

**RECORDS MANAGEMENT
POLICY**

University Policy No: IM7700
Classification: Information Management
Approving Authority: Board of Governors
Effective date: January, 2010
Supersedes: New
Last editorial change:
Mandated review: January, 2017

Associated Procedures:

[Procedures for the Management of University Records](#)

[Procedures for the Access to and Correction of Information](#)

[Fair Dealing Guidelines](#)

[Guidelines for the Secure Destruction and Deletion of University Records and Information](#)

PURPOSE

- 1.00 The purpose of this policy is to:
- ensure that university Records are created, used, disposed of and preserved in a systematic manner, compliant with relevant legislation;
 - ensure that Access is provided to Records in compliance with the *Freedom of Information and Protection of Privacy Act (FIPPA)*; and
 - define authorities, responsibilities, and accountabilities for Records Management.

DEFINITIONS

- 2.00 **Access** includes both disclosure of Records under *FIPPA* as a result of a request, and routine release of Records that contain information that is available to the public or to an individual.
- 3.00 **Administrative Authority** means individuals with administrative responsibility for Units including but not limited to: Vice-Presidents, Deans, Chairs, Directors, Executive Directors, Chief Information Officer, and other Unit heads.
- 4.00 **Disposition** means disposal of Records no longer needed for day-to-day operations by a Unit, through destruction, secure destruction, or transfer to the university archives.
- 5.00 **Records** means documents created or received, and retained in the day-to-day operations of business. These include, but are not limited to, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records.
- 6.00 **Records Management** means the application of systematic control to the creation, use, maintenance, storage, retrieval, Disposition, and preservation of all forms of recorded information produced by the university in the conduct of its operations.

7.00 **Unit** means academic or administrative areas at the university, including but not limited to: faculties, departments, divisions, offices, schools and centres.

JURISDICTION/SCOPE

8.00 This policy applies to all Records in the custody or under the control of the university and to the management of Records by all Units.

POLICY

9.00 The university will manage Records in order to meet its business, fiscal, and legal requirements.

Roles and Responsibilities

10.00 The University Archivist is responsible for:

- maintenance of the university's Records Management program, including the university-wide Records classification, retention and Disposition plan;
- developing Records Management policy and procedures, and providing standards and guidelines to assist Units in the implementation of Records Management; and
- providing Access to university Records selected for permanent retention.

10.01 University Archives staff will assist Units with Records Management.

11.00 Administrative Authorities are responsible for making a reasonable effort to ensure that:

- Records in their Unit are managed according to this policy and related procedures;
- employees in their Unit manage Records according to this policy and related procedures;
- Records containing personal or confidential information are protected from unauthorized Access and disclosure, in accordance with the Protection of Privacy Policy (GV0235) and the Information Security Policy (IM7800) and related procedures.

12.00 When leaving a position, a university employee must ensure that university Records are left in the custody or under the control of the university.

13.00 The University Records Management Committee advises the President on policies, procedures, strategies and guidelines needed to:

- establish and maintain a university-wide framework to manage university Records;
- meet the university's business, legal and fiscal requirements; and
- ensure preservation of the university's corporate memory through selecting Records for permanent retention.

14.00 Any Records that are under the custody or in the control of the university as a result of the terms of a contract must be managed according to this policy, the [Protection of Privacy Policy \(GV0235\)](#), and the [Information Security Policy \(IM7800\)](#).

Creation

15.00 Records are created by Units in order to carry out the university's business and perform necessary transactions. Units are expected to use the university-wide classification plan to classify Records, thereby enabling effective retention and Disposition.

Access

16.00 The university is committed to providing Access through routine release of Records where possible.

17.00 Access to Records not covered by routine release is governed by the university's Access to and Correction of Information procedure.

Disposition

18.00 Records scheduled for Disposition containing personal or confidential information and identified as having no long-term value must be destroyed in a secure and permanent manner.

19.00 Records that will be kept permanently by the university will be held by and preserved for Access as determined by the University Archivist.

20.00 When the university retains an external organization to undertake work on its behalf, and that work involves the Disposition of Records, including those containing Personal Information, the university will enter into an agreement with that organization that requires the organization to destroy those Records in a secure and permanent manner.

21.00 Records scheduled for Disposition must not be Disposed of when such Records are:

- identified in current or pending litigation;
- responsive to a request made under *FIPPA*;
- the subject of an audit; or
- identified in quasi-judicial and legal proceedings.

Authorities and Officers

- i) Approving Authority: Board of Governors
- ii) Designated Executive Officer: President
- iii) Procedural Authorities: *Refer to individual procedures*
- iv) Procedural Officers: *Refer to individual procedures*

Relevant Legislation

Freedom of Information and Protection of Privacy Act

University Act

Limitations Act

Related Policies and Documents

Associated Records Management Procedures

- [Procedures for the Management of University Records](#)
- [Procedures for the Access to and Correction of Information](#)
- [Fair Dealing Guidelines](#)
- [Guidelines for the Secure Destruction and Deletion of University Records and Information](#)

Protection of Privacy Policy (GV0235) and associated Procedures

- Procedures for the Disclosure of Personal Information in Emergency or Compelling Circumstances
- Procedures for the Management of University Surveillance Systems
- Procedures for Responding to a Privacy Incident or Privacy Breach
- Privacy Protection Schedule

Information Security Policy (IM7800)

PROCEDURES FOR THE MANAGEMENT OF UNIVERSITY RECORDS

Procedural Authority: University Secretary
Procedural Officer: University Archivist

Effective Date: April 2015
Supersedes: New
Last Editorial Change: June 2013

Parent Policy: [Records Management Policy \(IM7700\)](#)

PURPOSE

- 1.00 The purposes of these procedures are to:
- assist Units in making reasonable efforts to create, use, maintain and dispose of university Records, whether in paper, electronic, audio-visual or other format, in a manner that:
 - complies with the *Freedom of Information and Protection of Privacy Act* (FIPPA) and other pertinent legislation; and
 - is consistent with the university's [Records Management \(IM7700\)](#), [Protection of Privacy \(GV0235\)](#) and [Information Security \(IM7800\)](#) policies and the Directory of Records;
 - regulate the Disposition of university Records in all formats, whether paper, electronic or other; and
 - describe the process for approving new or revising the existing functional classification structure, Series, and Retention Rules contained in the Directory of Records.

DEFINITIONS

- 2.00 The definitions contained in the university's Records Management policy (IM7700) apply to these procedures.
- 3.00 **Active Records** are Records that are maintained and used by a Unit or Units for current business.
- 4.00 **Authorized Disposition** means a Disposition of Inactive Records carried out with the approval of the University Archivist and the Unit's Administrative Authority (see also [Disposition](#) definition in IM7700).
- 5.00 **Directory of Records** is the university-wide classification, retention and Disposition plan that arranges Records according to the functions of the university and identifies these functional groups by a block-numeric system for the efficient access, retrieval and Disposition of Records.
- 6.00 **Inactive Records** are Records that are no longer needed for current business.

- 7.00 **Primary Office** is an office or offices responsible for keeping the original and/or official versions of Records, and responsible for carrying out the approved Disposition of such Records.
- 8.00 **Retention Rules** are the instructions in the Directory of Records to Primary and Secondary Offices regarding the length of time for which records should be kept.
- 9.00 **Secondary Office** is an office or offices which may hold duplicate copies of university Records that are to be maintained for shorter retention periods than original and/or official versions of Records.
- 10.00 **Semi-active Records** are Records that are required infrequently for current business.
- 11.00 **Series** is a group of Records relating to a particular function, resulting from the same activity, or having a particular form. Within the Directory of Records functions, Records are arranged in Series.
- 12.00 **Transitory Records** are Records of temporary usefulness, required only for a limited period of time for the completion of a routine action or the preparation of an ongoing Record. Transitory Records do not include those Records required to meet statutory obligations, or to sustain administrative or operational functions. Transitory Records may include drafts, notes, calculations, and superseded documents.
- 13.00 **Vital Records** are Records that are necessary to re-establish or continue the business of the university in the event of a disaster, including those that are necessary to re-create the university's legal and financial position, necessary to preserve the rights of the university, its students and employees, and others associated with the university.

SCOPE

- 14.00 These procedures apply to all Units and to university Records held by external organizations that undertake work with the university.

PROCEDURES

Classifying and Managing Active and Semi-Active Records

- 15.00 Units should consult the Directory of Records in order to classify university Records for which they are responsible and identify the:
- function to which the file or single document relates;
 - appropriate functional section from the Directory of Records (e.g., Financial Management, Human Resources, etc);
 - appropriate series by considering the action, content and source of the document; and
 - primary and secondary number.

Units should consult university archives staff for Unit-specific advice on records classification.

- 16.00 Unit staff are expected to identify whether the Unit has any Vital Records and set procedures to give Vital Records the protection they require in case of disaster (the Directory of Records identifies Vital Records). The Primary Office, as identified on the Retention Rules, is responsible for ensuring the protection of Vital Records.
- 17.00 Unit staff are expected to identify the classification levels of the information and Records in the Unit for security purposes in accordance with the university's Information Security Classification Procedures.
- 18.00 Units should remove or delete Transitory Records from files when such documents are no longer needed for reference.
- 18.01 Units should remove or delete non-record materials when they are no longer required for reference by a Unit. Non-record materials include but are not limited to:
- published material such as books, pamphlets, circulars, newsletters, brochures, catalogues, and other information created for informational or reference purposes; and
 - excess stock of forms.

Storage of Semi-Active Records

19.00 Units are responsible for storage of their own Semi-Active Records.

19.01 The university archives does not provide storage for Semi-Active Records.

Disposition of Inactive Records

- 20.00 Unit offices identified as Primary Offices for particular Record Series are responsible for conducting Authorized Dispositions of Inactive Records (whether in paper, electronic, audio-visual or other format) in accordance with the Directory of Records.
- 20.01 Units are responsible for determining on an annual basis what Records should be disposed of by consulting the Retention Rules of the Series that pertain to their activities.
- In consultation with Archives, use the Approved Retention Rule form for destruction of Records.
- 20.02 Some Series and sections in the Directory of Records have Retention Rules which are not yet approved. Incomplete retention rules do not preclude Authorized Disposition. In these cases, contact the University Archives for retention advice.
- 20.03 Refer to the university's Guidelines for the Secure Destruction and Deletion of University Records and Information for direction regarding acceptable forms of secure Records destruction. The method for Secure Destruction must be appropriate for the medium on which information is stored.

