

Policy Number:	6006
Policy Title:	Copyright
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1. Policy Statement

- 1.1. University Canada West (“**UCW**”) has adopted this copyright policy (the “**Policy**”) to communicate to the UCW community (collectively, “Community”), including faculty, staff, and students, whether full or part-time, certain responsibilities and the importance of respecting intellectual property rights and observing copyright law. Copyright infringement is a strict liability offence, meaning it does not have to be intentional. Copyright infringement could result in serious consequences, including liability for UCW. For that reason, UCW wishes to educate faculty, staff, and students through this Policy.

2. Purpose

- 2.1. The Policy aims to provide the UCW Community with guidance on how to responsibly access, reproduce, and legally use copyright-protected materials at UCW. It has been designed:
- 2.1.1. To assist the UCW Community to comply with the *Copyright Act*, R.S.C., 1985, c. C-42, as amended (the “**Copyright Act**”), and licence agreements between UCW and various rights holders, collective societies, and licensing agencies.
 - 2.1.2. To advise the UCW community on the use of copyright-protected materials and to reduce the potential for copyright infringement within the Community.
 - 2.1.3. To clarify the roles and responsibilities of members of the UCW Community under and in relation to the *Copyright Act*.

3. Scope

- 3.1. This Policy applies to everyone in the UCW Community.
- 3.2. Therefore, UCW faculty, staff, and students, who use the intellectual property of others, are required to comply with this Policy. The UCW Library must also abide by and take reasonable steps to conform to the requirements of the *Copyright Act* and abide by the various licence agreements in effect from time to time between UCW and various third party rights-holders.

4. Copyright- Legal Summary

- 4.1. The information in this Legal Summary is for general information purposes only and reflects current Canadian law but is not an exhaustive or authoritative statement and should not be construed as legal advice by any party.
- 4.2. Generally speaking, copyright in relation to a creative work (whether published or not) confers on the owner the exclusive right to produce, reproduce, perform, display, prepare works based on the original, communicate, or publish it, or any substantial part of it, in any material form. It also includes the exclusive right to authorize anyone else to do any of those things.
- 4.3. Copyright exists from the moment an author¹ creates a work, provided it is 'fixed' in a tangible form. There is no copyright in an idea; only in the expression of an idea. It subsists in all original literary, dramatic, musical, and artistic works², as well as in sound recordings, performers' performances, and communication signals. Although 'originality' is a prerequisite to copyright protection, the threshold is low; generally, copyright will subsist in any work that is the product of the skill and judgment of its author and is not copied from the work of another.
- 4.4. Copyright has two important but distinct aspects: the 'basket of economic' rights (that is, the right to earn income) and moral rights.

4.4.1. Economic Rights

In relation to literary, dramatic, musical, and artistic works, the *Copyright Act* grants copyright owners, during the term of copyright, the following exclusive rights:

- **Reproduction:** the right to create or copy a work or any substantial part of it in any material form.
- **Performance:** the right to perform a work or any substantial part of it in public.
- **Adaptation:** the right to adapt a work to another medium or to translate it.
- **Communication and Making Available:** the right to communicate all or a substantial part of a work to the public by telecommunication, whether through traditional means or over the Internet, including by making the work available on an 'on-demand' basis.
- **Publication:** if a work is unpublished, the right to publish it, or any substantial part of it, by making copies available to the public.

¹ 'Author' is the term used under the *Copyright Act*, and means and includes the artist, creator or performer.

² 'Artistic works' include drawings, maps, charts, plans, photographs, engravings, sculptures, works of artistic craftsmanship, architectural works, and compilations of artistic works.

- Authorization: the right to authorize, or refuse to authorize, others to do any of these acts.

These rights can be transferred or sold by an author to any party- e.g. when a writer transfers her copyright to a book publisher.

The exclusive rights of owners in relation to “other subject matter” – i.e., performer’s performances, sound recordings, and communication signals – are similar, but not identical.

4.4.2. Moral Rights

The *Copyright Act* also gives authors and performers certain moral rights in their works and performances, respectively. Those rights include the following:

- Right of Integrity: the right to prevent any distortion, mutilation or modification of the work that would prejudice the honour or reputation of the author.
- Right of Attribution: the right to be associated as author of the work, by name or under a pseudonym, or to remain anonymous.
- Right of Association: the right to control the use of the work or performance in association with a product, service, cause, or institution.

