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Policy Title: Public Performance Rights Policy

Policy No: 6000

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Effective Date: 26 Jan 2011

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## Policy Statement

From time to time University Canada West integrates the use of films, videos, and/or DVDs/ Blu-Rays for educational, marketing, and/or entertainment purposes. While the UCW Library does not directly facilitate the acquisition of audiovisual materials, it plays a vital role in upholding UCW's responsibilities and adherence to stated Public Performance Rights.

## Purpose

The University Canada West Library supports all copyright laws within the jurisdiction it operates. Toward this aim, the Library participates in two licenses (Criterion Pictures and Audio Cine Films) that arrange Canadian Public Performance Rights (PPR) for many videos. The list of studios for which UCW has PPR is attached in the Appendices section of this policy.

These licenses allow students, faculty, and staff to borrow videos, produced by any of these studios, from the Library and show them in a classroom setting without contravening copyright.

Students, faculty, and staff may show videos produced by any of these studios that have been rented from a retail store. Students, faculty, and staff may also show personal copies of purchased videos produced by any of these studios in class.

## Scope

This policy applies to the special features of all audio visual formats existing and possibly existing in the future. The Library abides by and upholds all reasonable and technically feasible standards of copyright and fair access and use. The Library must uphold Canadian copyright law and abide by the terms and conditions in licenses. **Ignorance of the law is not a defence.**

- According to the Copyright Board of Canada, the copyright owner of a video holds the rights to its use, such as performance, communication, or reproduction.
- University Canada West is considered a public performance site and as such requires that all visual materials screened on campus comply with the Canadian Copyright Act and the University's Public Performance Rights Policy.
- UCW Librarians must search for public performance rights for all audio visual materials intended to shown on UCW property. Please ask the Library for assistance with general copyright searching.
- Canadian public performance rights videos have been produced for sale with the copyright owner's permission for public viewing in Canada. Whenever possible, audiovisual items purchased by UCW are purchased with Canadian public performance rights and licensed for use in UCW classrooms, libraries, etc.
- Home Use videos have been produced for sale with the copyright owner's permission for viewing in individual homes. These videos may not be shown or screened in schools, universities, libraries, or public places unless permission has been given. However, the University has negotiated site licences with Audio Cine Films (ACF) and Criterion to enable many Home Use feature 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, library, etc.

- Home Use videos or videos without Canadian public performance rights held in Departmental or Instructor's personal collections may not be shown on campus unless permission for public use has been obtained. The UCW Library can provide assistance in searching for permission to show these items in classrooms, etc.
- Home Use videos not covered by UCW site licences may require permission and the payment of a fee to be used in classrooms, library viewing, etc. Fees can be prohibitive and rights cannot always be obtained.
- The UCW Library supports teaching and learning at the UCW, so licensing of audiovisual resources does not extend to non-UCW members.
- In those circumstances where wide access cannot be negotiated, any restrictions on access will be noted in the catalogue record and/or on the item.
- UCW Library reserves the right to withhold acquiring items with limited or unreasonably expensive performance rights.
- Direct licensing questions and problems the UCW Librarians.

Where possible, the UCW Library will request from publishers/distributors written confirmation of all licensing agreements and will maintain files of licenses. These will be scanned and stored in an online database of licensing agreements.

As commercial feature films and DVDs/ Blu-Rays typically do not come with PPR, they need to be covered by an annual site licence with one of the two major Canadian distributors of feature films, [Criterion Pictures](#) and [Audio Cine Films, Inc.](#) The studios or producers whose work is covered by the site licences can be found by following the foregoing links. If the video is produced by a studio covered by the University's site licence, it may be shown legally on UCW property, however, the screening must be reported to the UCW Library. The videos/DVDs must be legal copies and can be rented, purchased, borrowed, or personal copies.

The Copyright Act applies even if...

- Films are rented, purchased or personally owned;
- Films are only partially shown, e.g. just "clips";
- Films are shown within a non-profit, educational context;
- Films are shown to small groups.

Many people can be held accountable when the Copyright Act is violated: those showing the audiovisual material and/or the University may be subject to substantial civil and criminal penalties, which can include hefty fines, imprisonment, or both.

## Definition

These definitions apply to terms as they are used in this policy.

Word/Term	Definition
Public Performance Rights (PPR)	Under The Copyright Act any viewing or exhibition of a video in a public place (schools are considered public places) must have Public Performance Rights. P.P.R. rights can be added into the cost of the video at the time of purchase. Written confirmation of permission must be obtained from the copyright holder and kept on file.
Multimedia	Includes multimedia in VHS, DVD, Blu-Ray, or any other digital format.
Copyright	All works are protected under the Canadian Copyright Act. Works cannot be reproduced, edited, copied, or modified in any manner nor can they be exhibited by broadcast, closed-circuit transmission, or satellite without the express written permission of the copyright holder. All other rights not expressly mentioned herein are reserved.

### Related legislation

- Copyright Act
- Canadian Criminal Code
- Copyrights in Canada are under the responsibility of the Federal Government, and all aspects of the Law are handled by the Copyright Board of Canada.
- Additional investigative, legal, and piracy issues are handled by the Canadian Motion Picture Distributors Association (CMPDA).