21.00 Unit offices not identified as Primary Offices for particular Record Series may destroy or delete such Records as specified for "other offices" in the approved Retention Rules, or when they are no longer useful to the Secondary Office. There is no requirement to conduct an Authorized Disposition.

Transfer of Records to University Archives

22.00 Records transferred to the university archives are deemed Inactive Records that are either:

- specified by the Retention Rules for transfer to the university archives; or
- identified as having long-term legal, administrative or historical value by the University Archivist (or designate), in consultation with the respective Unit staff.

23.00 When a Unit seeks to transfer Records to the University Archives, it must contact the:

- University Archives before sending any Records to ensure that only Records with archival value are transferred; and
- University Archivist directly if the Records intended for transfer are in electronic form only.

23.01 The University Archivist or Associate Archivist will provide further direction regarding the transfer of Records to the university archives.

Access to Records Transferred to the University Archives

24.00 Primary Offices may access their archival Records transferred to the university archives without restriction.

25.00 University Records transferred to the archives are arranged and described according to archival principles, are listed in publicly available databases, and are available for Access to the public unless Access is restricted by FIPPA.

Approval of changes to the Directory of Records

26.00 As a part of the ongoing management of university Records, the University Archivist will review the Directory of Records' functional classification structure, Series, and Retention Rules in light of changes to university functions, organizational structure, Unit responsibilities, technologies and relevant legislation.

27.00 Following consultation with the Privacy, Records Management and Personal Information Security Co-ordinating and Advisory Committees, Archives staff will work with Primary Offices to identify DOR sections for review.

28.00 Following agreement between Archives and Primary Office staff that the new or revised functional classification structure, Series, and Retention Rules reflect the required or desired changes, the draft revisions will be presented for approval to the Administrative Authority for the Primary Office.

28.01 If the draft revisions require further consultation, Archives and Primary Office staff will work together to incorporate desired changes.

- 29.00 Following approval of new or revised functional classification structure, Series, and Retention Rules by the Administrative Authority for the Primary Office, the draft changes will be presented to the DOR Sub-committee of the Privacy, Records Management and Personal Information Security Co-ordinating Committee and the University Secretary for review and recommendation to the President.
- 29.01 If the DOR Sub-committee determines that the new or revised functional classification structure, Series, and Retention Rules presented need further revisions, Archives and Primary Office staff will work together to incorporate desired changes.
- 30.00 The DOR Sub-committee will provide summary notice of the recommended changes to the Co-ordinating Committee. After consideration of any comments from the Coordinating Committee, the University Secretary will forward the new or revised functional classification structure, Series, and Retention Rules to the University President for approval and signature.
- 31.00 Following the approval of the President, the relevant sections of the Directory of Records will be updated in the official version.
- 32.00 The official version of the Directory of Records is the on-line database.
- 33.00 The original approved and signed functional classification structure, Series, and Retention Rules will be kept in hard-copy in the University Archives.
- 34.00 Editorial changes to DOR that do not affect Records classifications or retention periods may be made upon written recommendation from the Administrative Authority for the Primary Office and the University Archivist to the University Secretary.

RELEVANT LEGISLATION

Freedom of Information and Protection of Privacy Act
Evidence Act (B.C.)

Federal and Provincial legislation pertinent to specific Units and Records

RELATED POLICIES AND DOCUMENTS

[Protection of Privacy Policy](#)

- [Procedures for the Management of Personal Information](#)

[Records Management Policy](#)

- [Procedures for Access to and Correction of Information](#)
- [Guidelines for the Secure Destruction and Deletion of University Records and Information](#)

[Information Security Policy](#)

- [University Information Security Classification Procedures](#)

[Records Disposition Application – for records *without* an Approved Retention Rule](#)
[Records Disposition Application – for records *with* an Approved Retention Rule](#)

PROCEDURES FOR ACCESS TO AND CORRECTION OF INFORMATION

Procedural Authority: University Secretary
Procedural Officer: University Archivist

Effective Date: January, 2010
Supersedes: New
Last Editorial Change: July, 2012

Parent Policy: [Records Management Policy\(IM7700\)](#)

PURPOSE

- 1.00 The purpose of these procedures is to set out how the university will manage:
- freedom of information requests;
 - requests for correction of Personal Information in the university's custody or control;
 - requests to access Records in the university archives;
- in accordance with the *Freedom of Information and Protection of Privacy Act* (FIPPA), and where appropriate, the *Personal Information Protection Act*.

DEFINITIONS

- 2.00 The definitions contained within the university's [Records Management \(IM7700\)](#) and [Protection of Privacy \(GV0235\)](#) policies apply to these procedures.

PROCEDURES

RESPONDING TO REQUESTS FOR INFORMATION

Informal or Potential Freedom of Information Access Requests

- 3.00 When an individual contacts a Unit seeking Access to his or her Personal Information or access to a Record in the custody or under the control of the university, the Unit's Administrative Authority (or designate) will assess whether the individual is seeking Access to:
- (a) his or her Personal Information (e.g., the individual's file or a specific Record pertaining to that individual) only; or
 - (b) a university Record on a particular subject.
- 3.01 If the individual is seeking access to his or her Personal Information, after confirming the individual's identity, the Unit may disclose the information to the individual if that information can be disclosed routinely. This is considered an informal Access request.
- 3.02 If the Record(s) that the individual is seeking contains information about other individuals or was created with an expectation of confidentiality, the Unit will ask the individual to make a formal freedom of information request (FOI Access Request).

3.03 If the individual is seeking Access to university Records on a particular subject, the Unit may disclose the information to the individual if that information can be disclosed routinely. This is considered an informal Access request.

(a) If the Records contain information that the Unit believes is confidential (such that the information may be subject to exceptions in *FIPPA*), the Unit will ask the individual to make an FOI Access Request.

4.00 Informal access requests will be processed as quickly as possible.

Receiving a Freedom of Information Access Request

5.00 In accordance with *FIPPA*, FOI Access Requests must be made in writing. Units shall ask the individual to make a formal written request in one of the following ways:

(a) by completing and submitting the FOI Access Request form available on the University Secretary's website or in person at the University Secretary's Office; or

(b) by writing a letter that specifies the information the individual is seeking and providing a contact address.

6.00 FOI Access Requests for general university information may be made by e-mail to the University Secretary's Office. However, requests for Personal Information must be made with the FOI Access Request form (signature required) or by submitting a signed letter. The University Secretary's Office will require confirmation of an applicant's identity prior to the release of any Personal Information in response to an FOI Access Request.

7.00 If a Unit receives an FOI Access Request, the Unit will forward it to the University Secretary's Office.

8.00 Records or information responsive to a request must not be destroyed after a request has been received.

9.00 Employees must treat, in a confidential manner, individuals' requests for Access to their own information and all FOI Access requests. Information about access requests is to be used only to the extent necessary to respond to a request. Applicants shall not be asked the reason(s) for which they have requested the information or Record(s). If in doubt, contact the University Secretary's Office.

Processing a Freedom of Information Access Request – Unit Responsibilities

10.00 Upon receiving an FOI Access Request, the University Secretary's Office will ask the Unit(s) to provide Records responsive to that request. Units are then responsible for:

(a) Making one single-sided copy of the requested Records (if any information has to be severed from Records, this must be from single-sided pages)

(b) Printing a single-sided copy of any electronic Records, including e-mails

(c) Ensuring that Records are maintained in file order

- (d) Making arrangements with the University Secretary's Office for in-person pick up or delivery of materials while ensuring that security and confidentiality are maintained; and
 - (e) Advising the University Secretary's Office of any other Unit(s) that may hold responsive Records.
- 11.00 If necessary, the Unit producing the Records will be contacted to answer any follow-up questions. The University Secretary's Office will handle all further correspondence with the applicant.
- 12.00 FOI Access Requests must normally be processed within thirty (30) working days of their receipt, unless otherwise authorized by *FIPPA* and as determined by the University Secretary.
- 13.00 The university may consult with third parties in limited circumstances, in accordance with *FIPPA*, if Records contain information about such parties. The University Secretary's office will manage consultations with third parties subject to an FOI Access Request.
- 14.00 The university may charge fees for FOI Access Requests made for general information in accordance with *FIPPA*. No fees can be charged for FOI Access Requests for an individual's own information. In some cases, a Unit may be asked by the University Secretary's Office to estimate the number of hours (less an initial three hours) required to locate, retrieve and produce the Records, and provide an estimate of the number of responsive pages. The University Secretary's Office will inform the applicant of the fee estimate where applicable.

CORRECTION OF PERSONAL INFORMATION

- 15.00 An individual who believes there is an error or omission in his or her factual Personal Information in the custody or under the control of the university may request that the university correct that information.
- 16.00 When an individual contacts a Unit to request a correction to his or her personal information, Unit staff, as authorized by the Unit's Administrative Authority will assess if the individual is able to make the change through the university's online self-service portal. Personal Information that may be changed through the self-service portal includes: updates to phone numbers and addresses, additional e-mail addresses, and updates to emergency contact information.
- (a) If the information cannot be changed by the individual through the online self-service portal, the Unit will inform the individual of the steps required to correct the factual personal information, including the provision of appropriate documentation.

- 17.00 If the steps set out in section 16.00 do not resolve the matter, the Unit will ask the individual to make his or her correction request by one of the following means:
- (a) by completing and submitting the correction request form available on the University Secretary's website or in person at the University Secretary's office;
 - (b) by writing a letter that specifies the correction they are seeking, the location of the information (Unit responsible), a description of the information, the reasons for the correction and the individual's contact address; or
 - (c) by procedures established by the Registrar.
- 18.00 The university will process the request and determine if the correction will be made, and the University Secretary's Office or the Office of the Registrar will notify the individual in writing.
- 19.00 If the request is approved, the appropriate Unit will replace the information with the correct information in a timely manner.
- 20.00 If the request is denied, the appropriate Unit will annotate the information with the correction requested, in accordance with *FIPPA*.
- 21.00 Evaluative comments or assessments and opinions about individuals may, on request, be annotated but not corrected. Concerns regarding such information may be pursued through academic or Human Resources' channels.
- 22.00 If the University Secretary determines that a correction will be made to an individual's information, any other public body or any third-party to whom that information has been disclosed during the one year period before the correction was requested will be notified of the correction.

