

Audiovisual and Electronic Resources and Copyright

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1.Audiovisual Resources

The following formats, are all covered by copyright:

16 mm Films	Photographs
Audiocassettes	Power Point Presentations
Compact Disks	Slides
Digital image files	Transparencies
DVDs	Videos

Kwantlen does not have an agreement (such as the ACCESS COPYRIGHT agreement) for audiovisual resources. Rights are negotiated on an item by item or case by case basis. These rights are often expensive, can take a long time to obtain and in some cases are simply not available.

A.Video, DVD and Motion Pictures

All videos and DVDs shown in the classroom must be legal copies.

Videos, DVDs and motion pictures cannot be duplicated, edited or the format transferred (in whole or in part) without the written permission from the

copyright holder. This permission will often involve paying a fee. The exception to this is many language tapes where limited duplication rights may be included when the title is purchased. Generally if a title is commercially available, permission to duplicate is rarely given and may cost more than buying a second copy.

When a media format becomes obsolete, such as 3/4" video or reel to reel tape the content may be transferred to another format, **provided it is not commercially available in the new format**. Generally if the content is commercially available in a new format it is probably cheaper to buy rather than to pay for transfer rights.

Some videos and DVDs carry a site licence which restricts the showing and the use of the item to the premises and the users of the institution purchasing the material. These materials are only available to students and employees of Kwantlen (not to community borrowers) and are not available for interlibrary loans within the province.

Videos purchased through licences negotiated by the Advanced Media Acquisitions Centre (AEMAC) always restrict the use of the material to post-secondary users; therefore these videos cannot be borrowed by community borrowers. AEMAC ceased to exist as of September but the Kwantlen collection contains a large collection of videos purchased through AEMAC and these rights must be respected until the video is withdrawn from the collection. Rights arranged by AEMAC fall into the following 3 categories:

1. Erasure: rights are purchased for a specific time period after which the video material must be removed from the institution's collection and must be destroyed.
2. Non-erasure: rights are purchased for a specific time period, however, once the expiry date has been reached, the institution may retain the item in its collection for the life of the tape. When the tape deteriorates or is damaged, it cannot be replaced through AEMAC. In some cases, a replacement can be purchased from the original producer or distributor but always at a higher cost.
3. Perpetual: these rights enable the institution to retain the item in its collection indefinitely.

Rarely are broadcast rights ever purchased for videos or DVDs in our library collection. If purchased, these rights would enable us to broadcast the material over a closed circuit television system.

- ***Public Performance Rights: What are they and why do we need them?***

Videos, DVDs and motion pictures cannot be shown in a public place, for example, in a classroom, without the purchase of public performance rights. Any venue that is not a private home is considered, under Canadian law, to be a Public Performance site.

Therefore, classrooms, libraries and student union buildings are public performance sites and a public performance licence is necessary if a video or DVD is to be shown in these locations.

- ***Clips and Compilations:***

Making a compilation of video clips from other tapes ***may only be done with written permission from all the rights holders.*** Without written permission it is a violation of copyright. Obtaining permissions from all the copyright holders is generally a time consuming and possibly expensive process.

- ***Feature Films***

Feature Films (ie material that is intended for the commercial theatre and movie rental market) and home use videos do not usually carry public performance rights. Kwantlen has a special Institutional Feature Film Public Performance Licence that allows thousands of feature film titles to be shown in the classroom without any further payment. However, since not all titles are covered, it is the responsibility of the person showing the film to check the list of producers/titles covered under our licence. This list can be found by clicking on the following link that provides information on our [Feature Film Licence](#). For films that are not covered under this licence, special arrangements can be made and a fee paid to the distributor. Generally the price for this can be quite high and often only applies to one showing of the film.

Even with the Feature Film licence there are restrictions on how these films can be used. Please click on the link below for [Guidelines for Showing Feature Films](#).

- ***Home Use Videos***

Home use videos (such as those obtained from the Public Library or a retail video outlet) should not be shown on University premises. They are for ***Home Use Only***. The only exception would be the feature films covered by our Institutional Licence, as discussed above.

