



SIMON FRASER UNIVERSITY
ENGAGING THE WORLD

TO:

Senate

FROM

Joy Johnson

Chair – Senate Committee on Agenda and Rules (SCAR)

DATE:

October 24, 2025

SUBJECT:

Consultation Plan for R30.04 Copyright Compliance and
Administration Policy

SCAR has reviewed S.25-170 (Consultation Plan for R30.04 Copyright Compliance and Administration Policy) and is forwarding it to Senate for information.



SFU

BOARD OF GOVERNORS

MEMO

Simon Fraser University
8888 University Drive
Burnaby BC V5A 1S6
Canada

Attention: Dilson Rassier, Provost and Vice-President Academic

From: The Board of Governors Office

Re: Item 3.9. Approval of Consultation Plan for R30.04: Copyright Compliance and Administration Policy

Date: September 25, 2025

This is to advise that the Board of Governors have approved the following motion at its meeting of September 25, 2025:

That the Governance, Risk and Compliance Committee of the Board of Governors, acting under delegated authority, approve the consultation plan described in the memo and the statement regarding the scope of Senate engagement attached as Schedule A hereto.

Reference:

Item 3.9. Approval of Consultation Plan for R30.04: Copyright Compliance and Administration Policy

August 26, 2025

BOARD REPORT

ITEM TITLE	Proposed amendments to R30.04: Copyright Compliance and Administration Policy
DATE	August 26, 2025
COMMITTEE	Governance, Risk and Compliance Committee
SESSION	Open
ACTION REQUESTED	<input type="checkbox"/> For Information/Discussion <input type="checkbox"/> Committee to Recommend, Board to Approve <input checked="" type="checkbox"/> Committee to Approve, Board for Information <input type="checkbox"/> Board to Approve
BOARD AGENDA	<p>To maximize the efficiency and effectiveness of the Board meeting, Committee to Recommend/Board to Approve items that are routine and/or non-controversial, and do not require debate, discussion or explanation at the full Board meeting, may be appropriate to include on the Board's consent agenda</p> <input type="checkbox"/> Consent Agenda <input checked="" type="checkbox"/> Regular Agenda
ACCOUNTABLE	Dilson Rassier, Provost and Vice-President Academic
CONSULTED	SFUFA, TSSU, SFU Ombudsperson, SFU Copyright Administration Committee
PREPARED BY	Donald Taylor, University Copyright Officer

REASON(S) WHY THIS ITEM IS BEFORE THE BOARD

- Modernization and revision of R 30.04: Copyright Compliance and Administration Policy and appendices is required to reflect new Fair Dealing Guidelines released by Universities Canada.
- Change of Policy Sponsor from Vice-President, Research to Provost and Vice-President, Academic.

PROPOSED RESOLUTION/MOTION*

For Committee to approve/Board for information:

That the Governance, Risk and Compliance Committee of the Board of Governors, acting under delegated authority, approve the consultation plan described in the memo and the statement regarding the scope of Senate engagement attached as Schedule A hereto.

EXECUTIVE SUMMARY

R30.04 was developed and implemented in 2013 and since that time it has not been reviewed or revised. The policy requires updating and the development of new procedures for the following reasons:

- Universities Canada recently released revised Fair Dealing Guidelines (referred to as "Guidelines"). The Guidelines will be adopted, in whole or in part, by most universities in Canada before the end of 2025. Therefore, they should be adopted by SFU so that we remain consistent with sector-wide practice in this space. It is proposed that the Guidelines be reflected in a new procedure to R30.04.

- the existing policy no longer reflects current practice and operations and should be updated to ensure consistency; and
- a change in policy sponsor is required as the Library is now under the Provost and Vice-President, Academic, and not the Vice-President of Research, as the current policy states.

BACKGROUND

SFU's copyright policy (R30.04) creates a framework that facilitates SFU's compliance with copyright, which protects original literary, musical, artistic and dramatic works, but also SFU's use of these works for teaching and research purposes, through certain exceptions to copyright or the acquisition of a use licence. One of the most important of these exceptions is called "fair dealing", which provides that fair dealing for the purpose of research, private study, education, parody or satire, criticism or review, or news reporting, does not infringe copyright. A key part of R30.04 is the Fair Dealing Guidelines which guides University Members on how to **assess if their copying qualifies as fair dealing**. These Guidelines need to be updated to align with the latest national guidance.

CONNECTION WITH STRATEGY

Transform the SFU Experience - Consolidation of Application Documents: A substantial change from the old Guidelines and the new Guidelines is the removal of Application Documents. Currently, R30.04 includes [10 appendices](#), most of which are Application Documents. We propose consolidating these appendices into one procedure. This change will better align SFU with the national Fair Dealing Guidelines used at other post-secondary institutions and will simplify access to the relevant information for staff. A draft of the proposed procedure is attached.

