Appendix D to Policy R30.04

Application of Appendix R30.04A (Fair Dealing Policy) to Learning Management Systems

1.0 Purpose

1.1 The purpose of this Appendix is to provide guidance on the application of Appendix R30.04A - Application of Fair Dealing under Policy R30.04 (the Fair Dealing Policy) to a learning management system (LMS) such as Canvas.

2.0 Scope

2.1 This Appendix to Policy R30.04 applies to all University employees and students who reproduce and use copyright protected works in all media and formats in the course of University teaching, learning, research and administrative activities.

2.2 This Appendix applies when the copies made of a copyright protected work are covered by the fair dealing exception in Canada’s Copyright Act. The fair dealing provision permits use of a copyright protected work without permission from the copyright owner or the payment of copyright royalties.

2.3 For greater clarity and certainty, this Appendix applies only to the University entities listed in s.2.1 of Schedule R30.04A.

3.0 Guiding Principle

3.1 A guiding principle behind Appendix R30.04A (the Fair Dealing Policy) is that copying or communicating a copyright-protected work under the Policy is not to substitute for the purchase of the work that was copied or communicated. In order to respect that principle, it is necessary to implement certain safeguards for the holders of copyright in the works copied for inclusion in an LMS.

4.0 Definition of a Short Excerpt

4.1 Section 4.4 of Appendix R30.04A (the Fair Dealing Policy) defines a short excerpt as follows:

4.4 A short excerpt means:

(i) Up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work),

(ii) One chapter from a book,

(iii) A single article from a periodical,

(iv) An entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works,

(v) An entire newspaper article or page,
(vi) An entire single poem or musical score from a copyright-protected work containing other poems or musical scores,

(vii) An entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work.

Provided that in each case, no more of the work is copied than is required in order to achieve the allowable purpose.

5.0 **Inclusion of Short Excerpts in an LMS**

5.1 Under Appendix R30.04A a short excerpt of a copyright-protected work may be posted to an LMS. The LMS may deliver a short excerpt of a copyright-protected work stored in its system, or it may deliver such an excerpt from a separate electronic reserve system.

5.2 Additional guidance for the posting of short excerpts of audiovisual works, and musical works is set out in the application documents that discuss those works. Those documents may be found here.

6.0 **Safe Guards**

6.1 In order to respect the guiding principle discussed above and to ensure that the short excerpts are only accessible by those who intend to use the excerpts for one of the fair dealing purposes, the following safeguards must be met:

(i) The LMS must be operated by or under the control of the university. Appendix R30.04A does not apply to the posting of short excerpts to open wikis or blogs, or to unprotected (open to anyone on the web) online services.

(ii) The LMS must be stored on a secure server or other device (e.g. password protected).

(iii) The short excerpts posted to the LMS must only be accessible by students enrolled in the course, unit or program of instruction for which the excerpts have been posted and by faculty members or university staff that require access to the LMS.

(iv) To give students an option of how to access course materials the same short excerpt may be made available to students through an LMS or in a course pack. However, no more than a short excerpt from a work from across all editions of a copyright-protected work may be copied and made available to students during a specific course of instruction irrespective of the format in which it is made available (e.g. in paper or electronic form).

(v) If content is uploaded or posted to an LMS in a centralized process involving university administrative staff, those staff should review the content posted to the LMS to ensure that copies of copyright-protected works are posted to the LMS in accordance with Appendix R30.04A and this guidance document or that the posting of the copies does not infringe copyright for other reasons.

(vi) If content is uploaded or posted to an LMS by faculty members or their staff, the faculty or staff may be required to identify the reason that they are entitled to post each work or excerpt (e.g. permission obtained from the copyright holder, public domain, fair dealing, other exemption under the Copyright Act (specify) or other (specify)). For certain content posted to the LMS (e.g. classroom presentations containing excerpts from a number of works) multiple reasons could apply.

(vii) Faculty members or their staff who post content prepared by a student on an LMS should confirm that the content does not include copies of copyright-protected works that infringe copyright.

7.0 **Including Materials Beyond Short Excerpts on an LMS**

7.1 In most situations where an excerpt exceeds the limitations of a short excerpt as set out in Appendix R30.04A, permission to make the copy will need to be secured from the copyright holder.
7.2 However, it is possible that the proposed copying or communication of copyright protected work may be covered by the fair dealing exceptions or other exceptions in Canada’s Copyright Act even though it exceeds the limits in Appendix R30.04A.

7.3 Contact the Copyright Officer at copy@sfu.ca for further information if you believe that your copying may covered by fair dealing or other exceptions even though it exceeds the limits in Appendix R30.04A. Also see Appendix R30.04B - Standard for Evaluating if a Particular Instance of Copying is Fair Dealing under Policy R30.04.

7.4 Where permission is obtained in order to make a copy of an excerpt onto an LMS, the permission or a record of the permission should be retained (in paper or electronic form). See SFU Records Retention Schedule and Disposal Authority number 2005-007 (RRSDA number 2005-007) for the length of term for keeping copyright clearance permissions at SFU.

7.5 In addition, the university may include on an LMS copies of copyright-protected works for which the university has a licence with the publisher or aggregator, as long as the terms of the licence allow for this. A copyright-protected work made available to the university under a licence with a publisher or aggregator that prohibits the use of extracts on an LMS cannot be copied and included in an LMS. The terms and conditions of the licence take precedence over Appendix R30.04A (the Fair Dealing Policy) and the various exemptions in the Copyright Act.

8.0 Guidance to Students

8.1 SFU students are covered by the University’s copyright policies and must adhere to those policies. However, it is not possible to police all students and the content they may post to websites, including on an LMS, or who attach content to emails including emails posted to an LMS.

8.2 Students should be informed of the University’s copyright policies and/or copyright guidance for students (http://www.lib.sfu.ca/copyright/law-policy), and should confirm that he or she will respect the university’s copyright policy or copyright guidance for students.