



Working Through the Arts

**A Toolkit For Professional Visual Artists
in British Columbia**



CARFAC
BRITISH COLUMBIA

A four-part toolkit series for visual artists
and those who work with them

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Introduction

Those of us who have chosen a career path in the arts often depend on our learned experience within the sector to navigate the business of art-making, rather than being informed by any existing standards for our industry. This toolkit was designed to support the practices of professional visual and media artists in British Columbia in their career development.

The **Working Through the Arts** toolkits offer knowledge and resources to support artists as well as to provide guidance and recommendations of best practices for stakeholders whose work involves engaging with artists in order to strengthen our professional relationships and, in turn, increase capacity within our sector in British Columbia. These materials and guidance support education and will facilitate ethical interactions and equitable dealings between visual and media artists and those that engage the work or services of artists. These are intended as living documents which will help to inform future development of a more formalized Best Practices / Industry Standards guidelines for visual arts, media arts, and the craft sector in British Columbia.

There are as many ways to be a visual artist as there are ways to earn a living. Some exhibit in public galleries and artist-run centres, while others exhibit in private, commercial galleries; a few show in both. Some of us find ways to do both at the same time; others support ourselves with day jobs, teaching gigs or design work. Grants, crowd funding and scholarships can supplement our income, as can fees for exhibitions, reproductions or speaking. The more we know about our copyrights, best practices,

This toolkit is part of a four-part **Working Through the Arts** series designed by CARFAC BC for visual artists and those who work with them. This document is intended to support the practices of professional visual artists, providing knowledge and tools related to the business of art and advancing their career in the arts sector. Other toolkits in the series are designed for Emerging Artists and New Graduates; Public Galleries, Festivals and Other Arts Organizations; and Local Government.

About CARFAC BC

As the collective voice for professional artists in British Columbia, CARFAC BC represents the interests of visual and media artists across all regions of the province: we are artists working for artists. We are committed to the advancement of the visual arts, artists, and artistic practice in our province. CARFAC is founded on the principles of fair compensation and respect for artists, promoting and advocating for a socio-economic climate conducive to the production of visual arts. We believe that artists, like professionals in other fields, should be paid for their work and share equitably in profits from their work. We value and respect all artists, their rights, their art forms and their cultural diversity. We have a strong commitment to public understanding, awareness and appreciation of artists.

CARFAC BC gratefully acknowledges the financial support of this project by the BC Arts Council.



setting our rates, and professional development skills, the more likely we are to succeed in meeting our creative goals.

Here you'll find information on topics that will arise once you start exhibiting or selling your work, such as **setting fees, copyright, cultural appropriation**, and more on **the business of being an artist**.

You'll also find further resources on our website at carfacbc.org.

For resources and information about navigating the following, see CARFAC BC's ***Working Through the Arts: A Toolkit for Emerging Artists & New Post-Secondary Graduates***:

Artist Opportunities

- Public Art Galleries or Art Museums
- Artist Run Centres
- Commercial or Private Galleries
- Residencies, or Artists in Residence
- Grants
- Provincial and Federal Arts Councils
- Municipal Arts Councils
- Crafts Councils
- Festivals
- Local governments
- Online Opportunities

Preparing an application

- Curriculum Vitae (CV) or Resume
- Artist Statement
- Cover Letter
- Biography
- Proposals
- Portfolios
- Image Identification sheets
- Additional resources to support your professional practice

Establishing Your Fees

The question of how to financially sustain our creative lives is an issue that affects all working artists. Setting guidelines for compensation not only helps to support your work, it helps set a precedent for treating other artists fairly. But determining fees for your work can be a confusing and challenging landscape to navigate. Did you know that when your work is exhibited and it's not for sale, you are supposed to be paid? Unless you have signed over the copyright, no one can exhibit or copy your work without your permission. How much should you be paid when your work is exhibited or screened, reproduced, used in catalogues, online, or in a myriad of different ways? What about when you're installing work, or doing an artist's talk, or participating on a panel? Recognizing the value of your labour and resulting creative work can help you to price your work and negotiate fees—and help you to avoid being exploited. You can always walk away if you don't like the conditions under which you are being asked to work. And there's a guide to help you know the minimum amount you should be paid.