ACCESS TO RECORDS IN THE UNIVERSITY ARCHIVES

- 23.00 In accordance with *FIPPA*, the university archives may disclose Personal Information in university Records for archival or historical purposes.
- 23.01 Archival descriptions of university Records, also known as finding aids, will specify whether Records must be reviewed for any exceptions to disclosure under *FIPPA* prior to use of the Records.
- 24.00 The *Personal Information Protection Act (PIPA)* applies to records donated to the university archives by individuals and organizations and permits disclosure for archival or historical purposes.

The Associate Archivist or University Archivist will review records for Personal Information prior to Access by a person and apply *PIPA* including, if necessary, a research agreement regarding disclosure.

Archives Access Procedures

- 25.00 To access records in the university archives, an individual may contact the archives and identify the accession number and file titles of the Records that are required (located in the finding aid).
- 26.00 The University Archivist or Associate Archivist will review the file.
- (a) If Records containing information that may be subject to exceptions from disclosure can reasonably be removed from the file, the remainder of the file will be provided to the individual requesting access, as mutually agreed.
 - (b) If an individual requests Access to information that may be subject to exceptions from disclosure, the University Archivist or Associate Archivist will ask the individual to make a FOI Access Request.
 - (c) If an individual requests Access to a large body of Personal Information that may be subject to exceptions from disclosure, the University Archivist or Associate Archivist will discuss the use of a research agreement with the individual.

Research Agreements

- 27.00 Some university Records have Access restrictions. In accordance with *FIPPA*, the university may allow access to Records containing Personal Information for statistical and research use through the signing of a research agreement between the university and an applicant governing the conditions of Access and use.

RELEVANT LEGISLATION

Freedom of Information and Protection of Privacy Act
Personal Information Protection Act

RELATED POLICIES AND DOCUMENTS

[Protection of Privacy Policy \(GV0235\)](#)

- Procedures for the Management of Personal Information

[Records Management Policy \(IM7700\)](#)

- Procedures for the Management of University Records

[Information Security Policy \(IM7800\)](#)

- University Information Security Classification Procedures

FAIR DEALING GUIDELINES

Procedural Authority: University Secretary

Procedural Officer: University Secretary

Effective Date: May, 2013

Supersedes: June, 2011

Last Editorial Change: March 11, 2014

Parent Policy: [Records Management Policy \(IM7700\)](#)

Introduction

The University of Victoria faculty, students and staff are both creators of material that is subject to protections under the Canadian [Copyright Act](#), as well as, users of copyright material produced by others.

UVic's Fair Dealing Guidelines applies fair dealing in non-profit universities and provides reasonable safeguards for the owners of copyright-protected works in accordance with the [Copyright Act](#) and the Supreme Court decisions.

The fair dealing provision in the [Copyright Act](#) permits use of a copyright-protected work without permission from the copyright owner or the payment of copyright royalties. To qualify for fair dealing, two tests must be passed.

First, the "dealing" must be for a purpose stated in the [Copyright Act](#): research, private study, criticism, review, news reporting, education, satire or parody. Educational use of a copyright protected work passes the first test.

The second test is that the dealing must be "fair." In landmark decisions in 2004 and in 2012, the Supreme Court of Canada provided guidance as to what this test means in educational institutions.

Guidelines

1. Teachers, instructors, professors and staff members in non-profit universities may communicate and reproduce, in paper or electronic form, short excerpts from a copyright-protected work for the purposes of research, private study, criticism, review, news reporting, education, satire or parody.
2. Copying or communicating short excerpts from a copyright-protected work under this Fair Dealing Guidelines for the purpose of news reporting, criticism or review must mention the source and, if given in the source, the name of the author or creator of the work.
3. A copy of a short excerpt from a copyright-protected work may be provided or communicated to each student enrolled in a class or course:

- a) as a class handout
- b) as a posting to a learning or course management system that is password protected or otherwise restricted to students of the university
- c) as part of a course pack

4. A short excerpt means:

- a) up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work)
- b) one chapter from a book
- c) a single article from a periodical
- d) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works
- e) an entire newspaper article or page
- f) an entire single poem or musical score from a copyright-protected work containing other poems or musical scores
- g) 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. Copying or communicating multiple short excerpts from the same copyright-protected work, with the intention of copying or communicating substantially the entire work, is prohibited.
- 6. Copying or communicating that exceeds the limits in the Fair Dealing Guidelines may be referred to UVic's Copyright Office for evaluation. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on all relevant circumstances.
- 7. Any fee charged by the university for communicating or copying a short excerpt from a copyright protected work must be intended to cover only the costs of the university, including overhead costs.

8. Other sources of permission (including permission from a copyright holder) will be required where the copying falls outside of the above Guidelines. For assistance in obtaining the permission required for this copying or posting, contact UVic's Copyright Office at copyrite@uvic.ca

For more information, please consult the University of Victoria's copyright website <http://copyright.uvic.ca>

RELATED GUIDELINES

- [General Application](#)
- [Audiovisual Works](#)
- [Electronic Information Resources](#)
- [Library Copying](#)
- [Musical Works and Sound Recordings](#)
- [Sale of Course Packs](#)
- [Students](#)
- [Teaching and Research](#)

Application of the Fair Dealing Guidelines for the University of Victoria: **General Application**

The document provides general information about copyright, copyright infringement and the [Fair Dealing Guidelines](#) adopted by the university.

A. Copyright

Copyright subsists in every original literary, dramatic, musical and artistic work provided that certain conditions are met. These conditions include the citizenship or residence of the author of the work. Copyright also subsists in performers' performances, sound recordings and broadcast signals. Very few original works do not attract copyright.

Copyright comprises a bundle of exclusive rights owned by the copyright holder. In a university setting, the most pertinent rights are the right to reproduce the copyright-protected work and the right to communicate the work to the public¹ by telecommunication. The latter right is important in relation to the transmission of digital copies of works by email or over the Internet. The communication right protects emailing copyright-protected work to students or posting a copyright-protected work to a learning management system that is accessible by students.

In general terms, with the exception of performers' performances, sound recordings and broadcast signals, the term of copyright lasts for the life of the author and a period of 50 years from the end of the year in which the author died. For a sound recording and a broadcast signal the term is 50 years from the end of the year in which the recording was made or the signal was broadcast. For sound recordings published before that 50 year period expires, the term is extended to the end of the year 50 years after publication.

Once the term of copyright has expired a work becomes part of the public domain and the work can be used, e.g., reproduced or communicated, without permission.

B. Infringement of Copyright

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](#).

¹ In general, a communication is to the public, if the recipients are not restricted to individuals that are purely in a domestic relationship.

Substantial Part

The [Copyright Act](#) does not define “substantial part”. 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. 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.

C. Digital Licences

The university has entered into numerous licence agreements with publishers and aggregators pursuant to which it obtains access to published works in electronic form. The digital licences typically specify the uses that the university can make of the works to which access is provided. In some instances a copyright-protected work is made available to the university under a licence with a publisher or aggregator that prohibits certain uses of the work, e.g., prohibits the copying of the work for inclusion in a course pack. Any copying and/or distribution restrictions contained in a licence that permits access to a copyright-protected work will take precedence over the Fair Dealing Guidelines. Before using the Fair Dealing Guidelines to copy or communicate a short excerpt of a copyright-protected work that is subject to a digital licence, it is necessary to ensure that the use is not prohibited by the licence. You can obtain information about the restrictions imposed on copyright-protected works that are made available under digital licences here:

http://www.uvic.ca/copyright/policies/Licenses/database_permissions/index.php.

D. The Fair Dealing Exemption

The fair dealing exemption in the [Copyright Act](#) provides that fair dealing with a copyright-protected work for one of the following eight purposes: research, private study, criticism, review, news reporting, education, satire, or parody, does not infringe copyright. Any fair dealing for the purpose of news reporting, criticism or review must however mention the source and, if given in the source, the name of the author or creator of the work.

To fall within the fair dealing exemption, a dealing, e.g., copying or communicating a work, must be for one of the eight purposes and also must be fair. The Supreme Court of Canada has considered the following factors in determining whether a dealing is fair:

- (a) the purpose of the proposed copying, including whether it is for research, private study, review, criticism or news reporting;
- (b) 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;
- (c) the amount or proportion of the work which is proposed to be copied and the importance of that work;
- (d) alternatives to copying the work, including whether there is a non-copyrighted equivalent available;

- (e) the nature of the work, including whether it is published or unpublished; and
- (f) the effect of the copying on the work, including whether the copy will compete with the commercial market of the original work.

This document and the related documents that discuss the Fair Dealing Guidelines provide guidance on how the fair dealing exemption would apply. These documents discuss the application of the exemption in particular contexts. They do not however address all of the circumstances in which the fair dealing exemption can be applied.

E. Other Exemptions

In addition to fair dealing, the [Copyright Act](#) includes a number of other exemptions from infringement of copyright. These include reproducing a work to display it in a classroom, reproducing a work in a test or examination, performing sound recordings or audiovisual works in a classroom, copying and communicating works made available through the Internet, time-shifting and reproducing a work for private purposes. A discussion of these additional exemptions and the conditions applicable to these exemptions is beyond the scope of this document except for the exemption for copying and communicating works made available through the Internet which is discussed below. For more information about the other exemptions contact the **Copyright Office** at copyrite@uvic.ca. With respect to audiovisual works you can find additional information in the document: [Application of the Fair Dealing Guidelines for the University of Victoria: Audiovisual Works](#).

F. The Fair Dealing Guidelines

The university has adopted the Fair Dealing Guidelines to provide guidance to faculty members, instructors and staff members on when copying and communicating a copyright-protected work would fall within the fair dealing exemption. The guidelines permit faculty members, instructors, and staff members to copy and communicate, in paper or electronic form, short excerpts from copyright-protected works for any of the eight fair dealing purposes. The most important purposes for the university are research, private study and education.

