



TO: **Business Board**

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ITEM IDENTIFICATION:

Category 5, Cost Recovery Ancillary Fees, 2011-2012 (Item for Information: Access Copyright)

JURISDICTIONAL INFORMATION:

The University's *Policy on Ancillary Fees* makes provision for a Category 5: University Schedule of Cost Recovery Fees.

Under the *Policy* for Category 5, cost recovery fees may be adjusted annually by administrative authority, provided that the adjustments relate to changes in the cost of the materials or services provided. These changes are to be reported annually to the Business Board for information.

PREVIOUS ACTION TAKEN:

The schedules come forward annually, normally in cycle four of governance. The fee increase presented here for information is being brought forward at this time in order to facilitate the conclusion of an agreement with the service provider.

HIGHLIGHTS:

The University's *Policy on Ancillary Fees*, under Category 5, permits the University and divisions to charge students for the reasonable cost of the provision of certain learning materials and services. The University, through its operating budget, is responsible for the delivery of an academic program, but the student may be expected to purchase the requisite materials or licenses prescribed for the program.

These cost recovery fees include fees for: publications, case studies, or laboratory manuals; field trips; clothing; equipment that becomes the property of the student; equipment rentals; other goods or services provided individually to students for their exclusive use; any non-credit remedial instruction provided; **and materials, services, or licenses where the University acts as a broker with a vendor for the students.**

Access Copyright

The Access Copyright fee (currently labeled as “CANCOPY”) has been \$3.38 per fall/winter period for full-time students (\$1.10 part-time) for a number of years. The current fee and license covers the day-to-day photocopying of copyright material and requires students to pay a per-page copyright royalty when purchasing items such as course-packs.

Access Copyright declined to enter into new licenses with any university when they expired in 2010 and instead it brought an application to the Copyright Board, a statutory Tribunal, for a “Tariff” covering the entire university and college sector. The Tariff sought included a royalty rate of \$45 per full-time equivalent (FTE) student. The University of Toronto has been participating in a sector-wide challenge to the Tariff Application, conducted under the auspices of the AUCC. This challenge is proving to be very complex and lengthy, and there is every reason to believe that litigation concerning the Tariff could easily continue for years, with an outcome that is very difficult to predict.

In the province of Quebec, universities have agreed to a royalty rate of approximately \$25 per FTE with limited digital rights. A per-page course-pack charge may also be levied on top of the student charge, depending on the proportion of course-pack copying in relation to the entire work being copied. In the province of Ontario, the University of Western Ontario has been collecting from its students a royalty rate of \$30 per FTE, on a provisional basis, given the uncertainty of the tariff outcome.

Both the University of Toronto and another large Ontario university have been negotiating vigorously with Access Copyright in the last two months for a new License, which would apply instead of the proposed Tariff.

The University has been successful in negotiating a new License for the period ending December 31, 2013 with a per FTE royalty rate of \$27.50, covering both print and digital Published Works, and eliminating the separate per page course-pack royalty. This new rate is to be effective May 1, 2012. The University was successful in avoiding any retroactive increases, which potentially could have gone back to December 2010 and the expiry of the previous License.

Under the new License, the fee would be subject to CPI increases beginning in January, 2014 if the License were renewed.

The new License is viewed by the administration as providing a fair balance between the rights of copyright users and the rights of creators; it will produce savings for students in programs with heavy course-pack requirements; it is consistent with the treatment in Quebec; and it removes the risk of retroactive increases and other uncertainties that would be present if the litigation were to continue.

Now that the University has reached an agreement with Access Copyright, the administration will turn its attention to an equitable means of apportioning the royalty among students. Issues that may need consideration include differences in usage among students in courses heavily reliant on course-packs and those who rarely use course-packs; differences in graduate and undergraduate student usage; etc. The administration will immediately engage in a wide and deep consultation process with student leaders to hear the views of students on an equitable distribution of these charges.

The administration is bringing this fee forward for information at this time in order to facilitate the finalization of the agreement with Access Copyright.

FINANCIAL AND/OR PLANNING IMPLICATIONS:

The fee is set at a level to cover the cost of the license.

RECOMMENDATION:

This item is presented for information only.