Make a Difference for BC - Equity, Accessibility, and Policy Clarity: Equity priorities are addressed by rewriting the Policy in plain language and streamlining procedures. The current policy uses much legal jargon and overly technical language, which can be a barrier to understanding. The new Fair Dealing Guidelines, developed collaboratively by a group of post-secondary institutions including SFU, more properly reflect how fair dealing is applied at SFU and provide the university community with an understanding of why creative/fictional works must be treated differently than scholarly/research works. Clear policy language and updated procedures supports SFU Priority "Make a Difference for BC" as clear copyright guidance is vital to expanding lifelong learning and credential models.

RISK AND MITIGATION

Not moving forward with the proposed revisions presents two risks:

1. **Continued disconnect between Policy and practice:** Without revision, the current policy will remain out of step with how copyright and fair dealing are actually applied at SFU, creating confusion and potential compliance issues.
2. **Inconsistency with new sector standards:** SFU would be out of alignment with other universities as it would have different Fair Dealing Guidelines from our peers. Consistent guidelines across institutions is important and failure to modernize our Fair Dealing Guidelines puts us at increased risk for infringement.

FINANCIAL & OPERATIONAL IMPLICATIONS

NA

NEXT STEPS & OVERSIGHT

The Revised policy and procedures have been reviewed and supported by Copyright Administration Committee and Dean of Libraries.

The changes to Fair Dealing Guidelines regarding copying of creative/fictional works will impact SFU instructors by making it clear in policy that they must, as the Copyright Office has consistently advised for six years, obtain permission to copy creative works for purposes of teaching. These pending changes have already been operationalized and communicated to stakeholders starting in 2020 via workshops, website information, and guidance documents. Key stakeholders, including SFUFA, TSSU and Ombudsperson have been notified of proposed revisions to the policy and that new procedures are being developed and have expressed no concerns.

NEXT STEPS

- **September:** Proposed policy, procedures and consultation submitted to the Board for approval
- **September-October:** University community consultation. Draft policy to be posted on the Policy Gazette for an extended period (4 weeks). Consultation will also include a town hall.
- **October:** Share policy with SCAR/Senate.
- **October-November:** analyze consultation feedback and refine the policy draft.
- **November:** Finalize revised policy and submit the updated policy to the Executive Team for approval
- **December:** Submit the revised policy for review by the Board of Governors
- **January:** Board to review and approve the updated policy

A communication plan has been developed in collaboration with SFU's Communications and Marketing team. The plan clarifies the scope of this policy update—specifically, that it operationalizes the provisions of applicable law and helps ensure the university community does not confuse it with the ongoing updates to the Intellectual Property (IP) policy and other proposed policies.

In addition to university-wide consultation, we will further engage directly with the following stakeholders: SFUFA, TSSU and Ombudsperson.

ATTACHED SUPPLEMENTARY MATERIALS*

- Redlined R30.04 Policy
- Draft Revised Policy R30.04
- Draft Application of Fair Dealing Procedure

COPYRIGHT COMPLIANCE AND ADMINISTRATION

POLICY INFORMATION

Policy Number:	R30.04
Policy Sponsor:	Provost and Vice President Academic
Original Effective Date:	November 22, 2012
Date of Last Review:	
Most Recent Amendment Effective Date:	
Associated Procedures:	

1.0 BACKGROUND AND PURPOSE

1.1 The purpose of this policy is to define how the University manages its rights and obligations under Canada's copyright law when copyright protected works in any media are used for a bona fide university teaching, learning, research or administrative purpose.

2.0 GLOSSARY

2.1 **Author-Creator** means the creator of the Work.

2.2 **Copyright** means the right to ~~make copies of or reproduce a given work. It is an intellectual property right in an original work of authorship (such as a literary, musical, artistic, photographic or film work) fixed in any tangible medium of expression, giving the copyright owner the exclusive right to reproduce, adapt, distribute, perform and display the work, and to authorize others to do the same. Copyright protects the expression of an idea, not the idea itself or facts.~~ reproduce a Work or any substantial part of a Work in any material format and the right to publicly perform a Work or any substantial part of a Work. Copyright exists in an original Work fixed in a tangible medium of expression and gives the copyright owner the exclusive right – subject to specific User Rights in the Copyright Act – to reproduce, adapt, distribute, perform, translate or publicly display the Work and to authorise others to do the same. Copyright is of limited duration and protects the expression of an idea, not the idea itself or facts.

2.3 **Copyright Infringement** means to do an action without the permission of the copyright owner that, according to the Copyright Act, only the copyright owner has the right to do.