If you have ever been paid an artist's fee for exhibiting your work, you have already benefited from CARFAC. The [CARFAC-RAAV Minimum Recommended Fee Schedule](#), first established in 1968, is like a

minimum wage for artists. It sets minimum recommended rates for the use of artwork and certain services that visual artists provide. CARFAC and RAAV update the rates yearly through negotiation and usage, while reflecting increases in the cost of living. Widely recognized as the national standard, the rates are recommendations. Often funders require that public galleries pay artist's fees as a condition of their funding. And artists have rights that help them to get paid. Some artists use the rates as benchmarks when making estimates for commissions or consulting work, or when applying for funding. The Minimum Fee Schedule is a powerful resource for all visual and media artists.

It's important to note that all rates are minimums; CARFAC encourages artists to ask for more.

The Fee Schedule is complex, with many tables and notes. This is because the work that artists do doesn't fit into one or two boxes. Ensure you read all the notes in the relevant section – they can sometimes change the rates depending on the circumstances. For example, additions were made to put in place recommended practices for paying artists during the COVID-19 crisis, to help establish standard procedures for paying artists for cancelled opportunities and new online engagements.

Reference the Fee Schedule as a framework for establishing and negotiating fees and royalties for your work, including exhibitions, print and digital reproductions, talks, workshops, digital image use for websites, apps, and social media; press packets, and more. It also covers fees for professional services like presentations or consultation services, participation on a jury, installing artwork, writing tasks, or preparation of support for an exhibition.

Many artists have been asked to work for the “exposure” at some point in their career, and if you can possibly avoid it, don't do it! Working for free perpetuates a culture in which creative work goes unpaid and is undervalued. Workers deserve to be paid. However, the value of a project isn't always financial, and you may at times decide to work for less, or even without payment. Ensure you're making an informed decision and carefully weigh the pros and cons for your career, as well as the potential impact on your fellow artists. To help you decide, check out <http://shouldiworkforfree.com/>.

What does the Fee Schedule apply to?

- If an artwork is exhibited in a public gallery where the work is not for sale, the artist should be paid a royalty.
- If an artwork is reproduced in a book or on a website, etc. the artist should receive a royalty.
- If an artist is asked to give a presentation, speak on a panel, write an artist statement, install their work, etc, they should be paid a fee for those services.

To help find rates that apply to specific situations, the Minimum Fee Schedule has four sections:

Section 1 – Exhibition and Screening Royalty Schedule (royalties paid for the use of artists' work in public exhibitions, festivals, and screenings where the work is not offered for sale or hire)

Section 2 – Reproduction Royalty Schedule – Non-commercial, Non-advertising (royalties paid for reproductions made of artworks for non-commercial, non-advertising purposes; i.e., as a work of art)

Section 3 – Reproduction Royalty Schedule – Commercial and Advertising (royalties paid when work is reproduced in conjunction with a product or institution)

Section 4 – Artist Professional Services Fee Schedule (compensation that an artist receives in for presentation or consultation services, participation on a jury, installing artwork, writing tasks, or preparation of support for an exhibition.

The Fee Schedule now includes payment guidelines for digital exhibitions, screenings, artist talks, and presentations. Rates are now provided for:

- A virtual exhibition or digital screening that exists only online, in a non-commercial context
- A virtual visit/tour by a curator or gallery staff of a temporary exhibition
- A virtual visit/tour by a curator or gallery staff of highlights from the permanent collection
- A virtual artist talk
- Digital reproductions

Fees apply if the organization or institutional host organizes, records, and promotes the presentation, and additional royalties may be payable if the presentation includes fully immersive, 3D, or virtual reality components. Remember that use of imagery for promotions includes use on social media; this means that if an organization is sharing your images on social channels, you should be compensated.

