

Procedure Number:	6006p
Procedure Title:	Copyright Procedure
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1. Purpose

- 1.1. In order to ensure compliance with the University Canada West (“UCW”) Copyright Policy, the following Procedure sets out the approach that UCW faculty, staff, and students should take when using materials in compliance with copyright law in Canada. It assumes that the use involves the reproduction, performance, communication (including via the Internet by downloading or uploading), or publication of material that is protected by copyright – that is, material that fits within one of the categories of work or other subject matter as defined by the *Copyright Act* and has not fallen into the public domain.
- 1.2. In all cases, UCW faculty, staff, and students must ensure that any works used have been either: lawfully used under an exception explicitly set out in the *Copyright Act*, or legally obtained – for example, without violating any licence, agreement, or notice with respect to a work that prohibits reproduction under a collective licence. Any such use may not circumvent a technological protection measure that controls access to or restricts the reproduction of the material.
- 1.3. Most of the materials used at UCW will be subject to copyright.
- 1.4. This procedure applies to all uses of copyright-protected material at UCW or for its purposes. For example, it should be referred to when considering:
 - 1.4.1. Uploading texts, videos, or music to a learning management system (LMS) or website.
 - 1.4.2. Creating a physical course pack for student use.
 - 1.4.3. Making photocopied handouts for distribution in class.
 - 1.4.4. Reproducing text or graphics in a research paper, PowerPoint presentation, or other academic deliverable.
 - 1.4.5. Installing software on a UCW computer or device.
 - 1.4.6. Showing a video in class, whether virtually or in-person, or at an on-campus event.

1.5. When planning to engage in any of these activities, or any other use of copyright-protected material, the following questions are applicable:

1.5.1. Is the material in the public domain?

1.5.2. Is the use permitted under a Creative Commons (i.e., Open Access) licence?

1.5.3. Is the use covered by an existing licence with UCW?

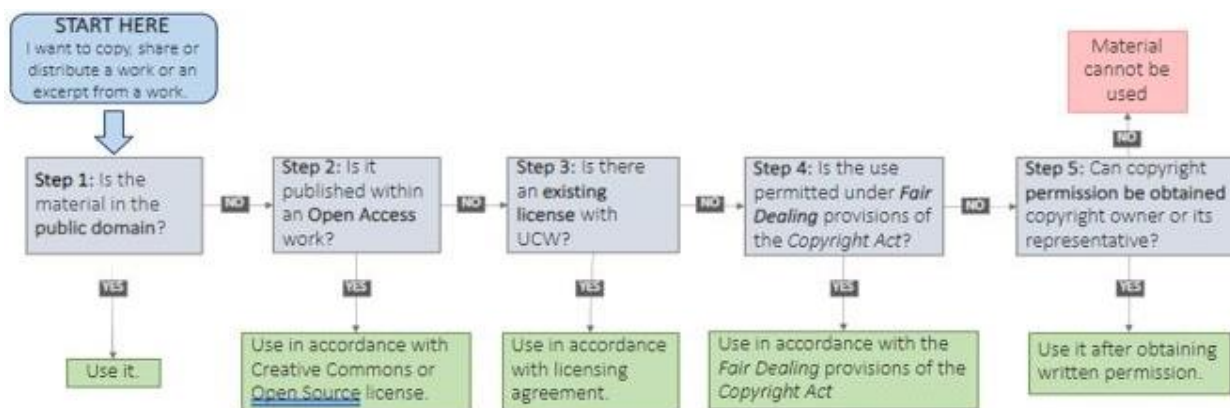
1.5.4. Is the use otherwise permitted under an exception in the *Copyright Act*?

1.5.5. Can a licence to use the material be obtained?

1.6. Each of these questions is examined in more detail below. The UCW Library is available to provide assistance on copyright matters. Please contact the UCW Library at ucwlibrary@ucanwest.ca if you have any questions.

2. Procedure for the Usage of Copyrighted Materials

Figure 1. Use Procedures Flow Diagram



Procedure Guidance

2.1. Step 1: Is the material in the public domain?

If the answer is yes: you may use the material.

If the answer is no: proceed to Step 2.

Guidance:

For most published literary, dramatic, musical, and artistic works, the work will be in the public domain if the author (or all of them where many) of the work died more than 70 years ago. In certain cases, including performers' performances, sound recordings, broadcast signals, and works where the author cannot be determined, a different term of copyright will apply.

2.2. Step 2: Is it published within an Open Access or Open Source work?

If the answer is yes: you may use the material.

If the answer is no: proceed to Step 3.

Guidance:

Certain platforms, such as Creative Commons or Open Source, facilitate the licensing of certain copyright protected materials so that users may share or reuse copyright-protected materials with few, or in some cases, no restrictions. For more information, you can see the licences offered by Creative Commons by clicking [here](#) or the Open Source Initiative FAQ [here](#).

2.3. Step 3: Is the use covered by an existing licence with UCW?

If the answer is yes: you may use the material.

If the answer is no: proceed to Step 4.

Guidance:

First, you should determine if the copyright-protected material you wish to use is covered by an existing licence. The licences that are most likely to be relevant to UCW and its faculty, staff, and students are described below.