2.4 **Copyright Office** means the entity that provides leadership in matters concerning copyright at the University, and coordinates and helps to administer the following copyright activities at the University:

- Advisory service
- Education, training and outreach,
- Policy and planning, and
- Permissions, licensing and complaints.

Copyright owner means one who holds exclusive rights to copyrighted material.

Copyright protected work means:

1. A creative work containing the original expression of an idea;
2. That is fixed by means of recording or expressed in some material form of more or less permanent endurance, and
3. The author is a citizen or resident of Canada or another treaty country.

2.5 **Fair Dealing** means a user's right to make a copy of a work without the copyright owner's permission or payment of royalties when used for the purpose of research, private study, education, parody, satire, criticism or review or news reporting, means a User Right under Sections 29, 29.1 and 29.2 of the *Copyright Act* to make a copy of a work without the copyright owner's permission or payment of royalties when used for the purpose of research, private study, education, parody, satire, criticism, review or news reporting, and when the use (dealing) is fair.

2.6 **Licence** means:

- 2.6.1 An agreement negotiated between the University and a copyright holder/licensor governing the use of copyrighted Works;
- 2.6.2 The terms of use or similar agreement accepted by the University or University Member as part of the requirements for gaining access to copyrighted Works;
- 2.6.3 An open licence, such as a Creative Commons licence, whereby the copyright owner grants to end-users specific reproduction and distribution rights;
- 2.6.4 Any licence held by the University to Works created by University Members as specified in University policies or collective agreements between the University and employee groups.

2.7 **University** means Simon Fraser University.

Infringement means an act that interferes with one of the exclusive rights of a patent, copyright or trademark owner:

1. **Copyright infringement** means the act of violating any of a copyright owner's exclusive rights granted by the federal *Copyright Act*. A copyright owner has several exclusive rights in copyrighted works, including the rights: 1) to reproduce the work, 2) to prepare derivative works based on the original work, 3) to distribute copies of the work, 4) for certain kinds of works, to perform the work publicly, 5) for certain kinds of works, to display the work publicly, 6) for sound recordings, to perform the work publicly, 7) to import into Canada copies acquired elsewhere and 8) to authorize others to exercise any of the rights.
2. **Direct infringement** means directly violating a right under the *Copyright Act* by doing any of the things or exercising any of the rights, which only the copyright owner may do without the copyright owner's permission.
3. **Indirect infringement** means through dealings with infringing copies by means of sale or rent, distribution and importation.

Intellectual property means the intangible or "intellectual" nature of an object, e.g., the intellectual component is the words on a page and the expression of any ideas contained in those

~~words. The physical component is the object itself, e.g., a book. The term “intellectual” is used to distinguish it from “property” law. The physical and intellectual components are separate. Thus, owning a book (the physical property) does not mean that one owns the right to copy that book (the intellectual property). Intellectual property law includes copyright law.~~

2.8 **User Right** means an exception found in the Copyright Act that allows a user of a copyright protected Work to undertake, without the permission of the copyright owner, one of the exclusive rights of the copyright owner. An example of a User Right is Fair Dealing.

2.9 **Works** means published and unpublished creative works such as:

- 2.9.1 Literary works including ~~manuscripts, tables, and computer programs~~ books, poems, correspondence, textual notes, and computer code;
- 2.9.2 Dramatic works including recitation, choreography, ~~mime, play~~, cinematography with dramatic elements;
- 2.9.3 Musical works including a musical composition; and
- 2.9.4 Artistic works including paintings, drawings, maps, charts, plans, photographs, ~~engravings~~ digital images, sculpture, works of artistic craftsmanship and architectural works.

3.0 SCOPE AND JURISDICTION

3.1 This policy 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.

3.2 This policy applies when the copies made of ~~an author’s a Creator’s work~~ Work are not covered by the exceptions enumerated under Canada’s copyright law (e.g., ~~F~~air ~~D~~ealing) or a Licence and, without the copyright owner’s permission, would be ~~e~~constitute ~~e~~Copyright ~~i~~Infringement.

3.3 ~~For greater clarity and certainty, this policy applies only to the University entities listed in Schedule R30.04A.~~ This policy does not apply when University employees and students participate in non-University activities or in organizations that operate independently of the University, for example outside employment, volunteer or other activity in an area unrelated to University activities, or activity conducted wholly while on an unpaid leave of absence from the University. ~~See Schedule R30.04A for a list of those entities to which this policy does not apply.~~

4.0 POLICY

Compliance

4.1 ~~The University’s copyright function will be located in and coordinated by the University Library.~~ University employees and students must comply with Canada’s Copyright law and this policy and its procedures using the available institutional resources and services.