### Related policies

Policy Number	Policy Title
6001	Library Collection Development

### Responsibility

University staff, faculty, and students are responsible for abiding by and upholding all reasonable and technically feasible standards of copyright and fair access and use of multimedia materials.

All University staff, faculty, and students are responsible for reporting the following information in writing to the UCW Library prior to the media being used in the classroom or in a UCW event:

1. Instructor name / Event co-ordinator
2. Course number and course name / Name of event the film is being shown in
3. Campus
4. Date played
5. Film title
6. Studio distributing the film

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### **Rules of Multimedia Use at UCW**

The following rules shall apply to all instances of multimedia use on UCW property. All University staff, faculty, and students are responsible for reporting the following information in writing to the UCW Library prior to the media being used in the classroom or in a UCW event:

1. Instructor name / Event co-ordinator
2. Course number and course name / Name of event the film is being shown in
3. Campus
4. Date played
5. Film title
6. Studio distributing the film

Many people can be held accountable when the Copyright Act is violated: those showing the audiovisual material and/or the University may be subject to substantial civil and criminal penalties, which can include heavy fines, imprisonment, or both.

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*The following are commonly asked questions about copyright rules concerning the use of non-print material such as videotapes, audio disks, and audio cassettes in educational environments. The responses which accompany the questions are intended only to make users more aware of their responsibilities under the copyright law and do not constitute legal advice. (Source Audio Cine Films).*

### **What is the penalty for illegally using copyrighted materials in a classroom?**

The Copyright Act states that a person found guilty of infringement of public performance, may be fined or imprisoned, or both.

### **Why are copyrights important?**

The ability of the motion picture and television industry to continue to deliver content to consumers in new and innovative ways is dependent upon the ability to protect content. Copyrights exist to protect the rights of the creative artists who write, direct, produce, and star in the entertainment that billions of people across the globe have come to enjoy. To that end, it is important to encourage new technologies and innovative approaches that create greater consumer choice for how, when, and where content can be accessed legally at a variety of price points consumers want.

More specifically, whether someone uploads a movie to the Internet, purchases pirated DVD's on the street, or illegally presents copyrighted DVD movies within an organisation, s/he commits an action that has serious legal consequences of which s/he should be aware. National law and international treaties exist to stop people from illegally exploiting valuable copyright protected material.

There are two primary statutes in Canada that deal with copyright infringement, the Copyright Act and the Criminal Code. Under these laws, individuals or organisations who infringe copyrights can be sued in civil courts or charged criminally. Under civil law, infringers can face damages of \$20,000 per work infringed. Under criminal law, infringers can face fines and up to five years in prison.

### **Who is held accountable when the copyright law is broken in a classroom or school?**

**Ignorance of the law is not a defence.** Many people can be held accountable when breaking The Copyright Act. The University's President, the instructor, the librarians, the Dean, and the University's Administration can all be held liable, depending on their involvement. Every individual "involved" in the violation is liable.

### **What are Public Performance Rights?**

Under The Copyright Act any viewing or exhibition of a video in a public place (schools are considered public places) must have Public Performance Rights. P.P.R. rights can be added into the cost of the video at the time of purchase. Written confirmation of permission must be obtained from the copyright holder and kept on file.

### **Can a video bought or rented from a local video store be shown to students?**

1. Only if the school has purchased a site license. These licenses will give the school the Public Performance Rights to show videos from certain studios. All videos shown in the classroom must have Public Performance Rights (PPR).
2. Some videos can be rented or purchased with PPR already included. Written permission must be given when purchasing or renting audiovisual materials and retained on file.

### **How to find out if a video has public performance rights?**

1. Most videos sold by educational vendors have PPR. Most videos sold by non-educational vendors do not have PPR included in the original selling price.
2. If someone is unsure whether videos purchased by UCW have PPR, check with the with the UCW Library. If the vendor indicates in writing that PPR covers the video, keep this confirmation on record. If the vendor indicates that the school has not purchased PPR for the particular title, then PPR must be purchased or stop using the video.

### **Is it legal to make a "back up" copy of a purchased video just in case the original gets damaged?**

1. It is illegal to make a "back up" or "vault" copy of any purchased video unless written permission exists from the copyright holder. Written confirmation of permission must be kept on file.
2. Duplicating rights for a particular title are negotiated between the Board of Education and the distributor. These rights are obtained for high volume material in central circulating collections and for videos that are included in loan kits.
3. Duplicating rights only exist for a period of 3 to 5 years, after which licensing is renegotiated. Duplicating rights are not purchased for all titles in central circulating collections.