Review rates and learn all about the CARFAC-RAAV Minimum Recommended Fee Schedule at <https://carfac-raav.ca/>

Copyright Visual Arts negotiate copyright licenses on behalf of their affiliated members, and their rates sometimes differ slightly from CARFAC Fees. Their guidelines may also be of use to independent artists and to individuals in the general public who wish to inform themselves of the principles surrounding copyright use and copyright administration. Visit their website to learn more, and contact them for further details: <https://www.cova-daav.ca/en/>

The Exhibition Right

The payment of the Exhibition Right for the public exhibition of artistic production became part of Canadian federal copyright law in 1988. This exhibition fee (sometimes known as the “CARFAC fee”) is payment for the use of work created after June 7, 1988, in an exhibition in a public space where the gallery receives public funds and the artwork shown is not being actively presented for sale or hire. It applies primarily to public galleries, including artist-run centres, but not to private, commercial galleries. Copyright fees and royalties are subject to GST; the GST is not included in the listed fees.

The Reproduction Right

A key aspect of your copyrights as an artist is the sole right to reproduce a work or any substantial part of it in any material form. When an artist produces a work of art, the reproduction of the work can only be authorized by the artist, unless permission is given to otherwise do so.

This right exists separately from the physical art work – someone purchasing a painting, for example, does not purchase the right to reproduce it unless they have obtained an agreement from the artist to do so.

Keep in mind that an artist may not substantially copy another copyright owner’s work without permission. Permission to reproduce work should always be obtained in writing along with the terms of use.

It can often be more lucrative in the long run to repeatedly “rent” or license reproductions of your work rather than selling the Reproduction Right for an image. If you do decide to sell the Reproduction Right for a piece, ask for as much as you can to make up for potential lost reproduction revenues over time.

Copyright Visual Arts can negotiate reproduction licenses, as well as exhibition licenses, on behalf of its members. As a collective, they have more leverage than an individual artist to negotiate the highest fees and best terms possible.

The Use of Photographic Images

Many artists use photographs as source material for other works. If you use photos taken by others, remember that they cannot be copied, reproduced or publicly exhibited without the consent of the copyright holder. A photographic image is not in the public domain and freely available for use merely because it has been published in a newspaper or a journal. Artists should also bear in mind that famous people and public personalities have a separate legal right to control the commercial exploitation of their public images. If you obtain consent whenever possible, you are less likely to run afoul of copyright law.

Moral Rights

Moral rights cover the right to integrity of art work and the right to paternity of the work.

The right of integrity enables artists to protect their artwork against distortion, alteration or mutilation in a way which prejudices their reputation or honour. In a precedent-setting Moral Rights case, Michael

Snow successfully sued Eaton Centre in 1982 for tying red ribbons around his Canada Geese mobile sculpture.

The right to Paternity is the right to associate your name as an author of the work either under your real name or a pseudonym and the right to remain anonymous in regard to the artwork. It is an infringement of copyright for someone who didn't create the work to claim to be its author or creator.

Moral rights may also be infringed by association. This means you may protect your visual image from association with a cause, a product, service, or institution to which you are personally opposed. For example, if you oppose smoking and the tobacco industry, you may prevent your artwork from being used in advertising by a cigarette company.

The distortion, alteration, or mutilation of paintings, sculpture, and engravings may also infringe the Moral Rights of their creator.

Moral rights may be waived in whole or in part but they cannot be assigned. They are held by the creator. Moral rights subsist for the same term as copyright in a work and they may be bequeathed.

Reprography Right

Reprographic reproduction includes database storage or retrieval, as well as making photocopying, xerography, duplicating from a stencil or similar means, microform or microfiche, transcription, drawing or tracing for an overhead or slide projection. Photocopying in copy centres or educational institutions of your illustrations in books could provide additional income to you if you are a member of a copyright collective such as Copyright Visual Arts.

