copying materials.

But when the collective announced last year they were going to dramatically increase the fee to \$45 per student and venture into controlling new areas such as hyperlinks, the education world revolted.

Now it's up to many universities and colleges to figure out what can or cannot be copied, and how to get permission from licence holders. It means understanding the complex Copyright Act, and what protections exist for study and review -- areas that seem like they require a separate degree just to sort out.

Libraries and copyright officers have been swamped with work this fall, trying to clear the course materials assigned for classrooms. Universities are encouraging faculty to seek out "open access" texts that are free for everyone to use.

The quick change has turned out many anxious professors, sometimes unsure about where to tread with their course materials.

"The big question is nobody really knows where the limit is and we all feel somewhat exposed at this point, so I personally am erring on the side of

caution," said University of Alberta geology professor Jeremy Richards, who has simply deleted sections of material he usually hands out students.

"I don't particularly want to get sued for copyright infringement when I'm just trying to do my job."

Much of the issue centres around a section of the Copyright Act called fair dealing, which allows for copying of materials for research, private study, criticism, review and news reporting. A Supreme Court of Canada ruling in 2004 allowed for a much more liberal interpretation of the section.

Sam Trosow, associate law professor at the University of Western Ontario, said there might be confusion on campuses for a while, but ultimately it's a good thing that universities are taking control of their own copyright issues.

He said the institutions have been too risk-adverse when it comes to exercising their fair dealing rights.

"This is starting to change a little bit, but still not enough and I think that so long as Access Copyright provided a responsible outlet in terms of not being too burdensome and not being too costly, universities just sort of went along with it, but the tariff they filed last year was just so outrageous..," Trosow said.

But Erin Finlay, legal counsel for Access Copyright, said many of the issues that caused the breakdown in the relationship with the universities could have been resolved at the negotiating table. She said the institutions are putting students at a disadvantage.

"When an institution suggests that if you cannot clear this, if you can't get permission before you post it (online) you're not entitled to use it, or you have to find a substitute, or you have to find an open access substitute, I think that harms the educational experience, and I think it harms what we teach our children," Finlay said.

"There's a much easier way that allows access to all of the works and has allowed access to all of the works for the past 17 years, and that's through the Access Copyright licence."

Copyright issues are suddenly coming to a head this fall.

The Conservative government is set to reintroduce its overhaul of the Copyright

Act, which will include "education" as its own area of fair dealing.

The Supreme Court of Canada will also hear five copyright cases in December, including one that directly involves the copying issue and Access Copyright.