### **When is it legal to record a program off air?**

As of January 1, 1999, two educational regulations came into effect. For news and news commentary:

1. A single copy of a news and news commentary (not documentary) program may be produced to be used on school premises for educational purposes.
2. The copy can only be made at the time the program is aired and must be shown primarily to students in an educational institution.
3. The copy can be shown an unlimited number of times for up to one year from the date the copy is made.
4. After one year, the copy must be erased or clearance must be sought from the program's producers or pay copyright fees.
5. **For all other types of broadcast programs:**  
A single copy of programs that are not news and news commentary programs may be produced. These programs cannot be duplicated for students.
6. The copy can only be made at the time the program is aired.
7. A copy may be reviewed for 30 days to determine whether the copy will be used on the school premises for educational purposes. After 30 days, the copy must either be erased or permission must be obtained from the copyright holder to show it or pay copyright fees. Copies that are not erased after 30 days will be subject to payment at a pre-set rate.
8. All tapes recorded for evaluation purposes must be clearly marked with the Title; Air Date; Air Time; Broadcaster (or channel); Duration of segment.
9. FOR MORE INFORMATION CONTACT: ERCC (Educational Rights Collective of Cda)

### **Can a school have a library of acquired or donated tapes and loan these tapes to students for home viewing?**

1. Yes, a school can have a circulating video library. This means that a student can take the video home to view and then return it to the school. Please be aware that if this policy is in place, the Library must indicate on the cassette that it is a home use loan copy only. Not doing so is a violation of copyright.
2. Individual students, groups of students, or entire classes cannot view a video that is labelled for home use loan on campus.

#### **Must PPR be purchased on a title by title basis?**

No, some companies, such as Criterion Pictures and ACF offer an Annual Public Performance License for as little as 25 cents/student. This license enables a school or group of schools to show all the feature films Criterion Pictures and ACF represent for a one year period. Reporting is required.

#### **What must be done if it is discovered that a video has an expired date?**

1. Call the Library to see if the expiry date has been extended. If the license has expired and not renewed, it is the tape must be erased. This is part of the licensing agreement.
2. A record of all PPR and duplicating licenses the school has purchased must be kept by the library. The Library will be responsible for renewing these licenses. Contact the UCW Library for additional information about licenses.

#### **Is it legal to transfer a video purchased in another country to the North American Standard of NTSC?**

It is illegal to transfer a video purchased in another country, unless written permission from the copyright holder has been provided. Written confirmation of permission must be kept on file.

#### **To what other media does copyright apply?**

Copyright applies to any original work such as music, art, screenplays, commercials, photographs, magazines, CD-ROMs, etc.

#### **Is it legal for students to insert and/or edit video and/or audio commercials for class projects?**

It is illegal for students to insert and/or edit video and/or audio in commercials for projects without written permission of the copyright holder

#### **Is it legal to perform a work (i.e.: play) in the classroom without permission from the copyright owner?**

According to the booklet, *What You Need to Know About the New Copyright Act*, students can perform a play in the school if the following five conditions are met. The performance must:

- take place on the premises of the educational institution be for educational or training purposes.
- not be for profit.
- take place before an audience consisting primarily of students of the educational institution, instructors acting under its authority or any persons who are directly responsible for setting curriculum;
- and not involve a "motive of gain"
- If the school is performing a play and charging admission, permission from the copyright holder needs to be obtained.

**Is it legal to play a sound recording in the classroom/auditorium without permission from the copyright owner? What are the specific conditions relating to the playing of music in an educational environment?**

Yes, it is legal to play a sound recording if the following criteria are met. The recording must take place on the premises of the educational institution.

- be for educational or training purposes.
- not be for profit.
- take place before an audience consisting primarily of students of the educational institution, instructors acting under its authority or any persons who are directly responsible for setting curriculum;
- and not involve a "motive of gain".

### **Is it legal to videotape and audio record a stage performance of a work protected by copyright?**

Yes it is legal to videotape and audio record a stage performance of work protected by copyright if the following criteria are met. The performance must:

- take place on the premises of the educational institution be for educational or training purposes not be for profit
- take place before an audience consisting primarily of students of the educational institution, instructors acting under its authority or any persons
- who are directly responsible for setting curriculum; and
- not involve a "motive of gain"
- If the video is sold, permission from the copyright holder must be obtained.

### **How to obtain permission from a copyright holder to show or reproduce their work?**

Anyone showing audiovisual materials is required to take reasonable steps to obtain written permission from the copyright holder or a representative of the owner such as a publisher, producer, or distributor. Please contact the UCW Library to explore options to obtain the necessary licence. If the copyright holder cannot be successfully located, a letter can be sent to Ottawa indicating that UCW has tried to obtain permission and were not able to find the copyright holder. At this point Ottawa will log the letter.

### **Unlocatable Copyright Owners of All Mediums**

Mr. Claude Maj eau OR  
Copyright Board Canada  
56 Sparks Street, Suite 800  
Ottawa, Ontario  
K1A0C9

Doug Atkinson  
CVS Inc.  
40 Scollard Street  
Toronto, Ontario • M5R 3S1  
416-925-5857

or

For a complete list of titles covered by Criterion Pictures please search the following links  
Title Search - <http://www.criterionpic.com/cpl/qsearch.htx>

For a complete list of titles and studios covered by Audio Cine Films (ACF) please search the following links  
Title Search - <http://www.acf-film.com/en/index.php>

Please contact the UCW Library regarding any questions regarding PPR.