In Canada, Access Copyright tracks such usage of visual material, as well as and written text, and distributes fees called Payback to collective members according to a formula that incorporates estimates of usage. In recent years Access Copyright implemented an annual online reporting system to track reproductions of members' work in publications with ISBN-type numbers, such as books, magazines, newspapers, journals, etc.

More at <https://accesscopyright.ca/creators/payback-for-writers-and-payback-for-visual-artists/>

Professional Artist Fees

Artists carry out many tasks in the course of their professional careers that merit fair remuneration. Professional Services Fees are compensation that an artist receives in exchange for presentation or consultation services, participation on a jury, installing artwork, writing tasks, or preparation of support for an exhibition.

These rates are compensation for an artist's time and labour only, and they only pertain to work carried out by an artist, as an artist. It does not include work that an artist may do as an arts administrator or teaching at an institution. Here are the main categories covered by the fee schedule:

- Presentation & Consultation fees
- Jury fees
- Writing fees
- Preparation fees
- Installation fees

We do not set rates for other cultural workers. Other payment guidelines may exist for those roles, and we may refer to them if appropriate.

The Resale Right

The Artist's Resale Right would allow visual artists to receive 5% when their work is resold – just as they do in at least 93 other countries. The full value of an artwork often isn't seen on the first sale. It is common for visual art to increase in value over time, as the reputation of the artist grows.

For example, Inuit artist, Kenojuak Ashevak, sold her piece Enchanted Owl in 1960 for \$24. It was later resold for \$58,650. Ashevak got nothing from the resale.

Canada's Indigenous artists in particular are losing out on the tremendous profits being made on their work in the secondary market. Many artists living in isolated northern communities live in impoverished conditions, while their work dramatically increases in value.

CARFAC and RAAV are campaigning to bring the Artist's Resale Right to Canada. More information at: <https://www.carfac.ca/campaigns/artists-resale-right/>

Copyright, Intellectual Property and Appropriation

Artists frequently face concerns and have questions around protecting their work, fair dealing and usage, and copyright infringement, and many don't have the financial means to fight back when their work has been used without their permission.

Copyright

Copyright enables the creator of any original artwork to gain financial remuneration from the sale, public exhibition, and reproduction of their artwork. Learn more details about local governments'

responsibilities in relation to copyright at <http://www.carfacbc.org/> and <https://www.carfac.ca/tools/know-your-copyrights/>.

Further information about artists' rights, including the Exhibition Right, Reproduction Right, and Moral Right, can be found at <https://www.carfac.ca/tools/know-your-copyrights/>.

CARFAC Ontario provides a "frequently asked questions" document on Demystifying Copyright, which can also be found on their website: <https://www.carfacontario.ca/online-resources>.

Through its licensing services, Copyright Visual Arts/ Droits d'auteur arts visuels (COVA-DAAV)(formerly CARCC) can help an artist to protect copyright and to benefit from it. Collective administration of copyright means that there is strength in numbers. Some of the copyrights administered by Copyright Visual Arts are Exhibition, Reproduction, Reprography, and Telecommunication. More at <https://www.cova-daav.ca/en/>.

New Online Resources

Copyright Visual Arts recently launched Image Bank, a new digital licensing tool for Canadian visual art. This new technology showcases artwork by some of Copyright Visual Arts' 1200 affiliated artists. It allows galleries, publishers, and other companies to search for Canadian artists and to easily get quotes for licensed use of their artwork. Image Bank also provides several types of licenses directly and quickly online. More at <https://www.cova-daav.ca/licenseart/en/>.

CARFAC, Copyright Visual Arts, Access Copyright and its innovation lab, Prescient, are developing Imprimo, a digital passport for visual artists which will ensure creators' ownership in their work is properly attributed and fairly paid for when used in digital environments. This new Blockchain platform will establish a reliable and authoritative connection between a creative work (or its digital version), data related to the work, and the rightsholder(s) of the work. More at <https://imprimo.ca/>.

