

Procedure Number:	6006
Procedure Title:	Copyright Procedure
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1. Introduction

The following Procedure sets out the approach that University Canada West (“UCW”) faculty, staff, and students should take when using copyright owned materials. It assumes that the use involves the reproduction, performance, communication (including via the Internet), 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 that is covered by the *Copyright Act* and has not fallen into the public domain.

In all cases, UCW faculty, staff, and students must ensure that the any works used have been lawfully obtained – for example, without violating any licence, agreement, or notice on a publication that prohibits reproduction under a collective licence, and without circumventing a technological protection measure that controls access to or restricts reproduction of the material.

The Procedure applies to all uses of copyright material at UCW or for its purposes. For example, it should be referred to when considering:

- Uploading text, video, or music to a learning management system (LMS) or website.
- Creating a physical coursepack for student use.
- Making photocopied handouts for distribution in class.
- Reproducing text or graphics in a research paper, PowerPoint presentation, or other deliverable.
- Installing software on a UCW computer or device.
- Showing a video in class or at an on-campus event.

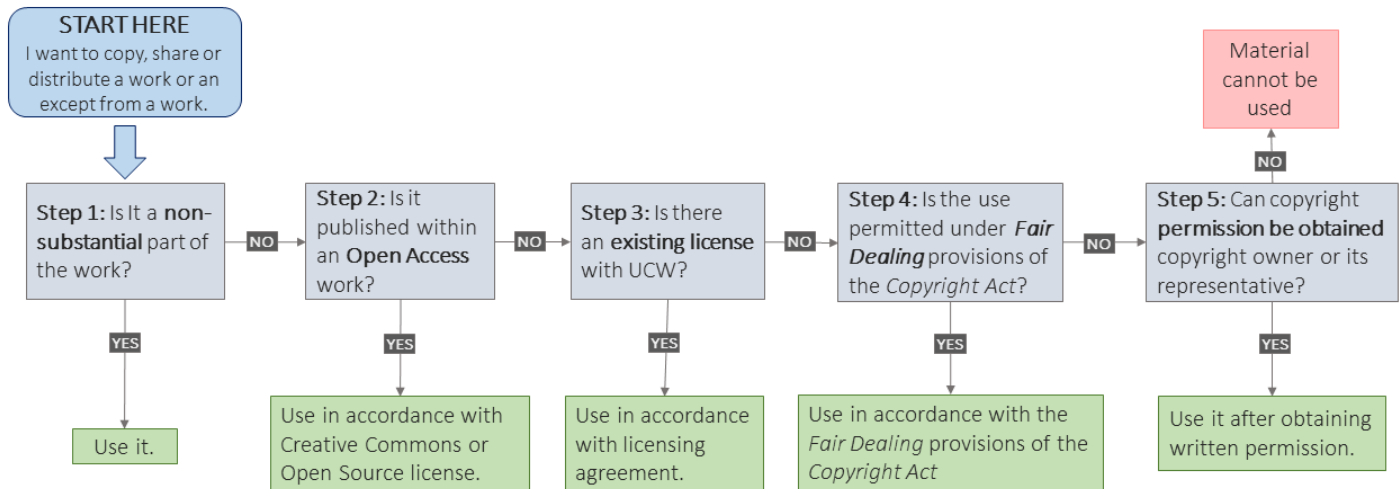
When planning to engage in any of those activities, or any other use of copyright-protected material, ask the following questions:

1. Does the proposed use involve a substantial part or non-substantial part of the protected material?
2. Is the use permitted under a Creative Commons (i.e., Open Access) licence?
3. Is the use covered by an existing licence with UCW?
4. Is the use permitted under an exception in the *Copyright Act*?
5. Can a licence to use the material be obtained?

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

2.1 Procedures Flow Diagram



2.2 Procedures Guidance

Step 1: Does the proposed use involve a non-substantial part of the protected material?

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

If the answer is no: Proceed to Step 2.

Guidance:

The consent of a copyright owner will only be required if the portion constitutes a “substantial part” of the copyright-protected material. This assessment must be made on a case-by-case basis and it is more a qualitative rather than a quantitative consideration.

An important consideration is whether the excerpt you are using is of particular importance to the original work or subject matter. For example, even a few sentences from a much longer book may be a substantial part of the underlying literary work if the portion used is expressed in an especially creative way or goes to the essence of the plot or thesis. Similarly, even a few bars of a popular song may be a substantial part of the underlying musical work if it constitutes the “hook” or an especially recognizable phrase.

Practically speaking, for much of the content that faculty, staff, and students will use at UCW, the portion used will most likely be substantial. Accordingly, the safest way to proceed is to assume you are using a “substantial part” of the work or subject matter and proceed with the copyright analysis accordingly.

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](#).

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 to ensure that the anticipated use is permitted. Please contact the UCW Library if you have any questions.

Access Copyright Licence

UCW's Access Copyright Licence grants its faculty, staff, students, and other library users the right to copy and/or communicate excerpts of works internally for educational purposes. To see if a title you wish to copy is covered under the Access Licence, [click here to search all available works](#).

Other Licences Held by UCW

UCW has direct licences in place with publishers, licensing agencies, and aggregators that may cover the title you wish to copy and the use you intend to make. Licensing terms and other information for Library research databases can be found on the Library website.

Licensed Showings of Film and Video

As most physical media are limited to personal, non-commercial viewings 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 \(ACF\).](#)

Generally, the terms and conditions that apply to the use of streaming services such as Netflix, Amazon, Crave, etc. are limited to personal, non-commercial viewings and do not allow for public performance. However, you may wish to review individual streaming services licence agreements to see if public performance is allowed in the particular circumstances.

Reporting Showings of Audiovisual Media

All of UCW's faculty, staff, and students are responsible for reporting the following information in writing to the UCW Library prior to using audiovisual media in the classroom or at a UCW event:

- Name of the instructor or event coordinator;

- Course number and course name or name of event at which the film is being shown;
- Campus;
- Date played;
- Title the of film; and
- Studio distributing the film.

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.

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 5.

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.

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:

1. The use is for one of eight specific allowable purposes: research, private study, education, parody, satire, criticism, review, or news reporting.
2. The use is “fair”. Fairness can be assessed by considering the following factors:
 - a. 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;
 - b. 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;
 - c. 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;
 - d. The alternatives to the dealing: a consideration of whether there are viable alternatives to the dealing, including hyperlinking to material instead of copying it or relying on material that is not protected by copyright;
 - e. 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);

- f. 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).

Fair dealing is not defined in the *Copyright Act*. The concept is complex and fact-specific, requiring a multi-factor analysis rooted in decisions of various courts, including the Supreme Court of Canada. For that reason, it is best to rely on fair dealing only in circumstances where UCW does not already have a licence to use the material.

For more information about fair dealing can be found by here: <https://fair-dealing.ca>

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 circumstance. They cannot be applied unless materials have been legally obtained, other than by borrowing or renting. As well, copies cannot be shared with others.

Step 5: Can copyright permission be obtained copyright owner or its representative?

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

If the answer is no: You cannot use the material.

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.](#)

Related Policies

Policy Number	Policy Title
6006	Copyright