4.2 The University will:

- 4.2.1 in accordance with this policy's associated procedures, evaluate whether use of a Work for teaching, learning, research and administrative activities is permitted by a User Right or a Licence; and
- 4.2.2 if such use is not permitted by a User Right or a Licence, where possible and reasonable, negotiate, obtain Copyright permissions and licences and pay Copyright fees for that use.

Copyright Program, Education, and Resources

4.3 The University will manage a university-wide copyright program through ~~a copyright officer~~ its Copyright Office which will also support other departments that perform Copyright-related responsibilities. ~~located in the University Library. The copyright officer working with other departments that perform copyright related responsibilities, will provide leadership, coordinate and help administer the following copyright activities:~~

- 4.3.1 Permissions and Complaints
- 4.3.2 Advisory Service
- 4.3.3 Education, training and outreach
- 4.3.4 Policy and planning

4.4 The Copyright Office will prepare and deliver presentations and workshops to engage and educate SFU Creators and users of Copyright protected works.

4.5 The University will, negotiate, obtain all copyright permissions and licences and pay copyright fees, when these are required for teaching, research and learning materials used in the course of teaching, learning, research and administrative activities. A central or program specific copyright clearance service will be delivered through the University Library, Bookstore and Centre for Online and Distance Education. Working together and using an integrated approach to copyright clearance, these units will try to maximize reciprocal reproduction and use rights for multiple purposes in print and digital form including library holdings, inter-library loan, library reserves, course packs, online courses, blended courses and traditional courses.

4.6 ~~University Library, in consultation with the Vice President, Legal Affairs, will prepare and maintain copyright policy documents.~~

4.7 The University will establish the related institutional resources and administrative tools needed to support an effective copyright program, including a central copyright website, information guides ~~circulars~~ and guidelines, business processes and workflows, record-keeping and reporting systems, information technology systems and the means to measure and evaluate the quantity, value and effectiveness of copyright licensing. The Copyright Office, with the University Library, will develop and maintain such resources working with other departments as needed.

- 4.8 The University will provide university wide copyright advisory services through a network of professional staff consisting of the copyright officer, liaison and other designated librarians, and designated Teaching and Learning Centre staff.
- 4.9 The University will prepare and deliver presentations and workshops to engage and educate SFU creators and users of copyright protected works, as well as train the in house network of professional staff providing copyright advice and support. The University Library and Teaching and Learning Centre working together will deliver this service.
- 4.10 The University will manage copyright when using educational technology as well as its multi function reproduction devices, which include photocopying, scanning and faxing capability. Information Technology Services will contribute its technical and functional analysis expertise and experience to advise on situations when copyrighted content is accessible through information technology systems as well as the use of open source, non-proprietary information technology applications.
- 4.11 The University will provide the institutional policy framework governing the copyright function and program, which is needed to systematically plan and coordinate copyright related matters university wide, enabling business continuity and a single, consistent approach to copyright issues. The University Library, in consultation with the Vice-President, Legal Affairs, will prepare and maintain copyright policy documents.
- 4.12 The University will encourage and promote using alternatives to reduce the reliance on copyright protected works that require further permission or compensation, including those listed in Schedule R30.04B.

5.0 ROLES AND RESPONSIBILITIES

- 5.1 The Vice President Research **Provost** and Vice-President Academic has executive responsibility for implementing this Policy.
- 5.2 The University Library **Dean of Libraries** and University Librarian has operational responsibility for coordinating a university-wide copyright program.
- 5.3 The University Copyright Officer has responsibility for coordinating compliance with copyright law and policy as well as the administration of copyright related activities university-wide **and for coordinating the support and education of employees and students about copyright law, Creators' and User Rights, and how SFU manages copyright.**
- 5.4 University employees and students have responsibility for complying with Canada's copyright law and Simon Fraser University's copyright policy and related policy documents using the available institutional resources and services.
- 5.5 The Dean of Library Services has responsibility for approving related procedures, standards, guidelines, forms and templates necessary to support this Policy.

5.6 ~~The Bookstore has responsibility for administering copyright activities related to the production and sale of custom courseware including course packs, books and textbooks.~~

5.7 ~~The Bookstore and Information Technology Services have responsibility for monitoring the digital publishing marketplace and its integration with the University's educational technology.~~

5.8 ~~The Centre for Online and Distance Education has responsibility for administering copyright activities related to the production of course materials for its program.~~

5.9 ~~Document Solutions has responsibility for administering copyright activities related to the reproduction service it provides direct to customers.~~

5.10 ~~The University Library and Teaching and Learning Centre have responsibility for supporting and educating employees and students about copyright law, authors' and users' rights and how SFU manages copyright.~~

5.11 ~~Information Technology Services has responsibility for administering provisions assigned by copyright law to Internet Service Providers (ISP) and considering how educational technology features may help manage copyright compliance and administration.~~

6.0 INTERPRETATION

6.1 Questions of interpretation or application of this policy or its procedures shall be referred to the President, whose decision shall be final.