Indigenous Intellectual Property and Cultural Appropriation

People and cultures have always exchanged and borrowed ideas from each other to create new forms of art and symbolic expression. Whether intentionally or not, most human creations reflect varied sources of inspiration. Some artists create works by using the works, or part of works, created by other artists. "Appropriation" means to take something that belongs to someone else for one's own use. In the case of heritage, appropriation happens when a cultural element is taken from its cultural context and used in another. This type of use, commonly called "appropriation" requires an authorization from the artist and/or rightsholder. A violation of this rule may result in a legal recourse.

"Misappropriation" is the one-sided process where one entity benefits from another group's culture without permission and without giving something in return.

Being aware of cultural appropriation is intrinsic for artists to establish respectful practices. Copyright differs from Traditional Knowledge in a number of ways, and cultural protocols vary widely among First Nations, Inuit and Métis people. Local elders may be able to provide guidance.

The document *Think Before You appropriate*. Things to know and questions to ask in order to avoid misappropriating Indigenous cultural heritage (Simon Fraser University, Vancouver; 2015) provides advice to designers and marketers on why and how to avoid misappropriation of Indigenous cultural heritage, and underlines the mutual benefits of responsible collaborations with Indigenous artists and communities. This is an important tool for all peoples in Canada as we move towards reconciliation and respect for Indigenous cultures and peoples:

<https://www.carfac.ca/carfacwp2019/wp-content/uploads/Think-Before-You-Appropriate.pdf>

CARFAC is developing a new Indigenous Intellectual and Cultural Property toolkit for the visual arts sector. The toolkit, similar to protocols developed in Australia, will offer guidelines for respectful protocols around the use and protection of First Nations, Inuit and Métis traditional and contemporary visual art and cultural material.

Contracts

One of the many advantages of being a member of Copyright Visual Arts is that the collective will negotiate exhibition or reproduction licenses on your behalf. Collectives have more bargaining power than most individual artists, so they can often obtain higher fees and better terms. Once you receive an exhibition confirmation from a gallery or a request to reproduce your work from an individual, business or organization, cc or forward your response to Copyright Visual Arts.

If you are not a collective member, you can seek out a lawyer to draft a contract, or try adapting a model contract for your situation. A contract drafted by a lawyer unfamiliar with copyright or Best Practices for artists may unintentionally ask for blanket rights that will make it impossible for professional artists to sign.

Contract templates designed by lawyers to protect artists' rights are available through CARFAC National: <https://www.carfac.ca/>. The document *Artists' Contracts: Agreements for Visual and Media Artists* by CARFAC Ontario is a comprehensive and easy-to-understand guide to written contracts. Written in plain language, it provides information on the essentials of contracts, tips on how to draft and negotiate contracts, and advice on what to do if disputes should arise:

<https://www.carfaontario.ca/Artists-Contracts>.

Legal Support

Where do you turn if you have discovered someone has reproduced your work without your permission, has copied your work and is representing it as their own?

- If you are a member of Copyright Visual Arts, alert them to your situation.
- If you are not a collective member, resend the user a copy of the license you negotiated with them and politely remind them of the terms.
- If you are not a collective member and you don't have a written agreement, you will have much less leverage to resolve your situation, but you can still take action. Start with a letter to the user (Curator, Artistic Director, publisher, etc.) and state your expectations.
- If you don't get satisfaction, find and talk with other artists who have dealt with the same user or organization to strategize your next steps. Assess which battles you can tackle and what resources and support you need to pursue them. You may want to seek out legal advice.

So, where can artists go when they need legal help in relation to copyright infringement, difficulty receiving payment, contract disputes, or other legal issues? In B.C., the Artists' Legal Outreach (ALO) works to support low income artists and arts organizations by offering resources, workshops, and a summary legal advice clinic where low income artists across the province can meet confidentially with an experienced lawyer for the price of a donation. Copyright toolkits are available online as well as a resource library containing information sheets, articles, sample legal documents, and sample contracts. More at <https://artistslegaloutreach.com/>.

