

<b>Policy Title:</b>	Copyright Policy
<b>Policy ID:</b>	9-904
<b>Manual Classification:</b>	Section 9 – Applied Research
<b>Approved by Board of Governors:</b>	November 2022
<b>Original Approval Date:</b>	June 14, 1995
<b>Effective Date:</b>	November 2022
<b>Next Policy Review Date:</b>	November 2025
<b>Contacts for Policy Interpretation:</b>	Vice President, Applied Research and Innovation

## 1.0 - Policy Overview

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Fleming College (the “**College**”) is required to comply with institutional licensing agreements, Canadian Copyright Law, the Universal Copyright Convention, Berne Convention, and other international legislation to which Canada is a signatory. This means that the reproduction, use and dissemination of Copyright protected materials, regardless of format, are subject to certain limits and restrictions.

## 2.0 - Purpose

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The purpose of this Policy is to ensure compliance with the Copyright Act and related international agreements as it pertains to the use, reproduction, and distribution of Copyright protected work. Additionally, this Policy outlines the rights of students, faculty, and staff to use Copyright protected work and to provide reasonable safeguards for the owners of Copyright-protected works in accordance with the Copyright Act and Supreme Court of Canada decisions.

## 3.0 - Definitions and Acronyms

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The following definitions and/or acronyms apply in this Policy:

**College Community:** Any person who studies, teaches, conducts research at or works at or under the auspices of the College and includes without limitation: employees or contractors; appointees (including volunteer board members); students; visitors; and any other person while they are acting on behalf of, or at the request of the College.

**Copyright:** Copyright, in relation to a work, means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatever, to perform the work or any substantial part thereof in public or, if the work is unpublished,

to publish the work or any substantial part thereof, and to authorize such acts. Copyright Act (R.S.C., c. C-42)

**Copyright Owner:** A person(s) or corporate entity that owns one or more of the exclusive rights of Copyright in a work.

**Coursepack:** A collection of supplementary materials used in a course. Coursepacks may contain Copyright-protected materials (such as excerpts from books, journal articles, web pages, etc.) used under fair use or under license. A coursepack may also contain instructional handouts. Coursepacks can be distributed to students in either printed or digital format.

**Creative Commons (CC) License:** An assigned public license allowing for particular use and/or distribution of an otherwise Copyrighted “work”.

**Fair Dealing:** An exemption under the Copyright Act that under certain conditions allows copying for research, private study, criticism, news reporting and review, education, satire, and parody.

**Indigenous Knowledge:** While no single definition exists, Indigenous Knowledge, sometimes referred to as Traditional Knowledge (TK) and Traditional Cultural Expression (TCE), is recognized as a set of complex knowledge systems based on the worldviews of Indigenous peoples. Indigenous knowledge reflects the unique cultures, languages, governance systems and histories of Indigenous peoples from a particular location. Indigenous knowledge is dynamic and evolves over time. (Government of Canada). Traditional knowledge (TK) and traditional cultural expressions (TCEs) are important elements of the cultural heritage and social and historical identity of many local and Indigenous communities, as well as many nations and regions with a shared cultural history

**Open Educational Resources (OER):** Teaching, learning and research materials that are either in the public domain or licensed in a manner that provides for the free and perpetual use in certain ways, as defined by the license.

**Work(s):** Copyright applies to original literary, dramatic, musical, and artistic work where the author was at the date of the making of the work a citizen or subject of, or a person ordinarily resident in, Canada or some other treaty country. (Government of Canada)

## **4.0 - Scope**

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This Policy applies to the entire College Community.

This Policy concerns the use of Copyrighted material and not the creation of intellectual property, which is addressed in [College Policy 9-903 Intellectual Property](#).

## 5.0 - General Principles

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### 5.1 - Overview

This Policy:

- a) Defines the commitments and responsibilities of Fleming faculty, staff, and students regarding Copyright compliance;
- b) Outlines acceptable use of Copyrighted material; and
- c) Describes how Copyright compliance will be enforced.
- d) This Policy respects Copyright and use of material external to the College. For questions related to Marketing's Policy on branding/logo, please look at [College Policy 4-409 Merchandising](#), or for Copyright questions as they relate to computer software, please see [College Policy 4-403 Computer Software Copyright](#).