Section 4 of the Fair Dealing Guidelines defines a short excerpt as follows:

- 4. A short excerpt means:
 - (a) up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work)
 - (b) one chapter from a book
 - (c) a single article from a periodical
 - (d) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works

- (e) an entire newspaper article or page
- (f) an entire single poem or musical score from a copyright-protected work containing other poems or musical scores
- (g) 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.

When considering copying or communicating a short excerpt under the Fair Dealing Guidelines, the most advantageous of sections 4(a) through (g) may be selected. For example, if one chapter of a book is more than 10% of the book, the one chapter may be copied under the Fair Dealing Guidelines. If more than one figure is selected for copying, the number of figures selected that may be copied under the Fair Dealing Guidelines cannot exceed 10% of the book. For example, if a book is 200 pages long, up to 20 pages may be copied under the Fair Dealing Guidelines.

The Fair Dealing Guidelines does not apply to students except to the extent that a student is an employee of the university, e.g. as a teaching assistant or instructor. The guidelines might however provide a general guidance on how the fair dealing exemption can be applied. For further information, students can refer to the document: [Fair Dealing Guidance for Students at the University of Victoria](#).

Depending on the circumstances, copying or communicating a copyright-protected work outside the Guidelines may be permitted under the fair dealing exemption in the [Copyright Act](#). To determine whether copying or communicating a work outside of the Fair Dealing Guidelines falls within the exemption contact the **Copyright Office** at copyrite@uvic.ca.

G. Permission

If copying or communicating a copyright-protected work is outside the Fair Dealing Guidelines and does not fall within one of the exemptions in the [Copyright Act](#), permission of the holder of copyright must be secured. Permission may be obtained directly from the holder of copyright or his or her representative. The Copyright Clearance Center, a U.S. non-profit organization or Access Copyright, a Canadian non-profit organization, provides transactional permission in respect of a very large repertoire of copyright-protected works on behalf of copyright holders. The **Copyright Office** can assist in obtaining the necessary permissions.

It is advisable to seek written permission to copy or communicate a copyright-protected work outside the Fair Dealing Guidelines and to retain a copy of the written permission in the event that copying or communicating the work is ever challenged.

H. Exemption for Works Available through the Internet

Section 30.04(1) of the [Copyright Act](#) provides an exemption from copyright infringement for copying, communicating and performing in public by an educational institution or a person

acting under the authority of one, e.g., a faculty member or administrative staff, for educational or training purposes of a copyright-protected work that is available through the Internet. The exemption is however subject to a number of conditions that must be met before the exemption applies. The conditions are as follows:

1. The educational institution, or person acting under its authority mentions the source, e.g., through a URL, and if given the source, the name of the author, in the case of a work, the name of the performer, in the case of a performer's performance and the name of the record label in the case of a sound recording;
2. The copyright-protected work or the Internet site where it is posted is not protected by a digital lock (also known as a technical protection measures or TPM) that either restricts access to the work or restricts copying, communicating or performing in public the work;
3. There is no clearly visible notice other than a copyright symbol posted on the Internet site or on the work, prohibiting the act sought to be done; and
4. The educational institution or person acting under its authority did not know or should not have known that the work was made available through the Internet without the consent of the copyright holder.

Using the exemption under section 30.04(1) is preferable to copying or communicating a copyright-protected work under the Fair Dealing Guidelines because the entire work may be copied or communicated under section 30.04(1). A faculty member or administrative staff must however be satisfied that each of the conditions is met before using the exemption.

I. Digital Locks

Some copyright holders use digital locks to restrict access to copyright-protected works and/or to limit the use that can be made of such works. The [Copyright Act](#) now prohibits the circumvention of digital locks to obtain access to copyright-protected works. The Fair Dealing Guidelines do not permit the circumvention of digital locks to obtain access to copyright-protected works. In order to circumvent a digital lock it is necessary to obtain the permission of the copyright holder.

For more information, please consult the University of Victoria's copyright website <http://copyright.uvic.ca>

Application of the Fair Dealing Guidelines for the University of Victoria: Audiovisual Works

This document provides guidance on the application of the Fair Dealing Guidelines and the exemptions under sections 29.5(d) and 30.04 of the [Copyright Act](#) to the use of audiovisual works by the university.

A. Sourcing Copies of Audiovisual Works

Audiovisual works are typically sourced from distributors. Some distributors supply audiovisual works under licence agreements that may limit the circumstances in which their works may be copied, performed or communicated. Any provision in a licence agreement that restricts the circumstances in which an audiovisual work may be copied, performed or communicated takes precedence over the Fair Dealing Guidelines and the exemption under section 29.5(d). When sourcing an audiovisual work consideration should be given to the restrictions in any licence agreement that would impact the use of the audiovisual work for educational purposes.

B. The Fair Dealing Guidelines

The Fair Dealing Guidelines permits faculty and staff members to copy short excerpts of a copyright-protected audiovisual work and to communicate short excerpts of the audiovisual work by telecommunication to students for research, private study and educational purposes, among other purposes. Audiovisual works include motion picture films, television programs and videos. Communicating a short excerpt of an audiovisual work by telecommunication to students includes emailing the excerpt to students and making the excerpt available to students on a learning management system.

The Fair Dealing Guidelines do not however permit the circumvention of digital locks to obtain access to a copyright-protected audiovisual work. For more information on digital locks see the document: [Application of the Fair Dealing Guidelines for the University of Victoria: General Application](#).

Motion pictures and other audiovisual works that are published on DVDs are typically protected by a digital lock known as the Content Scrambling System (“CSS”). The Fair Dealing Guidelines do not apply if it is necessary to circumvent a CSS lock in order to copy a short excerpt of a copyright-protected audiovisual work recorded on DVD. It is however permissible to reproduce a short excerpt under the policy through using a video recording device, e.g. a camcorder, to record a short excerpt from a computer, television screen or projection. It is also permissible to use screen capture software that enables the copying of DVD content after the content has been lawfully decrypted by a licensed computer DVD player. For further information about using screen capture software to reproduce a short excerpt of a copyright-protected audiovisual work contact the **Copyright Office** at copyrite@uvic.ca.

Short Excerpt

The definition of a short excerpt in section 4 of the Fair Dealing Guidelines includes the following:

4. A short excerpt means:
 - (a) up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work) ...

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

The Fair Dealing Guidelines permits a faculty member or administrative staff to make a copy of up to 10% of a copyright-protected audiovisual work for inclusion in a classroom presentation or in a learning management system. For more information about the Fair Dealing Guidelines and learning management systems see the document: [Application of the Fair Dealing Guidelines for the University of Victoria: Electronic Information Resources](#).

Safeguards

In order to protect the interests of holders of copyright in copyright-protected audiovisual works, the copying and communicating of those works under the Fair Dealing Guidelines must comply with the following safeguards:

1. Copies of short excerpts of a copyright-protected audiovisual work are only to be provided to students enrolled in a course of study and to other faculty members and administrative staff of the university.
2. Copies of short excerpts of a copyright-protected audiovisual work are only to be communicated to students enrolled in a course of study and to other faculty members and administrative staff of the university.

An exception to these safeguards relates to a faculty member sharing a copy of such works or recordings with faculty members or students within another university with whom the faculty member is engaged in collaborative research. For more information on faculty members copying and communicating copyright-protected works for research purposes see the document: [Application of the Fair Dealing Guidelines to Teaching and Research by University of Victoria Faculty](#).

C. The Exemption for Performing an Audiovisual Work

The Fair Dealing Guidelines do not apply to the performance in public of an audiovisual work. Instead, faculty members and administrative staff can rely on the exemption in section 29.5(d) of the [Copyright Act](#). That exemption permits an educational institution or a person acting under its authority to perform in public an audiovisual work on the premises of the university for educational or training purposes before an audience consisting primarily of students, instructors, or any person who is directly responsible for setting curriculum. The audiovisual

work must either not be an infringing copy or the person responsible for the performance must have no reasonable grounds to believe that it is an infringing copy.

The exemption in section 29.5(d) applies to *performing* all or any part of an audiovisual work. It does not however permit the *copying* of any part of an audiovisual work. In particular, section 29.5(d) does not permit the copying of any part of an audiovisual work even if it is necessary to copy the work in order to perform it.

D. The Exemption for Works Available through the Internet

Section 30.04 of the [Copyright Act](#) permits reproducing, communicating and performing in public by an educational institution or a person acting under the authority of one for educational or training purposes of a copyright-protected work that is made available through the Internet. This includes an audiovisual work posted to the Internet including a YouTube video. There are a number of conditions that have to be met for the exemption to apply. For a discussion of the exemption see the document: [Application of the Fair Dealing Guidelines for the University of Victoria: General Application](#).

Application of the Fair Dealing Guidelines for the University of Victoria: Electronic Information Resources

This document provides guidance on the application of the Fair Dealing Guidelines to Electronic Information Resources ("EIR").

Guiding Principle

A guiding principle behind the Fair Dealing Guidelines is that copying or communicating a copyright-protected work under the Guidelines 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 EIR.

Definition of Short Excerpt

Section 4 of the Fair Dealing Guidelines defines a short excerpt as follows:

4. A short excerpt means:
 - (a) up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work)
 - (b) one chapter from a book
 - (c) a single article from a periodical
 - (d) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works
 - (e) an entire newspaper article or page
 - (f) an entire single poem or musical score from a copyright-protected work containing other poems or musical scores
 - (g) 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.

Inclusion of Short Excerpts in an EIR

Under the Fair Dealing Guidelines a short excerpt of a copyright-protected work may be posted to an EIR. The EIR 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. Additional guidance for the posting of short extracts of audiovisual works, and musical works is set out in the application documents that discuss those works. Those documents may be found here: [Records Management Policy – Fair Dealing Guidelines](#).

