

POLICY

POL-2

Access to Archival Materials

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1. Purpose and scope

- 1.1 *Purpose of this document.* The purpose of this document is to set out the policy basis on which SFU Archives makes its holdings available to the public.
- 1.2 *Goal of the policy.* The Archives' aim is to expand public access to its holdings while managing legitimate constraints on access arising from: (i) the physical condition of at-risk materials; (ii) the existence of personal and confidential information in archival records; or (iii) the existence of third-party copyright in materials included in the Archives' holdings.
- 1.3 *Scope.* This policy applies to the SFU Archives and its patrons.

2. Definitions

Archival materials – means (i) official university records that have been transferred to the Archives; (ii) records of individuals, families, campus community organizations, and non-SFU corporate bodies that have been privately donated to the Archives; and (iii) documents and artefacts that have been otherwise collected by SFU Archives in order to support teaching and research. Archival materials include documents in any medium or format, including but not limited to textual, graphic, cartographic, architectural, audio, and audio-visual materials; and may exist in paper, analog, digitized and born-digital form.

Confidential information – means the eleven categories of information set out in British Columbia's *Freedom of Information and Protection of Act* in sections 12–21 (e.g., business interests of a third party, legal advice, financial or economic interests of a public body).

Dissemination – means the making available of digital archival materials over the Internet.

Personal information – means recorded information about an identifiable individual.

Third-party protected materials – means archival materials that are protected by copyright and for which SFU neither owns the copyright nor has a non-exclusive licence to reproduce the work.

3. Access

Principle

- 3.1 SFU Archives is committed to increasing public access to its holdings to the greatest extent possible.

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- 3.2 *Arranged and described.* The Archives provides public access to archival materials that have been arranged and described in accordance with Canadian professional archival standards.
- 3.2.1 At its discretion and in exceptional circumstances, the Archives may provide access to unprocessed materials.
- 3.3 *Routine methods of access.* The Archives provides routine access to its holdings through three methods. Researchers may: (i) consult original materials in the Archives reading room; (ii) consult digital access copies (when available) through the Archives' web-based, online access system; or (iii) obtain copies of materials for offsite and offline access and use.
- 3.4 *(i) Reading room.* The Archives' reading room is the venue for consulting paper or analog archival materials in their original formats.
- 3.4.1 The reading room is open to any member of the public during its regular hours of operation.
- 3.4.2 The reading room is a secured space subject to rules and regulations.
- 3.4.3 Researchers must register with the Archives in order to receive access to original materials.
- 3.4.4 The Archives does not loan or otherwise circulate archival materials outside the reading room.
- 3.5 *(ii) Online access system.* The Archives' online access system is the principle platform for the description of the Archives' holdings and for the dissemination of digital copies of materials (when available) linked to the description.
- 3.5.1 Copies disseminated include digitized versions of paper or analog originals, as well as access versions of born-digital records that are preserved in electronic form.
- 3.5.2 Researchers should be aware that only a small portion of the materials described are available in digital form.
- 3.6 *(iii) Copies.* The Archives provides limited reproduction services to respond to user requests for copies of materials in the Archives' holdings.
- 3.6.1 The Archives makes copies at its discretion, as resources allow, and in accordance with sections 4–6 of this policy; cost-recovery fees may apply.
- 3.7 *Limits on access.* The remainder of this policy sets out how the Archives administers access while managing legitimate constraints arising from the physical condition of at-risk materials (section 4), the existence of personal or confidential information in archival records (section 5), and the application of copyright to materials in the Archives' holdings (section 6).

4. Physical condition

Principle

- 4.1 The Archives has an ethical responsibility to protect unique, original documents that are physically at risk due to fragility, damage or deterioration; and to manage materials that exist in formats (analog or digital) that are at-risk because they depend on obsolete technology to access their contents.

