Application of Appendix R30.04A (Fair Dealing Policy) to the Student Activities of Learning and Research

1.0 Purpose

1.1 This Appendix provides guidance for students on the fair dealing exemption to copyright infringement and further explains SFU policy Appendix R30.04A - Application of Fair Dealing under Policy R30.04 (the Fair Dealing Policy).

2.0 Scope

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

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 Copyright Infringement and Exemptions

3.1 It is an infringement of copyright to copy all or any substantial part of a copyright-protected work or to communicate all or any substantial part of a copyright-protected work to the public by telecommunication without the permission of the copyright holder, unless copying or communicating the work falls within one of the exemptions in the Copyright Act. One of the main exemptions is the fair dealing exemption (see section 5.0 and 6.0 for further information on fair dealing).

3.2 The University does not condone copyright infringement by students.

3.3 Students who copy or communicate copyright-protected works should either obtain the permission of the copyright owner or be satisfied that copying or communicating the works falls within one of the exemptions (e.g. fair dealing) in the Copyright Act.

3.4 The University is not liable for any infringing copies made or communicated by students including such copies made or communicated using copiers or scanners made available by the University.

3.5 Examples of a communication of a work to the public by telecommunication include emailing a work to more than one student and transmitting a work posted to a learning management system (e.g. Canvas) to more than one student. Learning management system is abbreviated to LMS in the remainder of this policy appendix.
3.6 The exemptions in the Act include exemptions for fair dealing, displaying a work for the purposes of education or training, and recording a lesson and communicating the recording to the public by telecommunication for educational or training purposes.

4.0 Substantial Part.

4.1 The Copyright Act does not define “substantial part”.

4.2 In determining what constitutes a substantial part the courts have focused on the quality of what was taken from the original work rather than the quantity that was taken. As a result, no quantitative percentage of a work can be used to determine what constitutes a substantial part of a work. In general, reproducing a few sentences from a periodical article or book as a quotation is not a reproduction of a substantial part of the work.

4.3 It is not an infringement of copyright if only an insubstantial part of a copyright-protected work is reproduced or communicated, e.g. in a thesis or periodical article.

5.0 Appendix R30.04A - Application of Fair Dealing under Policy R30.04

5.1 Policy Appendix R30.04A permits faculty, staff and students to communicate and reproduce short excerpts of copyright-protected works for specified purposes without infringing copyright. Appendix R30.04A applies to students and a copy of the policy appendix can be found here.

5.2 For information regarding Appendix R30.04A (the Fair Dealing Policy) and Canada's copyright law, contact the Copyright Officer at copy@sfu.ca.

6.0 Fair Dealing

6.1 Copying and communicating works pursuant to the Appendix R30.04A (Application of Fair Dealing) fall within the fair dealing exemption in the Copyright Act and therefore do not infringe copyright. There is no need to obtain the consent of the holder of copyright for those acts. Appendix R30.04A permits copying and communicating short excerpts of copyright-protected works by the students of the University in their course related activities, subject to certain safeguards to protect the interests of holders of copyright.

6.2 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.

6.3 For information regarding Appendix R30.04A (the Fair Dealing Policy) and Canada's copyright law, contact the Copyright Officer at copy@sfu.ca.