Safeguards

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:

1. The EIR must be operated by or under the control of the university. The Fair Dealing Guidelines do not apply to the posting of short excerpts to a wiki, a blog or a service offered by a third party such as Dropbox, RefWorks or Mendeley.
2. The EIR must be stored on a secure server or other device (e.g. password protected).
3. The short excerpts posted to the EIR 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 EIR.
4. To give students an option of how to access course materials the same short excerpt may be made available to students through an EIR 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).
5. If content is uploaded or posted to an EIR in a centralized process involving university administrative staff, those staff should review the content posted to the EIR to ensure that copies of copyright-protected works are posted to the EIR in accordance with the Fair Dealing Guidelines and this guidance document or that the posting of the copies does not infringe copyright for other reasons.
6. If content is uploaded or posted to an EIR by faculty members or their staff, the faculty or staff should be required to identify the reason that they are entitled to post each work or extract (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 EIR (e.g. classroom presentations containing extracts from a number of works) multiple reasons may apply. As an alternative, faculty and staff should be informed of what materials can be posted on the EIR without infringing copyright and periodically a random selection of course websites should be reviewed to ensure that the content posted to the EIR does not infringe copyright. As a further alternative, the university administrative staff that centrally manages the EIR should review the content to be uploaded or posted to ensure that the content would not infringe copyright.
7. Faculty members or their staff who post content prepared by a student on an EIR should confirm that the content does not include copies of copyright-protected works that infringe copyright.

Including Materials Beyond Short Excerpts on an EIR

If an extract to be included on an EIR exceeds the limitations of a short excerpt as set out in the Fair Dealing Guidelines, transactional permission for making the copy should be secured from the copyright holder or from the holder's licensing agent. Where a transactional permission is used to make a copy of an excerpt onto an EIR, the permission or a record of the permission should be retained (in paper or electronic form).

In addition, the university may include on an EIR 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 permit the making of copies for inclusion on an EIR. 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 EIR cannot be copied and included in an EIR. The terms and conditions of the licence take precedence over the Fair Dealing Guidelines.

Guidance to Students

The university does not have control over students who post content to websites including on an EIR or who attach content to emails including emails posted to an EIR. Each semester students should be informed of the university's [Fair Dealing Guidelines for Students at the University of Victoria](#), and for each course website posted to the EIR, each student should confirm that he or she will respect the university's Fair Dealing Guidelines for students and will not post on the EIR works that infringe copyright. In the event that an EIR used by the university does not have the functionality to permit each student to confirm that information and agree that the student will not post on the EIR works that infringe copyright for each course website posted to the EIR, each student should at least annually confirm that information and provide that agreement (e.g. through notification given to the university on obtaining a student number or login ID, or through a similar process). In addition, each course homepage on the EIR should include a prominent notification to the effect that students are required to respect the university's Fair Dealing Guidelines and not post on the EIR works that infringe copyright.

For more information, please consult the University of Victoria's copyright website <http://copyright.uvic.ca>

Application of the Fair Dealing Guidelines for the University of Victoria: Library Copying

This document provides guidance on the application of the Fair Dealing Guidelines to the copying and communication of short excerpts of copyright-protected works by the university library. This document does not include copying or communicating works that may be conducted by a library on behalf of any person, or for document delivery pursuant to the exemptions contained in section 30.2 of the *Copyright Act*. If fair dealing does not apply, one of the exemptions contained in section 30.2 may apply, although certain conditions not applicable to fair dealing may have to be met.

Definition of Short Excerpt

The Fair Dealing Guidelines permits copying and communicating a short excerpt from a copyright-protected work in the circumstances described in the policy. Section 4 of the policy defines a short excerpt as follows:

4. A short excerpt means:
 - (a) up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work)
 - (b) one chapter from a book
 - (c) a single article from a periodical
 - (d) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works
 - (e) an entire newspaper article or page
 - (f) an entire single poem or musical score from a copyright-protected work containing other poems or musical scores
 - (g) 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.

There is a more detailed discussion of what a short excerpt means in the document entitled Fair Dealing Copying Guidelines at:

http://www.uvic.ca/copyright/policies/copying_guidelines/index.php

Document Delivery

The Fair Dealing Guidelines apply to copying and communicating a short excerpt of copyright-protected work for document delivery to another non-profit university or college library². The short excerpt may be provided to the library requesting the copy or directly to the patron of that library. The short excerpt may be copied onto paper or copied and communicated in electronic form, provided that the following safeguards are met:

- (a) if the copy is made onto paper:
 - i. the university library making the copy has received from the requesting library written confirmation that the copy is required by a patron of that library for a fair dealing purpose and that the patron is a student, staff member or faculty member of the institution requesting the copy; and
 - ii. the copy is marked with the following notice:

This copy was made pursuant to the [Fair Dealing Guidelines](#) of the University, the Access Copyright license, library database licenses or other university policies. The copy may only be used for the purpose of research, private study, criticism, review, news reporting, education, satire or parody. If the copy is used for the purpose of review, criticism or news reporting, the source and the name of the author must be mentioned. The use of this copy for any other purpose may require the permission of the copyright owner.

- (b) if the copy is made and delivered in electronic form:
 - i. the safeguard referred to in (a)(i);
 - ii. the notice referred to in (a)(ii) be on the electronic copy or be otherwise displayed to the university or college library and the library patron; and
 - iii. any intermediate paper copy used to make the electronic copy is destroyed promptly after the electronic copy is transmitted.

A copy of a short extract of a copyright-protected work copied and communicated to a university library under fair dealing is a lawful copy. The receiving library may further copy and communicate the short excerpt pursuant to the Fair Dealing Guidelines (e.g. for posting on a library reserve system – see below).

² The Fair Dealing Guidelines were written to clarify fair dealing for access to university resources. Fair dealing has wider application and may be legitimately and reasonably relied upon in other circumstances. For example, subject to a consideration of the facts, fair dealing may apply to an interlibrary loan request from a local public or other non-profit library.

Library Reserve

The Fair Dealing Guidelines also apply to copying and communicating a short excerpt of a copyright-protected work for library reserve. The short excerpt may be copied onto paper, or copied and communicated in electronic form, from any copyright-protected course materials, including a course pack, provided that the following safeguards are met:

- (c) if the copy is made onto paper:
 - i. a request to put the short excerpt on library reserve is made by or on behalf of a faculty member and in respect of a specific course or program of instruction;
 - ii. the number of copies made does not exceed the number of students enrolled in the course of instruction;
 - iii. the copy is used only for the purpose of library reserve by students enrolled in the university; and
 - iv. the copy is marked with the following notice:

This copy was made pursuant to the Fair Dealing Guidelines of the University of which may be found at: <http://www.uvic.ca/universitysecretary/assets/docs/policies/IM7700.pdf>, the Access Copyright license or other library licenses. The copy may only be used for the purpose of research, private study, criticism, review, news reporting, education, satire or parody. If the copy is used for the purpose of review, criticism or news reporting, the source and the name of the author must be mentioned. The use of this copy for any other purpose may require the permission of the copyright owner.

- (d) if the copy is made in electronic form:
 - i. the safeguards referred to in (c)(i) and (c)(iii);
 - ii. the notice referred to in (c)(iv) be on the electronic copy or be otherwise displayed to students who access the electronic copy; and
 - iii. the electronic copy is maintained on a secure computer or device (e.g. password protected) with access restricted to students enrolled in the university and faculty.

Library Copiers and Scanners

The university does not have control over students and other patrons who have access to photocopiers and scanners in the university library. However, as a protection against copyright infringement by students and other library patrons, the university should post a notice in close proximity to each photocopier or scanner in the university library advising that copyright law governs the making of copies, and the communicating to the public by telecommunication of copyright-protected works; that fair dealing for the purpose of research, private study, education, parody, satire, criticism, review or news reporting is not an infringement of copyright; and that the university is not responsible for infringing copies made by users of the photocopier or scanner. A sample notice is attached as [Appendix A](#).

Appendix A

Notice

Canada's copyright law provides for copyright to subsist in literary, dramatic, musical and artistic works. The law governs the making of photocopies or other reproductions of copyright-protected works and communicating such works to the public by telecommunication. Certain copying and communicating of those works may be an infringement of copyright. Copyright law provides that fair dealing for the purpose of research, private study, education, parody, satire, criticism, review or news reporting is not an infringement of copyright.

The university is not liable for any infringing copies made or communicated using copiers or scanners made available by the university.

The university has adopted a Fair Dealing Guidelines to assist in determining what may be copied or communicated without infringing copyright. Subject to various qualifications and safeguards, the Fair Dealing Guidelines permits copying and communicating short excerpts.

The Fair Dealing Guidelines defines a short excerpt as follows:

4. A short excerpt means:
 - (a) up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work)
 - (b) one chapter from a book
 - (c) a single article from a periodical
 - (d) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works
 - (e) an entire newspaper article or page
 - (f) an entire single poem or musical score from a copyright-protected work containing other poems or musical scores
 - (g) 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.

For information regarding the Fair Dealing Guidelines and Canada's copyright law, go to <http://copyright.uvic.ca> for copyright guidelines or contact the university's **Copyright Office** at copyrite@uvic.ca.

Application of the Fair Dealing Guidelines for the University of Victoria: Musical Works and Sound Recordings

This document provides guidance on the application of the Fair Dealing Guidelines and the exemption under section 29.5 of the [Copyright Act](#) to the use of musical works and sound recordings by the university.

A. Copyright in Musical Works

Copyright subsists in every musical work. The subsistence of copyright does not depend on whether or not the musical work is published. The Fair Dealing Guidelines applies both to published and unpublished musical works.

Musical works include both a musical composition and lyrics. A composer and a lyricist may own copyright in their separate contributions to a musical work. The term of copyright in the musical composition is for the life of the composer and a period of 50 years from the end of the year in which the composer died. The term of copyright in the lyrics is for the life of the lyricist and a period of 50 years from the end of the year in which the lyricist died. As an example, although copyright in the musical composition may have expired, copyright may still subsist in the lyrics.

It is common for new arrangements to be prepared for musical works that are in the public domain. It is likely that copyright will subsist in a new arrangement. If so, permission from the copyright holder may be required to use the new arrangement. Any copyright in the new arrangement will not affect the ability to use the original musical work.

B. Copyright in Sound Recordings

Copyright subsists in a sound recording separate and apart from any copyright that may subsist in a musical work, the performance of which is embedded in the sound recording. The term of copyright in a sound recording is different from the term of copyright in a musical work. In general, the term of copyright in a sound recording is 50 years after the end of the calendar year in which the sound recording was first recorded.

