

UNIVERSITY OF MANITOBA POLICY

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| Policy: | Use of Copyright Protected Materials |
| Effective Date: | May 22, 2018 |
| Revised Date: | |
| Review Date: | May 22, 2028 |
| Approving Body: | Board of Governors |
| Authority: | <i>The University of Manitoba Act</i> |
| Responsible Executive Officer: | Provost and Vice-President (Academic) |
| Delegate: (If applicable) | |
| Contact: | General Counsel |
| Application: | All Students, Employees, and all individuals holding an academic appointment (even if unpaid), academic staff, teaching staff, researchers, administrative and other staff, all employee groups, post-doctoral fellows, adjunct appointments, nil-salaried appointments, senior scholars, and professor emeriti are responsible for complying with this Policy. |

Part I Reason for Policy

- 1.1 The University of Manitoba is committed to compliance with all legislation related to the use of Copyright Protected Materials. Copyright Infringement is a serious offence which may lead to significant legal, reputational, and financial consequences for the University. This Policy aims to:
- (a) Highlight educational materials and advice available to the University Community respecting the legal use of Copyright Protected Materials.
 - (b) Promote and ensure compliance with the *Copyright Act* (Canada) and respect for the rights of Copyright holders.
 - (c) Provide clarity regarding the responsible use of Copyright Protected Materials.

- (d) Limit the potential legal liability of the University for Copyright Infringement through a continued exercise of due diligence.

Part II Policy Content

Policy Statement

- 2.1 The Act, this Policy and UM Copyright Guidelines, govern the use of Copyright Protected Materials. All members of the University Community are expected to stay informed of relevant federal law, and if engaged in using Copyright Protected Materials, must abide by the Act and follow the requirements outlined in this Policy. Members of the University Community using Copyright Protected Materials must demonstrate integrity and ethical behavior by ensuring the use is authorized, providing proper attribution, and refraining from Copyright Infringement. Failure to comply with the Act is a violation of federal legislation.
- 2.2 The Copyright Office is available to provide additional information, clarification, assistance and advice in relation to Copyright compliance.

Definitions

- 2.3 The following terms have the following defined meanings for the purpose of this Policy and any Procedures:
 - (a) **“Act”** means the *Copyright Act* (R.S.C., 1985, c. C-42) as amended from time to time.
 - (b) **“Copyright”** means the rights described in the *Copyright Act* (Canada), as amended from time to time.
 - (c) **“Copyright Infringement”** means a violation of the Copyright owner’s rights outlined in the Act, as amended from time to time.
 - (d) **“Copyright Protected Materials”** means original literary, dramatic, musical and artistic works, performances, communication signals and sound recordings, in any media (whether electronic or non-electronic), capable of Copyright protection under the Act.
 - (e) **“UM Copyright Guidelines”** means the detailed informational guidelines, as revised from time to time, provided by the Copyright Office for the University Community to follow respecting Copyright concepts, including: fair dealing, exemptions in the *Copyright Act*, library licences, digital locks, infringement, permission, attribution, modifying, the public domain, and other relevant Copyright topics. The UM Copyright Guidelines can be found at: http://umanitoba.ca/copyright/copyright_basics.html.

- (f) **“University Community”** means all students, employees, and all individuals holding an academic appointment (even if unpaid), academic staff, teaching staff, researchers, administrative and other staff, all employee groups, post-doctoral fellows, adjunct appointments, nil-salaried appointments, senior scholars, and professor emeriti.

Scope

- 2.4 This Policy applies to the use of all Copyright Protected Materials by all members of the University Community.

Use of Copyright Protected Materials

- 2.5 Individuals and groups subject to this Policy will only use Copyright Protected Materials when:
- (a) the use is permitted under the *Copyright Act* (Canada) and the UM Copyright Guidelines;
 - (b) the University has a licence with terms that permit the proposed use of the Material;
 - (c) permission has been obtained from the Copyright owner(s); or
 - (d) the Material is designated as open access or freely available through a Creative Commons licence or other similar notice.

Violation

- 2.6 It is a violation of this Policy to use Copyright Protected Materials except as described above.
- 2.7 If it is determined that a violation of this Policy has occurred, appropriate remedial action shall be taken by the University. Remedial action will emphasize violation prevention through education about the legal acquisition and use of Copyright Protected Materials, however, in the event of repeated and/or egregious violations of this Policy, such action may include disciplinary action, which will be implemented pursuant to and in accordance with the relevant collective agreement, University policies or by-laws.

Responsibilities of the University

- 2.8 The University, through its Copyright Office or otherwise, will make information pertaining to Copyright widely available, and will offer Copyright advice and Copyright information sessions.
- 2.9 The University may review course content for Copyright compliance.

Responsibilities of the University Community

- 2.10 Members of the University Community will stay informed of federal Copyright legislation and the UM Copyright Guidelines, and take reasonable steps to ensure that their use of Copyright Protected Materials complies with the Act and UM Copyright Guidelines.
- 2.11 Members of the University Community will consult with the Copyright Office, or other staff as determined by the University, for guidance prior to using Copyright Protected Materials if they are unclear whether their intended use of materials is in compliance with the Act and UM Copyright Guidelines.

Part III Accountability

- 3.1 The Office of Legal Counsel is responsible for advising the Responsible Executive Officers that a formal review of this Policy is required.
- 3.2 The Responsible Executive Officers are responsible for the implementation, administration and review of this Policy.

Part IV Authority to Approve Procedures

- 4.1 The Provost and Vice-President (Academic) may approve Procedures, if applicable, which are secondary to and comply with this Policy.

Part V Review

- 5.1 Governing Document reviews shall be conducted every ten (10) years. The next scheduled review date for this Policy is May 22, 2028.
- 5.2 In the interim, this Policy may be revised or repealed if:
 - (a) the Responsible Executive Officers or Approving Body deem it necessary or desirable to do so;
 - (b) the Policy is no longer legislatively or statutorily compliant; and/or
 - (c) the Policy is now in conflict with another Governing Document.
- 5.3 If this Policy is revised or repealed all Secondary Documents, if applicable, shall be reviewed as soon as possible in order that they:
 - (a) comply with the revised Policy; or

- (b) are in turn repealed.

Part VI Effect on Previous Statements

- 6.1 This Policy supersedes all of the following:
 - (a) all previous Board of Governors/Senate Governing Documents on the subject matter contained herein; and
 - (b) all previous Administration Governing Documents on the subject matter contained herein.

Part VII Cross References

- 7.1 This Policy should be cross referenced to the following relevant Governing Documents, legislation and/or forms:
 - (a) [The Copyright Act R.S.C., 1981, c. C-42](#)
 - (b) [UM Copyright Guidelines](#)
 - (c) [Intellectual Property Policy](#)
 - (d) [Use of Computer Facilities Policy](#)
 - (e) [Responsible Conduct of Research – Code of Research Ethics](#)
 - (f) [Student Discipline By-Law](#)
 - (g) [Textbook and Course Material Ordering Policy and Procedure](#)