7.0 PROCEDURES AND OTHER RELATED DOCUMENTS

7.1 ~~The policy documents related to this policy include, but are not limited to, those listed below. The legal and other University Policy authorities and agreements that may bear on the administration of this Policy and may be consulted as needed include but are not limited to:~~

7.1.1 ~~University Act, R.S.B.C. 1996, c. 468~~

7.1.2 ~~Copyright Act, R.S.C. 1985, c. C-42~~

7.1.3 ~~Accessible British Columbia Act, SBC 2021. C. 19~~

7.1.4 ~~Intellectual Property Policy (R 30.03)~~

7.1.5 ~~Policy on University Trademarks (GP 28)~~

7.1.6 ~~Policy on External Research Grants and Contracts (R 10.01)~~

7.1.7 ~~Policy on Service Contracts (AD 3.13)~~

7.1.8 ~~Acceptable Use and Security of Digital Information and Electronic Systems (GP 24)~~

7.1.9 ~~Student Academic Integrity Policy (S 10.01)~~

~~A30.04 Policy on Outside Activities~~

Schedules	R30.04	Schedule A	Entities Covered and not Covered by the Scope of Policy
	R30.04		R30.04
		Schedule B	Alternatives to Reduce the Reliance on Copyright Protected Works that Require Further Permission or Compensation
Appendices	R30.04	App. A	Application of Fair Dealing under Policy R30.04
	R30.04	App. B	Standard for Evaluating if a Particular Instance of Copying is Fair Dealing under Policy R30.04

_____ R30.04 App. C General Application of Appendix R30.04 Application of Fair Dealing under Policy R30.04

_____ R30.04 App. D Application of Appendix R30.04A to Learning Management Systems

_____ R30.04 App. E Application of Appendix R30.04A to the Production and Sale of Course Packs

_____ R30.04 App. F Application of Appendix R30.04A to Audiovisual Works

_____ R30.04 App. G Application of Appendix R30.04A to Musical Works and Sound Recordings

_____ R30.04 App. H Application of Appendix R30.04A to Library Copying

_____ R30.04 App. I Application of Appendix R30.04A to Teaching and Research by University Faculty and Staff

_____ R30.04 App. J Application of Appendix R30.04A to the Student Activities of Learning and Research

8.0 REVISION HISTORY AND MANDATED REVIEW DATE

Date	Description/Key Changes
[date]	Policy updated in its entirety.
Mandated Review Date	

COPYRIGHT COMPLIANCE AND ADMINISTRATION

POLICY INFORMATION

Policy Number:	R30.04
Policy Sponsor:	Provost and Vice President Academic
Original Effective Date:	November 22, 2012
Date of Last Review:	
Most Recent Amendment Effective Date:	
Associated Procedures:	

1.0 BACKGROUND AND PURPOSE

1.1 The purpose of this policy is to define how the University manages its rights and obligations under Canada's copyright law when copyright protected works in any media are used for a bona fide university teaching, learning, research or administrative purpose.

2.0 GLOSSARY

2.1 **Creator** means the creator of the Work.

2.2 **Copyright** means the right to reproduce a Work or any substantial part of a Work in any material format and the right to publicly perform a Work or any substantial part of a Work. Copyright exists in an original Work fixed in a tangible medium of expression and gives the copyright owner the exclusive right – subject to specific User Rights in the Copyright Act – to reproduce, adapt, distribute, perform, translate or publicly display the Work and to authorise others to do the same. Copyright is of limited duration and protects the expression of an idea, not the idea itself or facts.

2.3 **Fair Dealing** means a User Right under Sections 29, 29.1 and 29.2 of the *Copyright Act* to make a copy of a work without the copyright owner's permission or payment of royalties when used for the purpose of research, private study, education, parody, satire, criticism, review or news reporting, and when the use is fair.

2.4 **Copyright Infringement** means an action taken without the permission of the copyright owner that, according to the Copyright Act, only the copyright owner has the right to do.

2.5 **Copyright Office** means the entity that provides leadership in matters concerning copyright at the University, and coordinates and helps to administer the following copyright activities at the University:

- Advisory service
- Education, training and outreach,
- Policy and planning, and
- Permissions, licensing and complaints.

2.6 **Licence** means:

- 2.6.1 An agreement negotiated between the University and a Copyright holder/licensor (including University Members) governing the use of Works;
- 2.6.2 The terms of use or similar agreement accepted by the University or University Member as part of the requirements for gaining access to Works;
- 2.6.3 An open licence, such as a Creative Commons licence, whereby the Copyright owner grants to end-users specific reproduction and distribution rights;
- 2.6.4 Any licence held by the University to Works created by University Members as specified in University policies or collective agreements between the University and employee groups.