C. Sourcing of Musical Works

Some musical works are sourced from distributors who provide their musical works under licence agreements that may limit the circumstances in which their works may be copied or communicated. Any provision in a licence agreement that restricts the circumstances in which a musical work may be copied or communicated takes precedence over the Fair Dealing Guidelines. It is therefore necessary to abide by the terms of the licence agreement.

D. The Fair Dealing Guidelines

The Fair Dealing Guidelines permit faculty members and administrative staff to copy short excerpts of copyright-protected musical works and sound recordings and to communicate short excerpts of copyright-protected musical works and sound recordings by telecommunication to students for research, private study and educational purposes, among other purposes. A musical work typically takes the form of a musical score published as sheet music or in a book containing a number of musical scores. Communicating a short excerpt of a musical work or a sound recording by telecommunication to students includes emailing the excerpt to students or making the excerpts available to students on a learning management system.

A sound recording may be protected by a digital lock that restricts access to the recording or prohibits copying of the recording. The Fair Dealing Guidelines do not apply if it is necessary to circumvent a digital lock in order to copy a short excerpt of a copyright-protected sound recording. It is however permissible to reproduce a short excerpt under the policy using an audio recording device when the recording is being played on audio equipment (e.g. through a stereo system) where the playing of the recording does not require circumventing a digital lock or where the playing of the recording resulted from lawfully decrypting the recording.

Short Excerpt

The definition of a short excerpt in section 4 of the Fair Dealing Guidelines includes the following:

4. A short excerpt means:
 - (a) up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work) ...
 - (f) an entire single poem or musical score from a copyright-protected work containing other poems or musical scores ...

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

Application of the Fair Dealing Guidelines to Musical Works and Sound Recordings

Under sections 1 and 4(a) of the Fair Dealing Guidelines a faculty member or administrative staff may copy or communicate up to 10% of a single musical work that is in the form of sheet music. However, if the musical work appears in a book containing other musical works, under sections 1 and 4(f) of the Fair Dealing Guidelines a faculty member or administrative staff may copy or communicate the entire musical work.

Under sections 1 and 4(a) of the Fair Dealing Guidelines a faculty member or administrative staff may copy or communicate up to 10% of a sound recording.

The Fair Dealing Guidelines would permit a faculty member or administrative staff to make a copy of a short excerpt of a copyright-protected musical work or a short excerpt of a sound recording for inclusion in a classroom presentation or in a learning management system. For more information about the application of the Fair Dealing Guidelines to copyright-protected works posted on a library management system see the document: [Application of the Fair Dealing Guidelines for the University of Victoria: Electronic Information Resources](#).

Safeguards

In order to protect the interests of holders of copyright in copyright-protected musical works and sound recordings, the copying and communicating of those works and recordings must comply with the following safeguards:

1. Copies of short excerpts of copyright-protected musical works and sound recordings are only to be provided to students enrolled in a course of study and to faculty members and administrative staff of the university.
2. Copies of short excerpts of copyright-protected musical works and sound recordings are only to be communicated to students enrolled in a course of study and to other faculty members and administrative staff of the university.

An exception to these safeguards relates to a faculty member sharing a copy of such works or recordings with faculty members or students within another university with whom the faculty member is engaged in collaborative research. For more information on faculty members copying and communicating copyright-protected works for research purposes see the document: [Application of the Fair Dealing Guidelines to Teaching and Research by the University of Victoria Faculty](#).

E. The Exemptions for Performing a Musical Work and a Sound Recording

The Fair Dealing Guidelines do not apply to the performance in public of a musical work or a sound recording. Instead, faculty members and administrative staff can rely on the exemptions in section 29.5 of the [Copyright Act](#). Section 29.5(a) permits an educational institution or a person acting under its authority (e.g. a faculty member) to perform live in public, primarily by students of the educational institution, a musical work, among other works, on the premises of the university for educational or training purposes before an audience consisting primarily of students, instructors or any person who is directly responsible for setting the curriculum. Section 29.5(b) permits an educational institution or a person acting under its authority to

perform in public a sound recording which embodies a musical work. The same restrictions as to the premises, purposes and audience applicable to musical works also apply to sound recordings. In addition, the sound recording must either not be an infringing copy or the person responsible for the performance must have no reasonable grounds to believe that it is an infringing copy.

The exemptions in section 29.5(a) and (b) apply to all or any part of a musical work or a sound recording. For example, although only a short excerpt of a copyright-protected musical work and sound recording may be copied or communicated under the Fair Dealing Guidelines, an entire musical work and sound recording may be performed under the exemptions in sections 29.5(a) and 29.5(b).

Application of the Fair Dealing Guidelines for the University of Victoria: The Production and Sale of Course Packs

Background

A course pack comprises a compilation of excerpts of different works to be used as required or supplementary readings by students enrolled in a course of instruction.

The university may rely on the Fair Dealing Guidelines and the guidelines in this document to make copies of short excerpts (as that term is defined in the Fair Dealing Guidelines) for use in course packs. This document provides guidance on the application of the Fair Dealing Guidelines to the production and sale of course packs by the university.

Guiding Principles

A guiding principle behind the Fair Dealing Guidelines is that copying or communicating a copyright-protected work under the Fair Dealing Guidelines 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 owners of copyright in the works copied for inclusion in course packs.

A guiding principle behind the application of the Fair Dealing Guidelines to the production and sale of course packs is to ensure that no “profit” is made on course pack production and sale. If there is no “profit” made in the production or sale of course packs and, the other requirements of the Fair Dealing Guidelines, as elaborated in this document, are followed, then the making and sale of course packs incorporating copies of short excerpts of copyright-protected works would be permitted under fair dealing.

The policy does not permit the university to send a course pack to a commercial copy shop for the latter to reproduce copies for students.

Definition of Short Excerpt

The Fair Dealing Guidelines permits the communication and reproduction of a short excerpt from a copyright-protected work in the circumstances described in the Fair Dealing Guidelines. Section 4 of the Fair Dealing Guidelines defines a short excerpt as follows:

4. A short excerpt means:
 - (a) up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work)
 - (b) one chapter from a book
 - (c) a single article from a periodical
 - (d) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works

- (e) an entire newspaper article or page
- (f) an entire single poem or musical score from a copyright-protected work containing other poems or musical scores
- (g) 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.

To give students the choice of how to access course materials, the same short excerpt may be made available to students in a course pack, a class handout, or through the university's learning management system. However, no more than a short excerpt from a work may be copied and made available to students during a specific course of instruction irrespective of the number of formats in which it is made available. Furthermore, no more than a short excerpt from across all editions of a copyright-protected work should be included in a course pack.

Including Materials Beyond Short Excerpts in a Course Pack

If an extract to be included in a course pack exceeds the limitations of a short excerpt as set out in the Fair Dealing Guidelines, transactional permission for making the copies should be secured from the copyright holder or from the holder's licensing agent.

In addition, the university may include in course packs 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 permit the making of copies for inclusion in course packs. A copyright-protected work made available to the university under a licence with a publisher or aggregator that prohibits the use of extracts in course packs cannot be copied and included in a course pack. Any copying and/or distribution restrictions contained in the licence will take precedence over the Fair Dealing Guidelines.

Records

Records should be created and maintained (in paper or electronic form) that show for each course pack:

- (a) the identity of each work included in the course packs,
- (b) identification of the publication from which the excerpt was copied (if applicable),
- (c) the length of each excerpt included,
- (d) the basis upon which each excerpt was copied (e.g. fair dealing, library licence, work made available over the Internet, transactional licence),
- (e) if the basis upon which the excerpt was copied was fair dealing of an excerpt that is 10% or less of the work, the number of pages copied and the total number of pages of the work from which the copies were made, and
- (f) where a transactional permission is used to copy an excerpt for a course pack, a copy of the transactional permission.

Notification

Each copy of a course pack made by the university that includes copies of short excerpts of copyright-protected works made under the Fair Dealing Guidelines should include the following notice printed in a prominent location on the course pack (e.g. on the front cover).

This course pack is made in accordance with the university's Fair Dealing Guidelines for sale to and use by students enrolled in the course of study for which it was made. This course pack may also include copyright-protected material pursuant to permissions granted by Access Copyright or the copyright holder. Any reproduction or other use of this material is strictly forbidden.

Process for Production of Course Packs

Short excerpts that are copied under the Fair Dealing Guidelines must be copied by the university³. The university may not purchase such copies from a third party. If it is necessary for a university to contract with a third party to produce and sell course packs to the university, such copying cannot be undertaken under the Fair Dealing Guidelines⁴.

Retention of Master Copy

The university may retain one paper or electronic copy of a course pack to be used only for the purpose of making course packs in the future. If the copy is an electronic copy, the copy should be maintained on a secure computer or device (e.g. password protected) with access restricted to those individuals responsible for course pack production.

The Sale of Course Packs

Course packs that incorporate copies of short excerpts of copyright-protected works made under the Fair Dealing Guidelines must be sold by the university directly to students. The course packs must not be sold to an intermediary (e.g. a student association) that sells the course packs to students.

Pricing

The amount charged by the university for the production and sale of a course pack should not exceed the university's cost to produce and sell the course pack. These may include a reasonable allocation of overhead costs incurred by the university.

³ The individuals who produce course packs should be employees of the university or engaged by the university under a contract for services (i.e. an independent contractor) such as with a temporary employment agency. In addition, the individuals that produce course packs should be supervised by university employees.

⁴ A university that has entered into the model licence agreement with Access Copyright may arrange for third parties to produce course packs in accordance with the terms of clause 16 of the agreement.

The following examples show how overhead costs could be allocated. With respect to course pack production, assume that in the previous year:

- (a) the cost of the consumables required to make a photocopy (e.g. toner and paper) were 1.5 cents per page;
- (b) the other production costs of course packs (e.g. salaries, leasing of photocopy equipment and the cost to operate the production facilities) were \$100,000; and
- (c) the production facilities produced 10,000 course packs.

The base price (cost of goods) of a 100 page course pack for the bookstore would be \$11.50 (\$1.50 in consumables costs + \$10.00 in other production costs).