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- 4.2 *At-risk materials – physical condition.* The Archives will not provide access to original records that are in poor physical condition, where further deterioration may lead to irreparable damage and render the contents inaccessible.
- 4.3 *At-risk materials – technological obsolescence.* The Archives may be unable to provide access to original records that require use of obsolete technologies in order to access the records' contents.
- 4.4 *Access copies.* Where the Archives will not provide access to the originals, it will, to the best of its abilities and as its priorities and resources allow, create copies of at-risk materials and provide access to these in place of the originals.

5. Personal and confidential information

Principle

- 5.1 The Archives has a legal and ethical responsibility to protect the personal and confidential information of individuals and organizations that are the subjects of archival records. In doing so, the Archives must strike a balance between the public interest in access and the rights of record subjects to privacy and confidentiality. The sensitivity of personal and confidential information diminishes with the passage of time.

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- 5.2 *Restrictions.* SFU Archives will restrict public access to materials that contain personal or confidential information where disclosure of the information would be an unreasonable invasion of an individual's privacy or could reasonably be expected to cause harm.
- 5.3 *Sources of restrictions.* In determining whether or not to restrict public access to materials, the Archives is guided by (i) legislation; (ii) donor stipulations; and (iii) archival professional ethics.
- 5.4 *Legislation – public sector.* SFU is a public body subject to British Columbia's *Freedom of Information and Protection of Privacy Act* (FOIPPA). FOIPPA gives the public a right of access to university records while setting out certain categories of personal and confidential information for which exceptions to the right of access apply. Some FOIPPA exceptions are mandatory, some discretionary; most exceptions have defined time limits.
- 5.5 *Legislation – private sector.* Private-sector organizations in British Columbia are subject to the province's *Personal Information Protection Act* (PIPA). PIPA sets out individuals' rights with respect to their personal information held by organizations, and it establishes the requirements of organizations to protect that information. As a public body, SFU is not an organization subject to PIPA, but the

Archives is committed to acting in the spirit of the legislation. The Archives manages personal and confidential information contained in the privately donated records of organizations according to the same standards it applies to university records.

- 5.6 *Donor stipulations.* The Archives has a contractual obligation to honour commitments it has agreed to as part of the terms and conditions of a donation; these sometimes include time-limited access restrictions on specified materials the donor deems sensitive.
- 5.7 *Ethics.* The Archives may become aware of materials in privately donated archives that contain sensitive personal or confidential information about third parties; it has an ethical obligation to protect their privacy and reasonable expectations of confidentiality.
- 5.8 *Access status of holdings.* All materials in the Archives' holdings are either (i) *open* (may be consulted by researchers through any access method as described above in sections 3.3–3.6); (ii) *pending review* (must be reviewed by an archivist prior to access by researchers as described below in section 5.9); or (iii) *restricted* (may only be consulted through one of the access methods described below in sections 5.10–5.13).
- 5.9 *Informal access review.* Many of the records in the Archives' holdings have not yet been reviewed for personal or confidential information; this material is designated in the Archives' finding aids as "pending review." An informal access review is an examination by an SFU archivist of "pending review" material in order to determine whether exceptions to the right of access apply. It results in the records being declared either open or restricted.
- 5.9.1 Researchers can request access to "pending review" materials to initiate an informal access review by an SFU archivist.
- 5.9.2 The Archives undertakes informal access reviews in the order in which they are received and in accordance with available staff resources.
- 5.10 *Access options for restricted materials.* Restricted materials may be accessed through one of three methods: (i) research agreement; (ii) employee confidentiality agreement; or (iii) formal FOIPPA Access Request.
- 5.11 *(i) Research agreement.* A research agreement is a contract between a researcher and the Archives whereby the Archives provides access under certain terms and conditions and the researcher undertakes not to disclose any personal information to which they gain access.
- 5.11.1 Research agreements are subject to the approval of the University Archivist and are entered into at the Archives' discretion.
- 5.12 *(ii) Employee confidentiality agreement.* If a university employee requires access to restricted or pending review university records for a purpose relating to the performance of their job duties, the Archives may provide access through a confidentiality agreement.
- 5.12.1 Confidentiality agreements outline the employee's responsibilities and must be signed by the employee.
- 5.12.2 Confidentiality agreements are entered into at the discretion of the Archives.
- 5.12.3 For private records, an employee of an organization whose records have been donated to the Archives may obtain access to restricted materials through a similar process.