2.7 **University** means Simon Fraser University.

2.8 **User Right** means an exception found in the Copyright Act that allows a user of a copyright protected Work to undertake, without the permission of the copyright owner, one of the exclusive rights of the copyright owner. An example of a User Right is Fair Dealing.

2.9 **Works** means published and unpublished creative works such as:

- 2.9.1 Literary works including books, poems, correspondence, textual notes, and computer code;
- 2.9.2 Dramatic works including recitation, choreography, cinematography with dramatic elements;
- 2.9.3 Musical works including a musical composition; and
- 2.9.4 Artistic works including paintings, drawings, maps, charts, plans, photographs, digital images, sculpture, works of artistic craftsmanship and architectural works.

3.0 SCOPE AND JURISDICTION

- 3.1 This policy 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.
- 3.2 This policy applies when the copies made of a Creator's Work are not covered by the exceptions enumerated under Canada's copyright law (e.g., Fair Dealing) or a Licence and, without the copyright owner's permission, would be Copyright Infringement.

This policy does not apply when University employees and students participate in non-University activities or in organizations that operate independently of the University, for example outside employment, volunteer or other activity in an area unrelated to University activities, or activity conducted wholly while on an unpaid leave of absence from the University.

4.0 POLICY

Compliance

- 4.1 University employees and students must comply with Canada's Copyright law and this policy and its procedures using the available institutional resources and services.
- 4.2 The University will:
 - 4.2.1 in accordance with this policy's associated procedures, evaluate whether use of a Work for teaching, learning, research and administrative activities is permitted by a User Right or a Licence; and
 - 4.2.2 if such use is not permitted by a User Right or a Licence, where possible and reasonable, negotiate, obtain Copyright permissions and licences and pay any necessary fees for that use.

Copyright Program, Education, and Resources

- 4.3 The University will manage a university-wide copyright program through its Copyright Office which will also support other departments that perform Copyright-related responsibilities.
- 4.4 The Copyright Office will prepare and deliver presentations and workshops to engage and educate SFU Creators and users of Copyright protected works.
- 4.5 The University will provide the institutional guidance framework governing the Copyright function and program, which is needed to systematically plan and coordinate Copyright related matters university-wide, enabling a single, consistent approach to Copyright issues.
- 4.6 The University will establish the related institutional resources and administrative tools needed to support an effective Copyright program, including a central Copyright website, information guides and guidelines, business processes and workflows, record-keeping and reporting systems, information technology systems and the means to measure and evaluate the quantity, value and effectiveness of copyright licensing. The Copyright Office, with the University Library, will develop and maintain such resources working with other departments as needed.

5.0 ROLES AND RESPONSIBILITIES

- 5.1 The Provost and Vice-President Academic has executive responsibility for implementing this Policy.
- 5.2 The Dean of Libraries and University Librarian, has operational responsibility for coordinating a university-wide copyright program.
- 5.3 The University Copyright Officer has responsibility for coordinating compliance with copyright law and policy as well as the administration of copyright related activities university-wide and for coordinating the support and education of employees and students about copyright law, Creators' and User Rights, and how SFU manages copyright.

6.0 INTERPRETATION

- 6.1 Questions of interpretation or application of this policy or its procedures shall be referred to the President, whose decision shall be final.

7.0 PROCEDURES AND OTHER RELATED DOCUMENTS

7.1 The legal and other University Policy authorities and agreements that may bear on the administration of this Policy and may be consulted as needed include but are not limited to:

- 7.1.1 University Act, R.S.B.C. 1996, c. 468
- 7.1.2 Copyright Act, R.S.C. 1985, c. C-42
- 7.1.3 Accessible British Columbia Act, SBC 2021. C. 19
- 7.1.4 Intellectual Property Policy (R 30.03)
- 7.1.5 Policy on University Trademarks (GP 28)
- 7.1.6 Policy on External Research Grants and Contracts (R 10.01)
- 7.1.7 Policy on Service Contracts (AD 3.13)
- 7.1.8 Acceptable Use and Security of Digital Information and Electronic Systems (GP 24)
- 7.1.9 Student Academic Integrity Policy (S 10.01)

8.0 REVISION HISTORY AND MANDATED REVIEW DATE

Date	Description/Key Changes
[date]	Policy updated in its entirety.
Mandated Review Date	

APPLICATION OF FAIR DEALING

PROCEDURE INFORMATION

Parent Policy:	R30.04 Copyright Compliance and Administration
Policy Sponsor:	Provost and Vice-President Academic
Original Effective Date:	
Most Recent Amendment Effective Date:	