B. Streamed Video

Kwantlen has purchased a small number of streamed videos with the rights to show in the classroom. These can be searched through the Library Catalogue by entering the title or, to see all that we own, search the term 'streaming video'. In addition Kwantlen has an institutional licence to the National Film Board streamed video collection that allows showing in the classroom.

Many other sites, including YouTube, offer free access to a wide range of streamed video. However these sites, though free in the payment sense are not always copyright free.

- ***Guidelines for the use of free online sites (including YouTube) in the Classroom***

Before using an online video in a classroom setting the following questions should be asked:

- Are there any explicit warnings or limits stated?
- Was the video posted online by the copyright owner?
- Does the site's *Terms of Use* allow you to stream their videos for educational use?
- Does the video contain copyrighted information from another source (for example, music, pictures, or charts)?
- Is the video allowed to be shown in Canada? (there will be a message if it is not).
- Is the video a commercial posted by someone other than the advertising company?
- Has the video has been available online for more than a few days? (companies often remove content immediately if it infringes copyright).

Note: You must stream the video directly from the original site into your classroom (eg. If you are showing a YouTube video you must show it directly from YouTube not save or 'capture' the video onto a disc or flash drive and then show in class).

C. Taping of Broadcast Television

In general, taping of television or radio broadcasts **can only be done for private home viewing** not for showing in the classroom. The Copyright Act grants limited off-air taping rights in the following cases:

1. A non-profit educational institution can make a single copy of a "news program" or a "news commentary program" **if**:
 - the copy is used on the premises for educational and training purposes **and**
 - the copy is made at the time the program is aired **and**
 - the audience consists primarily of students of the educational institution

Note: "Documentaries" are specifically **excluded** from this category.

The copy can be shown without permission or payment of a royalty an unlimited number of times for up to one year from the date the copy is made. If the program is kept beyond the one year period, a tariff must be paid.

2. A non-profit educational institution may make a single copy of all other types of broadcast programs (i.e. those that are not “news programs” or “news commentary programs”) for evaluation or preview purposes **if**: the copy is made at the time the program is aired.

The institution may examine the copy for up to 30 days but during this time the program may not be used in public performance. After 30 days the copy must be either erased or a tariff must be paid. A copy retained after the 30 day period may only be viewed by an audience consisting primarily of students of the educational institution on the premises of the educational institution.

Regulations that went into effect September 1, 2001 apply to programming that has been recorded from radio and television broadcasters that are either viewed for preview purposes, or are used in the classroom, and are subject to royalty payments as per changes to the Copyright Act. The record keeping process that an institution must follow in order to be in a position to pay tariffs when required includes submitting institutional information, title of the program, duration, date and time of broadcast, call sign etc. of the broadcaster, a record of public performances and a record of the date of destruction. Records are not required for news and news commentary programs that are erased within 72 hours of the record date.

2. Electronic Sources and Storage (including the Internet and Web Pages)

Electronic sources provide one of the most challenging areas of copyright. There are many questions and few answers--this area is in a constant state of change, and this guide will be updated as new information presents itself. The following are some general ‘rules of thumb’:

- ❑ If in doubt consider that it is copyrighted and that it is necessary to obtain the permission of the copyright holder if you wish to reuse it in any way.
- ❑ Electronically stored or digitized materials **are not** covered by our ACCESS COPYRIGHT licence.
- ❑ ACCESS COPYRIGHT does, however, offer digital licences on a transactional basis, to cover some uses of works in its repertoire. Uses include: scanning from a paper original into a computer, posting material on a website and using Internet material. The request and the charges would be the responsibility of the individual who wishes to reuse the digital material. For more information and contact information see the ACCESSCOPYRIGHT website:
<http://www.accesscopyright.ca/Default.aspx?id=118>
- ❑ Works on the Internet are considered as ‘published works’ with copyright protection. Putting up content on a Web page, whether it is text, an

image or a video clip that belongs to someone else, requires written permission from the copyright holder(s). You need permission to:

- **upload** anything on to a web page that is not your own creation or to which you do not hold copyright.
 - **change** in any way content that is not your own creation or to which you do not hold copyright (even if you have permission to upload).
 - **upload** material to which you have copyright but which involves participants who have not given their permission to put the material up on the web.
 - **download material for classroom distribution, course packs or reserves.**
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- ❑ The general consensus, at this time, is that links may be made (without permission) to the home page of a Web site. However, permission from the copyright holder is needed before 'deep linking' (linking to an internal or deeper page).
 - ❑ Even though a published work does not contain a copyright protection statement, it does not mean that copyright does not exist. Copyright protection exists from the time the work is created: registration, though available, is not required. Conversely some sites (although not that many) will clearly state that certain copying or downloading activities are permissible.
 - ❑ The copyright holder of the digital copy may not be the same as the copyright holder of the original work in print (or other format). Check to ensure that you are requesting copyright permission from the correct source.
 - ❑ Digital rights are often layered. Works that contain more than one medium may require copyright permission from several people or organizations or for various aspects of the work.
 - ❑ Currently there is no industry standard regarding payment for digital licencing, so be prepared to negotiate.
 - ❑ Scanning a print document is the same as copying. According to our ACCESS COPYRIGHT agreement, input or output of published works (without adaptation) into or from an electronic file shall only be permitted for the purpose of producing paper copies. All copies stored electronically must be erased promptly after the required paper copies have been produced.
 - ❑ Digitized materials carry with them 'moral rights' that vary from country to country and are intended to prevent association of use of copyrighted material with anything that might prejudice the reputation of the author.
 - ❑ According to Lesley Ellen Harris in Canadian Copyright Law, 3rd edition, "**browsing**" on the Web **can** be considered a reproduction of a work for copyright purposes and is protected by Canadian copyright law. She feels

that browsing may be addressed in future amendments to the Canadian Copyright Act.

- ***Requesting Permission***

Before applying for permissions, always check a website's terms of use . Some websites permit copying for educational purposes. Locating a copyright statement on some websites can be challenging. The website's home page is a good place to start. Look for sections labelled

- terms of use
- about us,
- site info,
- all rights reserved
- copyright
- legal notices
- permissions

A website does not require the copyright symbol or a copyright statement to be protected. If you cannot locate a copyright statement, then you need to contact the owner for permission. When in doubt, always ask for permission.

- ***How to Apply for Permission***

Always apply for permission in writing (email is fine).

Provide specific details in your initial request (to expedite the process)

- Your name, position title, and contact information
- A description of the item you wish to copy. If the item is posted online, include the link in your original request
- Where the work will be posted: a password protected website, publicly accessible website, an in-class powerpoint presentation
- how long you wish to use the work for
- Your deadline

Book Publication Request

A copyright holder might charge a licensing fee for publication. Therefore if you are requesting permission to publish a photo (or other work) in a book, it is helpful to include additional details such as

- Format : print / ebook - (or both)
- Name of the Publishing Company (and if the publisher is academic or non profit)
- Distribution rights needed (Canada, North America, World)
- Estimated copies to be produced (print run)

Request for use in a film / documentary

- Name of Production company
- Title of Film
- Broadcast Rights required (Canada, North America, World)



Modifying Copyrighted Works

If you wish to modify a work (example: alter an image), you must obtain permission from the work's author (creator). This rule also applies to works posted on websites that permit free copying and distribution. Altering a work without permission infringes an author's moral rights; moral rights protect the integrity of a work. You must obtain permission to modify a work from the original author . (An author retains their moral rights even if they assign the copyright to another party.)

Examples of permission request letters can be found by a Google search using the search terms: Sample Copyright Permission Letter

- ***Need Help Finding Copyright Owners?***

[ACQWEB](#) - Directory of Publishers

[Copyright Board of Canada](#) - contact the Board if a copyright owner is unlocatable

[Copyright Collective Societies](#) - This website provides links to various collectives such as SOCAN and Access Copyright. A collective society is an organization

that administers the rights of several copyright owners. It can grant permission to use their works and set the conditions for that use.

[FOB \(Firms Out of Business\)](#) records information about printing and publishing firms, magazines, literary agencies and similar organizations which are no longer in existence. Where possible the entries in FOB identify successor organizations which might own any surviving rights.

[WATCH](#) - database of copyright contacts

CV January 2010