If a university sells the course pack through a bookstore that is operated by the university, in addition to the direct costs of making the course pack, a reasonable allocation of the cost of operating the bookstore may be included in the purchase price. Assume that in the previous year:

- (a) course packs were 5 percent of the cost of goods sold by the bookstore in the previous year; and
- (b) the cost of operating the bookstore for the current year is \$1 million.

There is therefore \$50,000 in distribution costs that can be allocated to course packs. If the bookstore estimates that it will sell 25,000 course packs, then it could allocate \$2 of distribution costs to each course pack. The course pack that had a consumables cost of \$1.50, plus other production costs of \$10.00, plus distribution costs of \$2.00 could therefore be sold by the bookstore to students for \$13.50.

The distribution costs allocated to course packs should be recalculated on a periodic basis.

Determination regarding the Application of the Fair Dealing Guidelines

If any person responsible for making a course pack, whether a faculty member and his or her staff, or a central course pack production staff, is uncertain about the application of the Fair Dealing Guidelines to the production and sale of course packs, that person should consult with the university staff responsible for administering the Fair Dealing Guidelines or his or her delegate for an evaluation of whether the copying would be fair dealing.

If making a copy falls outside of the Fair Dealing Guidelines, e.g. making cumulatively a copy of more than a short excerpt across different formats, other exceptions in the [Copyright Act](#) may be available, or copying permission may be secured through existing licences in favour of the university. Otherwise, the copyright holder's permission will need to be sought.

Fair Dealing Guidance for Students at the University of Victoria

This document provides guidance for students on the fair dealing exemption to copyright infringement.

Copyright Infringement and Exemptions

It is an infringement of copyright to copy all or a substantial part⁵ of a copyright-protected work or to communicate all or a substantial part of a copyright-protected work to the public⁶ by telecommunication without the consent of the holder of the copyright, unless copying or communicating the work falls within an exemption from copyright infringement. One of the main exemptions is the fair dealing exemption.

The university does not condone copyright infringement by students. 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 in the [Copyright Act](#). 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.

The Fair Dealing Exemption

The fair dealing exemption in the [Copyright Act](#) (sections 29, 29.1 and 29.2) provides that fair dealing with a copyright-protected work for one of the following eight purposes: research, private study, criticism, review, news reporting, education, satire or parody, does not infringe copyright. Any fair dealing for the purpose of news reporting, criticism or review must however mention the source and, if given in the source, the name of the author or creator of the work.

Depending on the circumstances, a student may copy or communicate an extract of a copyright-protected work under the fair dealing exemption without the permission of the copyright holder and without infringing copyright.

The Fair Dealing Guidelines

The university has adopted the Fair Dealing Guidelines. The policy permits faculty members, instructors and staff members to communicate and reproduce short excerpts of copyright-protected works for specified purposes without infringing copyright. The Fair Dealing Guidelines applies to students only to the extent that a student is an employee of the

⁵ For a discussion of what constitutes a substantial part of a copyright-protected work see the [Fair Dealing Guidelines: General Application](#)

⁶ In general, a communication is to the public if the recipients are not restricted to individuals that are purely in a domestic relationship.

university, e.g., acting as a teaching assistant or instructor. A student who is not acting as an employee of the university may look to the policy as a general guideline on how the fair dealing exemption can be applied to his or her copying. A copy of the Fair Dealing Guidelines can be found here [Records Management Policy: Fair Dealing Guidelines](#).

Definition of Short Excerpt

The Fair Dealing Guidelines defines a short excerpt as follows:

A short excerpt means:

- (a) up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work)
- (b) one chapter from a book
- (c) a single article from a periodical
- (d) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works
- (e) an entire newspaper article or page
- (f) an entire single poem or musical score from a copyright-protected work containing other poems or musical scores
- (g) 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.

For information regarding the Fair Dealing Guidelines and Canada's copyright law, contact the **Copyright Office** at copyrite@uvic.ca.

Application of the Fair Dealing Guidelines to Teaching and Research by University of Victoria Faculty

This document provides guidance on the application of the Fair Dealing Guidelines for UVic to copying and communicating of copyright-protected works by faculty members (including part-time and adjunct faculty) in the course of their teaching and research. It also applies to students employed by the university as teaching assistants or instructors and to postdoctoral fellows for copying and communicating copyright-protected works done during the course of their employment.

A. Copyright Infringement and Exemptions

It is an infringement of copyright to copy all or a substantial part⁷ of a copyright-protected work or to communicate all or a substantial part of a copyright-protected work to the public⁸ by telecommunication without the consent of the holder of copyright, unless copying or communicating the work falls within one of the exemptions in the [Copyright Act](#). 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 an electronic information resource (“EIR”) to more than one student. 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.

B. Fair Dealing

Copying and communicating works pursuant to the Fair Dealing Guidelines 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. The Fair Dealing Guidelines permits copying and communicating short excerpts of copyright-protected works by the university (including its faculty members) subject to certain safeguards to protect the interests of holders of copyright.

Definition of Short Excerpt

Section 4 of the Fair Dealing Policy defines a short excerpt as follows:

4. A short excerpt means:
 - (a) up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work)
 - (b) one chapter from a book

⁷ For a discussion of what constitutes a substantial part of a copyright-protected work and the ability to freely use an insubstantial part of a copyright-protected work see the [Fair Dealing Guidelines for the University of Victoria: General Application](#)

⁸ In general, a communication is to the public, if the recipients are not restricted to individuals that are purely in a domestic relationship, i.e. a family relationship.

- (c) a single article from a periodical
- (d) an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works
- (e) an entire newspaper article or page
- (f) an entire single poem or musical score from a copyright-protected work containing other poems or musical scores
- (g) 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.

Teaching

Under the Fair Dealing Guidelines a copy of a short excerpt of a copyright-protected work may be made by or on behalf of a faculty member for the purpose of teaching students. A faculty member or his or her proxy may:

- provide a copy of the short excerpt to students enrolled in a course of study as a handout;
- email a copy of the short excerpt to students enrolled in a course of study;
- post a copy of the short excerpt on an EIR stored on a secure server or other device (e.g. password protected) that is only accessible by students enrolled in a course, unit or program of instruction;
- include a copy of the short excerpt in a course pack sold to students enrolled in a course of study;
- include a copy of the short excerpt in a lecture or classroom presentation such as a PowerPoint presentation presented to students enrolled in a course of study; and
- display a copy of the short excerpt in a classroom to students enrolled in a course of study.

In each case, a copy of the short excerpt may also be provided or made available as required to another faculty member and to university staff.

Additional information concerning the posting of a copy of a short excerpt of copyright-protected works to an EIR and including such a copy in a course pack are set out respectively in the document: [Application of the Fair Dealing Guidelines for the University of Victoria: Electronic Information Resources](#) and the document: [Application of the Fair Dealing Guidelines for the University of Victoria: The Production and Sale of Course Packs](#). Special circumstances relating to the copying and performance of audiovisual works (e.g. YouTube videos) and musical works are set out respectively in the document: [Application of the Fair Dealing Guidelines for the](#)

[University of Victoria: Audiovisual Works](#) and the document: [Application of the Fair Dealing Guidelines for the University of Victoria: Musical Works and Sound Recordings](#).

As a safeguard to protect the interests of holders of copyright, the work from which the copy of the short excerpt is made must be in the lawful possession of the university or a faculty member. This would include a work in the collection of the university library or a faculty member, a work borrowed by the university library or faculty member through an inter-library loan, or a short excerpt that is copied and communicated to the university or a faculty member under fair dealing.

The Fair Dealing Guidelines do not permit copying or communicating a copyright-protected work for a lecture or presentation that is open to the general public, i.e. a lecture or presentation that is not restricted to students specifically enrolled in a course of study. Depending on the circumstances the fair dealing exemption may however apply where the lecture or presentation is open to the public. For information about whether the exemption applies in particular circumstances contact **Copyright Office** at copyrite@uvic.ca

Research

Under the Fair Dealing Guidelines a copy of a short excerpt of a copyright-protected work may be made for use by a faculty member in conducting research on a specific topic of enquiry or for inclusion in a personal collection of research resources. The faculty member may share a copy of the short excerpt with faculty and students both within the university and within another university with whom the faculty member is engaged in collaborative research. In sharing a copy of the short excerpt, the faculty member may email the copy to the students and other faculty member, or post the copy to a website on a secure server or other device (e.g. password protected), provided that the website is secured and is only accessible by those faculty members and students with whom the faculty member is conducting collaborative research.

Safeguard

As a safeguard to protect the interests of holders of copyright, the copying or communicating of multiple short excerpts from the same copyright-protected work for the purpose of teaching or research with the intention of copying or communicating substantially the entire work is prohibited.

C. Exemption for Displaying a Work

Section 29.4(1) of the [Copyright Act](#) provides an additional exemption to infringement of copyright. Pursuant to this section it is not an infringement of copyright to reproduce a copyright-protected work, or do any other necessary act, in order to display the work on the premises of a university for the purpose of education or training. This exemption extends beyond fair dealing in that the exemption permits the display of more than a short excerpt of a work. There is however a limitation on the section 29.4(1) exemption. The exemption does not apply, except for the making of a manual reproduction (e.g. on a white board), if copies of the work are available for sale in Canada within a reasonable time and at a reasonable price, and the copies can may be located with reasonable effort.

D. Exemption for a Lesson

Section 30.01 of the [Copyright Act](#) provides an exemption for a lesson. A lesson would include a lecture, and a presentation, such as a PowerPoint presentation, presented in a classroom.

For the exemption in section 30.01 to apply, recordings or reproductions of the lesson must be destroyed within 30 days after the day on which the students enrolled in the course of which the lesson forms part have received their final course evaluation. This would mean that all copies of a presentation stored on an EIR pursuant to the exemption in section 30.01 must be destroyed, and not merely rendered inaccessible to students, within the 30 day period.