1.0 BACKGROUND AND PURPOSE

- 1.1 The purpose of this Procedure is to describe the processes by which the University evaluates whether a particular instance of copying or communication of a copyright protected Work is permitted under Fair Dealing and to assist the University in ensuring the copying or communication of a copyright protected Work is compliant with University policies and guidance.
- 1.2 The Copyright Act provides certain exceptions to copyright infringement, which are regarded as User Rights. Such User Rights are essential to furthering the public interest objectives of the Copyright Act.
- 1.3 One of the most important User Rights is known as fair dealing.
- 1.4 The Copyright Act states that dealing with a work for the purposes of research, private study, education, parody, satire, criticism, review or news reporting, provided the copying is fair, does not infringe copyright.
- 1.5 This Procedure has been prepared:
 - 1.5.1 to provide direction and guidance to University employees and students as to how fair dealing applies to copying or communicating of Copyright protected Works at the University in the context of teaching, instruction and public presentations related to teaching and research, and to provide reasonable safeguards for the rights of the copyright owners of copyright protected Works. This direction and guidance is given in section 3, Fair Dealing Guidelines in this Procedure.
 - 1.5.2 to provide direction and guidance to the Copyright Office as to how Fair Dealing applies to copying or communicating of Copyright protected Works at the University when such copying exceeds the limits set out in the Fair Dealing Guidelines. This direction and guidance is given in section 4, Evaluating The Application of Fair Dealing When The Use Exceeds The Fair Dealing Guidelines in this Procedure.

1.6 For the avoidance of doubt, this Procedure does not apply where another User Right applies, where the copying or communicating is of material not protected by copyright, where the Work is governed by a Licence.

2.0 DEFINITIONS

See the Copyright Compliance and Administration Policy (X30.04) for definitions of words used in these procedures. For ease of reference only:

Copyright means the right to reproduce a Work or any substantial part of a Work in any material format and the right to publicly perform a Work or any substantial part of a Work. Copyright exists in an original Work fixed in a tangible medium of expression and gives the copyright owner the exclusive right – subject to specific User Rights in the Copyright Act – to reproduce, adapt, distribute, perform, translate or publicly display the Work and to authorise others to do the same. Copyright is of limited duration and protects the expression of an idea, not the idea itself or facts.

Copyright Office means the entity that provides leadership in matters concerning copyright at the University and coordinates and helps to administer the following copyright activities at the University:

- Advisory service
- Education, training and outreach,
- Policy and planning, and
- Permissions, licensing and complaints.

Fair Dealing means a User Right under Sections 29, 29.1 and 29.2 of the *Copyright Act* to make a copy of a work without the copyright owner's permission or payment of royalties when used for the purpose of research, private study, education, parody, satire, criticism, review or news reporting, and when the use is fair.

Licence means:

- An agreement negotiated between the University and a copyright holder/licensor governing the use of copyrighted Works;
- The terms of use or similar agreement accepted by the University or University Member as part of the requirements for gaining access to copyrighted Works;
- An open licence, such as a Creative Commons licence, whereby the copyright owner grants to end users specific reproduction and distribution rights;
- Any licence held by the University to Works created by University Members as specified in University policies or collective agreements between the University and employee groups.

University means Simon Fraser University.

Works means published and unpublished creative works such as:

- Literary works including books, poems, correspondence, textual notes, and computer code;
- Dramatic works including recitation, choreography, cinematography with dramatic elements;
- Musical works including a musical composition; and
- Artistic works including paintings, drawings, maps, charts, plans, photographs, digital images, sculpture, works of artistic craftsmanship and architectural works.

In addition, in this Procedure:

Allowable Purpose means one of the eight fair dealing purposes listed in 1.4.

Short Excerpt means an excerpt of a copyright protected work as defined in 3.2.

Work means a copyright-protected work, including without limitation a literary work, musical work, artistic work, dramatic work, sound recording or an audiovisual work, as the case may be.

3.0 PROCEDURE

Fair Dealing Guidelines

- 3.1 Subject to the following criteria being met, University employees or students may copy or communicate, in paper or electronic form, a Short Excerpt from a Work for any one or more of the Allowable Purposes.
- 3.2 The copy must be a Short Excerpt containing no more of a Work than is required in order to achieve the Allowable Purpose, which is either:
 - (a) up to 10% of a Work; *or*
 - (b) no more than:
 - (i) one chapter from a book;
 - (ii) a single article from a periodical;
 - (iii) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart and plan) from a Work containing other artistic works;
 - (iv) an entire newspaper article or page; *or*
 - (v) an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work, whichever is greater.
- 3.3 A Short Excerpt does not include an entire single short story, dramatic work, poem, musical work or work of fiction that is part of a compilation or collective work containing other Works.
- 3.4 If you wish to make a copy that does not meet the requirements set out in the Fair Dealing Guidelines, please contact the University's Copyright Office at copy@sfu.ca for further guidance.