Unlike economic rights, moral rights cannot be sold, assigned, or transferred. Even after death of the author, they will remain with the estate of the author. They can, however, be waived by an author.

4.5. Ownership of Copyright

4.5.1. The Copyright Act grants first ownership of copyright to the author, in the case of a work (or to the author’s employer, if the work is made in the course of employment); to the performer, in the case of a performance; to the maker, in the case of a sound recording; and to the broadcaster, in the case of a communication signal. Works produced by provincial or federal governments are protected by Crown copyright and owned by the government.

4.5.2. Copyright, as a form of divisible intellectual property, can be freely assigned, in whole or in part. In practice, that means that the first owner of copyright is not necessarily the current owner and may not be authorized to license the use of the work. In many cases, the first owner will have assigned copyright to a publisher, distributor, or other intermediary, which in turn may have authorized a collective society (such as SOCAN for musical works) or licensing agency to grant licences on its behalf. In other words, the permission of the author may not be sufficient to grant valid rights of use or to prevent a claim of infringement.

4.6. Term of Copyright

4.6.1. Copyright protection begins the moment an original work is created and fixed. As a general rule, copyright in a work will last for the life of the author until 70 years following the end of the year in which the author dies. The term was extended from 50 years at the end of 2022 to bring Canada in line with most other countries. In other words, copyright protection will expire on December 31 of the 70th year after the author dies.

4.6.2. Crown copyrights expire 50 years from the date of first publication.

4.6.3. Performers' performances, sound recordings, and broadcast signals are subject to different terms of copyright.

4.6.4. Once the term of protection expires, the owner's exclusive rights under the Copyright Act are at an end and the work or other subject matter is considered to have entered the public domain. At that point, users are free to use or reproduce the material at will, without seeking consent or paying the copyright owner.

5. Consequences of Copyright Infringement

5.1. It is an infringement of copyright for any person to do, without the express consent of the copyright owner, anything that only the copyright owner is entitled to do under the *Copyright Act*, unless a defence or exception found in the *Copyright Act* is applicable. Broadly speaking, the same applies to an infringement of moral rights, which is actionable separately from any infringement of copyright.

5.2. Legal Consequences

5.2.1. Subject to certain defined exceptions, the *Copyright Act* also prohibits the circumvention of technological protection measures (sometimes referred to as 'digital locks') that control access to works and other subject matter or that restrict the doing of acts that fall within the exclusive rights of the copyright owner. It also prohibits the removal of rights management information from a work for the purpose of facilitating or concealing infringement or adversely affecting the rights of the copyright owner.

5.2.2. The penalties for infringing copyright in Canada include monetary damages (including the actual damages suffered by the copyright owner and statutory damages of up to \$20,000 for each work infringed), and an accounting and payment of any profits earned by the infringer. Punitive damages may be available if the infringement was intentional and willful. A court can alternatively order 'delivery up' to require infringing materials to be turned over or destroyed, and injunctive relief to prohibit any further infringement.

5.2.3. The *Copyright Act* also provides for injunctive relief, damages, and delivery up for infringement of moral rights, circumvention of technical protection measures, and removal

of rights management information – even in circumstances where there has been no infringement of copyright.

5.3. UCW Consequences

5.3.1. In addition to possible liability under the *Copyright Act*, students found to be in violation of copyright laws on UCW property, websites, systems or networks may be subject to disciplinary action, including but not limited to expulsion, in the sole discretion of UCW, and its management, as outlined in the Student Rights and Responsibilities Policy (9014).

5.3.2. Faculty and staff may be subject to disciplinary actions including as outlined in their respective employment contracts.

6. Applicable legislation

6.1. Canadian [Copyright Act](#), R.S.C., 1985, c. C-42

7. Responsibilities

7.1. All UCW faculty, students, and staff are required to observe and abide by Canadian copyright laws, regulations, and licences.

7.2. The University Librarian is the copyright officer of the institution.

7.3. UCW Library is responsible for updating information about copyright, attending to the licensing of copyright-protected material, liaising with licensors, and communicating copyright information. Anyone can report copyright infringement to the UCW Library on a confidential basis. please contact the UCW Library at ucwlibrary@ucanwest.ca

8. Related policies

Policy Number	Policy Title
9014	Student Rights and Responsibilities

9. Related procedures

Procedure Number	Procedure Title
6006p	Copyright Procedures