- 5.13 *(iii) Formal FOIPPA Access Request.* A researcher may make a formal Access Request to restricted university records under FOIPPA; the Archives handles these requests in accordance with standard FOIPPA procedures.
- 5.14 *Take-down procedure.* In disseminating archival materials through its online access system, the Archives is committed to protecting the privacy and reasonable expectations of confidentiality of record subjects.
- 5.14.1 The Archives has established a procedure (PRC-59) for record subjects to object to the online dissemination of certain records as an unreasonable invasion of their privacy or breach of confidentiality and to request takedown of the materials.

6. Copyright

Principle

- 6.1 SFU Archives has a legal and ethical responsibility to deal respectfully with copyrights that exist in archival records when the materials are not in public domain, copyright does not belong to SFU, and SFU does not have a non-exclusive licence to reproduce the work. In doing so, the Archives must strike a balance between the public interest in dissemination of works, the moral rights of creators, and the economic rights of copyright owners. Protected materials eventually pass into public domain when the term of protection expires.

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- 6.2 *Making of single copies.* At a researcher's request, the Archives may in most instances make a single copy of an entire work that is third-party protected material for that researcher's use under a purpose allowed by the fair dealing provisions of the *Copyright Act* (sections 29, 29.1, 29.2).
- 6.2.1 Allowable purposes under fair dealing are research, private study, education, parody, satire, criticism, review, and news reporting.
- 6.2.2 The Archives will notify the researcher that use of the copy for any other purpose requires the copyright owner's permission; it is the researcher's responsibility to obtain any necessary permissions directly from the copyright owner, and the researcher is liable for any claims of infringement arising from a use of the copy for other than fair dealing purposes.
- 6.2.3 In providing a single copy for a researcher, the Archives acts at its own discretion and as its resources allow; cost-recovery fees may apply.
- 6.3 *Online dissemination.* In determining whether or not to disseminate third-party copyright-protected materials via the Archives' online access system, the Archives adopts a risk-management approach distinguishing between (i) low-risk materials; and (ii) high-risk materials.
- 6.3.1 *Low-risk materials.* The Archives may disseminate materials it has deemed low-risk without seeking the copyright owner's permission.
- 6.3.2 *High-risk materials.* The Archives will seek the copyright owner's permission before disseminating materials it has deemed high-risk.

- 6.4 *Priority of restrictions for personal and confidential information.* Regardless of copyright risk status, the Archives will **not** disseminate materials online if the records contain personal or confidential information.
- 6.5 *Risk assessment.* In making an assessment of risk, the Archives is guided by the overall public policy goal of copyright to strike a balance between the public interest that is served by the dissemination of works of culture and the intellect and the copyright owner's right to receive any economic benefits that can be generated from their protected materials. The Archives also takes into account the moral rights of authors, as well as the university's interest in minimizing its exposure to liability, protecting its reputation, and maintaining good relations with donors and the local community.
- 6.5.2 The Archives will prepare, maintain, and make publicly available risk-assessment criteria, guidelines and other tools to promote consistent and transparent decision-making.
- 6.6 *Born-digital materials not disseminated online.* For born-digital records that are only available in digital form but are not disseminated online for copyright reasons, the Archives may provide onsite access through a specially designated terminal in the Archives' reading room.
- 6.7 *Take-down procedure.* Copyright owners of materials the Archives considers low-risk (and therefore disseminates through the access system) may object to their protected materials being made available online. The Archives will take down copyright-protected materials at the request of rightful copyright owners.
- 6.7.1 The Archives has established a procedure (PRC-59) for copyright owners to register objection to the online dissemination of their protected materials and to request takedown of the materials.

7. Authority

- 7.1 This policy is administered under the authority of the Archives and Records Management Department. Questions about interpretation of the policy may be directed to the University Archivist. See SFU Archives' website (<http://www.sfu.ca/archives>) for contact details.