The following activities are permissible under section 30.01:

- (i) The exemption permits the posting of a classroom presentation presented in a classroom that contains a work displayed in the classroom pursuant to the exemption in section 29.4(1) to a course website on an EIR stored on a secure server or other device. It also permits communicating the presentation to students in the course of study in which the presentation was given. The communication can be through posting the presentation to a course website on an EIR stored on a secure server or other device that is only accessible by students enrolled in the course of study for which the presentation was made.
- (ii) The exemption also permits the recording of a lecture or classroom presentation in which a work is displayed pursuant to the exemption in section 29.4(1) and permits communicating the recording to students in the course of study in which the recording was made. The communication can be through posting a recording to a course website stored on an EIR in the same circumstances described above with respect to a classroom presentation.
- (iii) Finally, the exemption would permit the recording of a lecture or classroom presentation during which an audiovisual work or sound recording was performed and the communication to students enrolled in the course of study for which the lecture or presentation was given, including a communication through a course website on an EIR to such students in the same circumstances described above with respect to a classroom presentation. A further requirement with respect to an audiovisual work and a sound recording is that the audiovisual work and the sound recording is not an infringing copy or the person responsible for the performance had no reasonable grounds to believe that the audiovisual work or sound recording was an infringing copy.

E. Relationship between Fair Dealing and the Exemptions for Displaying a Work and a Lesson

Fair dealing and the exemptions for displaying a work and a lesson are distinct and separate exemptions under the [Copyright Act](#). The Fair Dealing Guidelines may apply in circumstances in which these latter two exemptions also apply. For example, a faculty member may post to his or her course website on the university EIR a classroom presentation which includes a short excerpt of a copyright-protected work. The faculty member can rely on the Fair Dealing

Guidelines for posting the classroom presentation rather than the exemption for a lesson and not have to destroy the classroom presentation within the 30 day period as required by section 30.01. If, on the other hand, the classroom presentation contains more than a short excerpt of a copyright-protected work, the faculty member cannot rely on the Fair Dealing Guidelines and instead must ensure that the exemption for a lesson applies and that the classroom presentation is destroyed within the 30 day period as required by section 30.01. Because of the destruction requirement, a faculty member may prefer following the Fair Dealing Guidelines rather than the exemption for a lesson and only include a short excerpt in a classroom presentation that is to be posted to a course website.

GUIDELINES FOR THE SECURE DESTRUCTION AND DELETION OF UNIVERSITY RECORDS AND INFORMATION

Procedural Authority: University Secretary,
Vice-President Finance & Operations

Procedural Officers: University Archivist and
Chief Information Officer

Effective Date: November, 2014

Supersedes: July 2014

Last Editorial Change:

Parent Policies: [Records Management Policy \(IM7700\)](#)
[Information Security Policy \(IM7800\)](#)

PURPOSE

- 1.00 The purpose of these guidelines is to protect Records and information in the custody or under the control of the university from unauthorized use or disclosure by informing university employees of:
 - 1.01 How to conduct the physical destruction of paper Records and electronic devices containing information that is classified as Internal, Confidential or Highly-Confidential under the university Information Security Classification procedures, or designated in the Directory of Records as requiring confidential destruction; and
 - 1.02 How to conduct deletion of information in electronic form that is classified as Internal, Confidential or Highly-Confidential under the university Information Security Classification procedures, or designated in the Directory of Records as requiring confidential destruction.

DEFINITIONS

- 2.00 The definitions contained within the university's [Records Management \(IM7700\)](#) and [Information Security \(IM7800\)](#) policies apply to these procedures.
- 3.00 **Secure Destruction** means permanent physical destruction of paper records and electronic devices, rendering unreadable or unrecoverable the information they contain.
- 4.00 **Deletion** means removal of information from electronic devices and storage media.

- 4.01 **Routine Deletion** means removal or erasure of information from electronic devices and storage media by marking information as deleted. The information still exists, making data recovery possible unless the information is securely deleted or overwritten.
- 4.02 **Secure Deletion** means the process of deliberately, permanently, and irreversibly removing or erasing information from electronic devices and storage media.
- 5.00 Sanitization is a process to render access to target data (the data subject to the sanitization technique) on the device or media either effectively inaccessible (but potentially recoverable through data recovery techniques) or effectively irrecoverable. Deletion, erasure (deletion with overwriting), and destruction (physical destruction of the storage media) are actions that can be taken to sanitize media.

SCOPE

- 6.00 These guidelines apply to the following actions taken after the decision to dispose of Records and information consistent with Directory of Records (DOR) retention rules has been made:
- 6.01 The physical destruction of information, whether in paper, electronic, audio-visual or other format. This includes computers and other electronic devices and storage media (e.g. mobile phones); see section 16 below for further examples; and
- 6.02 The deletion of information in electronic form.

GUIDELINES

- 7.00 The method for Secure Destruction must be appropriate for the medium on which the information is stored.

Security Classification

- 8.00 Units are expected to refer to the security classification level of the information and Records prior to their destruction to assist in determining an appropriate destruction method. (See <http://www.uvic.ca/universitysecretary/assets/docs/policies/IM7800.pdf>)

Authorization for Secure Destruction and Secure Deletion

- 9.00 Unit offices identified as Primary Offices for a particular Record series are responsible for obtaining authorization for Disposition from the University Archives prior to Secure Destruction or Secure Deletion in accordance with the university's Procedures for the Management of University Records (<http://www.uvic.ca/universitysecretary/assets/docs/policies/IM7700.pdf>) and the Directory of Records. See

http://www.uvic.ca/library/locations/archives/records_management/resources.php for authorization forms.

9.01 Unit offices identified as Secondary Offices for a particular Record series may securely destroy or delete Records past their retention period without authorization from the University Archives.

Units are encouraged to consult the University Archives for specific guidance on Records Disposition, including Secure Destruction or Secure Deletion if they are not already familiar with the Disposition process.

Primary Office is an office or offices responsible for keeping the original and/or official versions of Records. Secondary Office is an office or offices which may hold duplicate copies of university Records that are to be maintained for shorter retention periods than original and/or official versions of Records.

Secure Destruction of Paper-Based Information

10.00 Records containing Highly-confidential, Confidential, and Internal information are to be shredded in a secure manner; Records containing public information may be recycled.

10.01 Records containing Highly-confidential information (see [Information Security Procedures](#)) should be shredded by a staff member of the Unit that holds the records, or on campus (“onsite”) by an external supplier. Records containing Confidential or Internal information may be shredded off campus (“offsite”) by an external supplier, or onsite by an external supplier or by a staff member of the Unit that holds the records.

Information Security Level	Highly-Confidential	Confidential	Internal	Public
Destruction, Paper Records	Onsite shredding	Offsite shredding (Onsite optional)	Offsite shredding (Onsite optional)	Recycle

11.00 Units should use the university’s preferred external suppliers for shredding services. For supplier names, information on engaging them, and negotiated pricing, see <http://www.uvic.ca/purchasing/faculty-staff/preferred-suppliers/index.php> (requires NetLink logon).

11.01 If a Unit does not wish to use the preferred external suppliers for shredding services, the following conditions must be met:

- The external supplier must be NAID certified
- The service is selected in accordance with the Purchasing Services Policy (FM5105).

12.00 Units may consider the appropriateness of a Unit staff member supervising shredding by an external supplier, but this is not required.

- 13.00 Small quantities of paper Records may be shredded by individual Units. Contact Purchasing Services for recommended shredder models if necessary.
- If a Unit uses its own shredders, the Records must be shredded in a secure manner; secure methods include shredding into strips that are a maximum of one centimetre wide, cross-cut shredding, re-shredding or mixing shredded Records to ensure that information cannot be reconstructed.
 - For Records with Confidential or Highly-confidential information, cross-cut shredding or re-shredding is recommended.
 - If such Records are not cross-cut shredded or re-shredded, the shredded Records should be mixed to ensure information cannot be reconstituted.

If a staff member of a Unit is uncertain about the security classification of the information or Record, the staff member shall use the destruction method for the higher level. Contact the Records Management Archivist with questions.

14.00 Records awaiting Secure Destruction must be kept in a secure manner (i.e. locked cabinet, controlled access area, secure supplier's console, or sealed boxes in a locked room).

Electronic Device or Storage Media Sanitization

15.00 The approach for handling electronic devices and storage media after use is dependent on whether the devices or media are being repurposed for university use or are no longer required for use.

Deletion of Electronic Device or Storage Media Information

16.00 Electronic devices and storage media purchased with university funds or funds administered through the university, and that are repurposed for university use, must have information Sanitized prior to being repurposed.

16.01 Electronic devices and storage media that will be repurposed for university use that contain information classified as Public or Internal may be Sanitized by Routinely Deleting all data on the device in a manner that renders it effectively inaccessible.

16.02 Electronic devices and storage media that will be repurposed for university use that contain information classified as Confidential or Highly-confidential must be Sanitized using a method that erases data by overwriting the data multiple times, prior to being repurposed to another Unit or employee. Erasing overwrites all addressable locations with a character, its complement, then a random character, and verifies. If you require assistance, contact the Computer Help Desk to arrange for erasing of devices and storage media.

<http://www.uvic.ca/systems/services/contact/index.php>

16.03 For best practices on Deletion and erasure, please see the “How To” section on the following University Systems service page:

<http://www.uvic.ca/systems/services/informationsecurity/diskencryption/index.php>

Destruction of Electronic Devices or Storage Media

17.00 Electronic devices and storage media purchased with university funds or funds administered through the university, that are not repurposed for university use, must undergo secure physical destruction when no longer required by a Unit or employee, whether or not they are known to store Internal, Confidential, or Highly-confidential information.

17.01 Units must use the central secure physical destruction program provided by University Systems and Purchasing Services. Contact the Computer Help Desk to arrange for Secure Destruction of electronic devices and storage media.

<http://www.uvic.ca/systems/services/contact/index.php>

17.02 Electronic devices and media requiring secure physical destruction include, but are not limited to: hard drives, flash media, USB keys, thumb drives, CDs, DVDs, floppy disks, computer tapes, audio and video storage devices, PDAs, Smart Phones and cell phones, and hard drives in all printers and copiers.

RELATED POLICIES AND DOCUMENTS

Protection of Privacy Policy (GV0235)

- [Procedures for Responding to Privacy Incidents or Privacy Breach](#)

Records Management Policy (IM7700)

- [Procedures for Access to and Correction of Information](#)
- [Procedures for the Management of University Records](#)

Information Security Policy (IM7800)

- [University Information Security Classification Procedures](#)
- [Procedures for Responding to an Information Security Breach](#)

RESPONSIBLE OFFICES

Information Security Office
University Archives