3.5 A single copy of a Short Excerpt from a Work may only be provided to University employees and students as follows:

- (a) as a class handout;
- (b) as a posting to a learning or course management system, or similar system, that is restricted to University employees and students;
- (c) as part of a course pack compiled by the University; or
- (d) as part of a presentation,

and it is recommended (if practical) that each such copy, or the learning management system, includes a notice indicating that Short Excerpts are being copied in reliance on fair dealing, and advising students to only use materials for their personal Allowable Purposes, and not to communicate or share materials with others.

3.6 No University employee or student may make copies of multiple Short Excerpts with the effect of exceeding the copying limits set out in 3.2 of this Procedure.

3.7 Any fee charged by the University for copying a Short Excerpt must not exceed the actual costs incurred by the University, including overhead costs, in making the copy.

3.8 Copies of Short Excerpts made for the purpose of news reporting, criticism or review must mention the source and, if given in the source, the name of the author(s) or creator(s) of the Work.

3.9 The Fair Dealing Guidelines should not be considered the definitive formula for determining if copying qualifies as fair dealing as fair dealing is case-specific and depends on context. There will be situations where more guidance is required. If you have a request for copying where more guidance is required contact the University Copyright Office at copy@sfu.ca and the Copyright Office will use Evaluating The Application of Fair Dealing When The Use Exceeds The Fair Dealing Guidelines found in 4.0 below to provide guidance and work with you to determine if the copying falls under fair dealing.

3.10 Other sources of permission (including consent from a copyright owner) may be required where the copying falls outside of fair dealing and this Procedure. For assistance in obtaining any permissions that may be required for such copying or posting, please contact the University's Copyright Office at copy@sfu.ca.

4.0 PROCEDURE

Evaluating The Application of Fair Dealing When The Use Exceeds The Fair Dealing Guidelines

4.1 This Procedure is based on the fair dealing analysis described in the Supreme Court decision *CCH Canadian v Law Society of Upper Canada* (2004).

4.2 The Copyright Office will evaluate and decide if a proposed copying or communication of a copyright protected work is permitted under Fair Dealing when it exceeds the limits in the Fair Dealing Guidelines.

Analysis For Evaluating The Application of Fair Dealing When The Use Exceeds The Fair Dealing Guidelines

4.3 To qualify for Fair Dealing, two tests must be passed.

4.4 The first test is that the dealing must be for a fair dealing purpose. The Copyright Act states that dealing with a Work for the purposes of research, private study, education, parody, satire, criticism, review or news reporting.

4.5 The second test is that the dealing must be “fair” (not infringe copyright). In landmark decisions in 2004 and in 2012, the Supreme Court of Canada provided guidance as to what this test means in educational institutions. The following factors, although not exhaustive nor applicable in every case, provide a framework to determine if a particular instance of copying is fair:

- 4.5.1 The purpose of the proposed copying, including whether it is for a fair dealing purpose enumerated in Canada’s Copyright Act,
- 4.5.2 The character of the proposed copying, including whether it involves single or multiple copies, and whether the copy is destroyed after it is used for its specific intended purpose,
- 4.5.3 The amount of the dealing from the individual user’s perspective, including the proportion of the work that is proposed to be copied and the importance of that excerpt in relation to the whole work,
- 4.5.4 Alternatives to copying the work, including whether there is a non-copyrighted equivalent available,
- 4.5.5 The nature of the work, including whether it is published or unpublished and
- 4.5.6 The effect of the copying on the work, including whether the copy will compete with the commercial market of the original work.

5.0 COMPLIANCE VERIFICATION

5.1 The procedure in section 4, together with other methods of selecting Works to evaluate if copying or use of copyrighted Works is Copyright compliant (such as, without

limitation, surveys and spot audits), will be used when assessing the copying done for teaching and learning endeavours by University Members.

6.0 REVISION HISTORY

Date	Description/Key Changes
[date]	[describe changes or state “policy updated in its entirety”]

Schedule A

Policy R30.04 (Copyright Compliance and Administration) concerns SFU's and its community members' legal obligation to use copyright-protected works in accordance with the *Copyright Act* to protect the rights of creators of published and unpublished creative works. It sets out the manner in which SFU will evaluate use of copyright-protected works to ensure that the appropriate rights to use those works are in place and commits to a program to educate the community about these obligations. Per sections 27(1), 27(2)(u) and (v), and 37(1) of the *University Act*, this policy is within the sole jurisdiction of the Board of Governors (Board).

With respect to next steps in Senate engagement, the Board directs the Designated Lead to:

- forward to the Senate Office the notice for the University community to provide comments and feedback during the anticipated community consultations phase of this policy's development; and
- present this policy to SCAR for consideration.