Second, even where a licence exists, it is important to understand the specific terms of the licence agreement to ensure that the anticipated use is within the permitted scope and that use is in compliance with the agreement. Please contact the UCW Library if you have any questions regarding these license terms.

2.3.1. Licences Held by UCW

UCW has direct licences in place with publishers, licensing agencies, and aggregators that may cover the title you wish to reproduce and the use you intend to make of the work. Licensing terms and other information for Library research databases can be found on the Library website [here](#).

2.3.2. Licensed Showings of Film and Video

As use of films and video (e.g. from streaming services) are limited to personal, non-commercial viewings on personal devices only, and do not allow for public performance, showing a film for any non-educational purpose (such as a “film night” organized for social rather than educational purposes) requires a public performance licence.

UCW has negotiated site licences with Audio Cine Films and Criterion to enable certain films to be viewed on campus. As movies covered by these licences vary from time to time, ask the UCW Library to verify public performance rights prior to these items being used in the classroom, in online instruction, or anywhere on UCW’s premises.

- [Click here to search the list of titles covered by Criterion Pictures.](#)
- [Click here to search the titles and studios covered by Audio Cine Films \(ACF\).](#)

You may also wish to review individual streaming services’ licence agreements to determine whether public performance is allowed in the particular circumstances.

2.3.3. Software Licences

If installing software to be used on campus, in the classroom, in online courses, or on UCW equipment, you should confirm that there is a valid licence for any software you are using.

2.4. Step 4: Is the use permitted under an exception in the *Copyright Act*?

If the answer is yes: you may use the material.

If the answer is no: proceed to Step 3.

Guidance:

The *Copyright Act* includes various exceptions or “user’s rights” that allow you to engage in certain uses, without the consent of the copyright owner, that would otherwise constitute copyright infringement.

NOTE: Because UCW is not a non-profit institution, it is not entitled to rely on the specific exceptions available to non-profit educational institutions and libraries. Faculty who teach at multiple institutions should be aware that some provisions of the *Copyright Act* that you may rely on at other institutions do not apply to your uses at UCW. You can, however, rely in appropriate circumstances on the *fair dealing* or *personal exceptions* provisions.

2.4.1. Fair Dealing

The fair dealing provisions of the *Copyright Act* allow a person to use a copyrighted work, without the permission of the copyright owner, if the answer to both of the following questions is yes:

Is the dealing/use for an allowable purpose?

The use must be for one of eight specific allowable purposes: research, private study, education, parody, satire, criticism, review, or news reporting.

Is the dealing/use “fair”?

Fairness can be assessed by considering the following factors:

- The purpose (goal) of the dealing: an objective assessment of the real or ulterior purpose or motive for the use of the work at issue;
- The character of the dealing: a consideration of how the works are actually dealt with by the user, including the number and quality of any copies made, how the copies are distributed, and whether they are temporary or permanent;
- The amount of the dealing: a consideration of the amount of the work that has been used and the importance of that portion to the work as a whole;
- The alternatives to the dealing: a consideration of whether there are viable alternatives to the dealing, including hyperlinking to the material instead of copying it or relying on material that is not protected by copyright;
- The nature of the dealing: a consideration of whether the work is one deserving wide dissemination (for example, whether the work was previously published or was confidential);
- The effect of the dealing on the work (for example, whether the reproduced work is likely to compete with the original work or otherwise affect demand for it).

Further information about fair dealing can be found [here](#).

2.4.2. Personal Exceptions

If you are copying existing material purely for your own private purposes or for later listening/viewing, the specific personal exceptions in the Copyright Act apply. However, these personal exceptions can only be applied in limited circumstances. They cannot be applied unless materials have been legally obtained, other than by borrowing or renting. As well, copies cannot be shared with others.

If you are copying existing material that is not commercially available in a format specially designed to meet the needs of a person with a perceptual disability as an individual with a perceptual disability, as an individual acting at the request of such a person, or for a non-profit organization acting for the benefit of such a person, it is not a copyright infringement to:

- Reproduce or fix a copyrighted work, other than a cinematographic work, in a format specially designed for persons with a perceptual disability;

- Translate, adapt, reproduce, or provide access to a literary or dramatic work in sign language, other than a cinematographic work, in a format specially designed for persons with a perceptual disability;
- Perform in public a literary or dramatic work, other than a cinematographic work, in sign language, either live or in a format specially designed for persons with a perceptual disability.

2.5. Step 5: Can copyright permission in writing be obtained from copyright owner or its representative?

If the answer is yes: you may use the material.

If the answer is no: proceed to Step 3.

Guidance:

Unless covered by an existing licence or exception under the *Copyright Act*, you are required to obtain written permission from the copyright owner or its representative (for example, a publisher, distributor, collective society, or licensing agency) before using copyright-protected material. If the copyright owner cannot be successfully located, the Copyright Board of Canada may be able to issue a non-exclusive licence upon request. Visit the [Copyright Board of Canada's Unlocatable Owners webpage](#) for further information.

2.6. UCW expects all members of its community to comply with applicable copyright law. In situations where any doubt arises, please refrain from using the materials or consult with the UCW Library at ucwlibrary@ucanwest.ca.

3. Related Policies

Policy Number	Policy Title
6006	Copyright