Other Resources

Online Resources

More in-depth resources on the topics found here as well as many others can be found and are under development on the CARFAC BC website at <https://www.carfacbc.org>.

EBook

CARFAC BC developed an ebook entitled Artists Talk: A Practical Guide to Emerging as an Artist in Canada, on a wide range of topics on the business of art, from preparing exhibition proposals and presenting and promoting work, to financing one's practice to negotiating artist fees. [Click here](#) to learn more about purchasing the ebook.

Advisory Notes

CARFAC provides (free to members) Advisory Notes dealing with professional practices, safety and legal rights of visual artists. A broad range of topics are available, from working with public galleries and dealers, murals, fundraisers, copyright, insurance, health and safety, negotiating tools, marketing tips, taxes, and much more. <http://carfacbc.org/advisory-notes/>

Newsletter

CARFAC BC provides a bi-weekly newsletter to members which contains a number of resources:

- Arts sector news
- Public art calls
- Artist residencies and mentorships
- Calls for submissions
- Awards, grants, and funding opportunities
- Job opportunities
- Workshops, forums, and other professional development opportunities
- Member news

CARFAC BC Membership Benefits

CARFAC BC members can access an array of benefits, including:

- Advocacy and advisory consultations
- Group extended health plans
- Discounts on professional development workshops
- Free access to CARFAC Advisory Notes & the current Gallery Survey
- Discounts on studio insurance
- Certificates of Canadian Origin at a reduced rate (to avoid paying GST on art returning from shows outside of Canada)
- Eligibility to purchase an International Association of Art card (free or reduced admissions to many museums outside of Canada)
- Discounts on gallery and museum admissions
- Discounts at art supply and framing stores
- And much more

As the membership of artists in British Columbia increases, CARFAC's ability to actually change the conditions in which we live and work will increase too. Learn more about the benefits of CARFAC membership here: <http://www.carfacbc.org/membership-benefits/>.

Acknowledgements

Content of the **Working Through the Arts** toolkit series was developed in consultation with emerging, mid-career, and established arts professionals, including artists, gallerists, curators, arts administrators, and policy makers throughout British Columbia, and was informed by many supporting materials. We were aided by advisory notes developed by CARFAC National and provincial affiliates, CARFAC BC's e-book [Artists Talk: A Practical Guide to Emerging as an Artist in Canada](#), [CARFAC – RAAV Minimum Copyright and Professional Fee Schedule](#), as well as Best Practices policies developed by CARFAC National, RAAV, CARFAC Saskatchewan ([Developing Best Practices for the Saskatchewan Visual Arts and Craft Sector](#)), CARFAC Alberta ([Best Practices for Craft, Media, and Visual Artists](#)), CARFAC Maritimes ([Best Practices in Visual Arts, Media and Crafts in Nova Scotia, New Brunswick, and Prince Edward Island](#)) and CARFAC Ontario.

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CARFAC BC 2020-2021 Board of Directors

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Join Us!



Consider joining CARFAC BC as a member to access a range of benefits and to help us to continue to advocate for visual artists in British Columbia. In addition to professional artist memberships, student, senior, associate, institution, and corporate memberships are also available. United, we are stronger, and we can ensure our collective voice advocating for visual artists is heard on a regional and national level.

While CARFAC BC's office is situated on the unceded and ancestral territories of the Coast Salish Peoples, including the x^wməθkwəyəm (Musqueam), Skwxwú7mesh (Squamish), and Səlílwətał (Tsleil-Waututh) Nations, we acknowledge that our work in support of artists takes place on the lands of many Nations throughout British Columbia. We acknowledge the strong and diverse Indigenous communities across the province and offer our respect and gratitude for their ancestral and current stewardship of these lands and waterways.

Learn more about CARFAC BC at www.carfacbc.org.

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