### 5.2 – Commitment and Responsibility

- a) Fleming Respects the rights of Copyright Owners and shall not knowingly copy, sell, distribute, or use any printed or electronic materials without the express permission of the Copyright owner or in accordance with the appropriate policies and/or licence agreements. Details about Copyright can be found via Library Services.
- b) Fleming employees and students shall abide by the Copyright Act, relevant policies and Fleming's licence agreements and can be held liable for non-compliance.
  - The Copyright Act outlines the rights of Copyright holders and the limitations of those rights. Fair Dealing is an exemption under the Copyright Act that under certain conditions allows copying for research, private study, criticism, news reporting and review, education, satire and parody.
  - The College has adopted the Fair Dealing Policy recommended by the Association of Canadian Community Colleges (ACCC).
- c) Copyright protected material shall not be accessed, copied, transformed, performed, used for financial gain or distributed using Fleming's services, equipment or facilities **unless** prescribed by the Copyright Act, licence agreements, or this Policy.

- d) It is the responsibility of Fleming faculty, staff, and students to be aware of Copyright restrictions. Everyone shall copy and distribute materials in accordance with College directives.
- e) Fleming College recognizes that current Copyright laws do not protect all forms of Indigenous traditional knowledge. The College commits to recognizing these differences and supporting the rightful Indigenous ownership over cultural heritage, traditional knowledge, and traditional cultural expressions on its campuses.
- f) Student accommodation plans may include use of copyrighted material to facilitate access to learning, and will be addressed on an individual basis, taking Copyright considerations into account in accordance with [Policy #7-701 Access and Accommodation for Students with Disabilities](#) and its linked OP #7-701.
- g) Fleming encourages the use and creation of Open Educational Resources (OER) in teaching and learning practices and understands that the adaptation and creation of OERs may include releasing materials under a Creative Commons (CC) license.

### **5.3 – Ownership**

Ownership of original creative works will be determined based on the [College Policy #9-903, Intellectual Property](#).

### **5.4 - Coursepacks**

The College will ensure that Procedures and licensing are in place to facilitate the sale of coursepacks through the campus Bookstore.

See the [College Operating Procedure OP# 9-904](#) for more information.

## **6.0 – Administration of Copyright**

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### **6.1 – Licensing**

- a) All negotiation of Copyright permissions must involve Library Services.
- b) The department/school using the Copyrighted material is responsible for ensuring a copy of the expressed permissions is sent to [copyright@flemingcollege.ca](mailto:copyright@flemingcollege.ca) for filing.
- c) Where licensing fees apply, the payment will be the responsibility of the department/school.

## 6.2 - Enforcement

- a) The College is responsible to inform the College Community about Copyright and their responsibilities to comply with Copyright laws and regulations.
- b) Fleming faculty, staff, students, and external partners (e.g., clients, industry partners, PAC members) must report any real, perceived or believed violation of this Policy. See [College Operating Procedure OP #9-904 Copyright](#) for details.
- c) Fleming employees, students and clients must comply with the directions given to them by staff in performing their regular or delegated duties with regard to this Policy.
- d) Copyrighted work related to an alleged violation will not be confiscated directly from the individual in possession of it. However, the Copyright Owner and/or Fleming have the right to prohibit use or, where Fleming resources are involved, restrict access of the material in question, pending the investigation and resolution process. For example, if the work in question resides on Fleming computer equipment, within facilities or on networks, it may be removed pending the results of an investigation.

## 6.3 – Sanctions

Where it is determined that a violation of this Policy has occurred, Fleming shall exercise its right and obligation to sanction the offending student or employee. The appropriate Chair, Dean or Director shall discuss, confirm and convey the recommended sanction for a violation of this Policy. Please refer to the [College Operating Procedure #9-904 Copyright](#).

## 6.4 - Dispute Resolution

The respondent or complainant may submit a formal appeal in writing in accordance with Operating Procedure #9-904 and where one or more of the following are claimed:

- a) There was procedural unfairness
- b) The violation was not supported by the facts
- c) The sanction was excessive or insufficient

## 7.0 - Related Documents

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- *Copyright Act (R.S.C., 1985, c. C-42)*
- *Freedom of Information and Protection of Privacy Act R.S.O. 1990 c. F. 31*
- *Association of Canadian Community Colleges Fair Dealing Policy*
- *Berne Convention for the Protection of Literary and Artistic Works, Spte.9, 1886, as revised at Paris on July 24, 1971 and amended in 1979*
- *Universal Copyright Convention, as revised at Paris, July 24, 1971*
- *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (2013)*
- *Canada-United States-Mexico Agreement (CUSMA)*
- Faculty Collective Bargaining Agreement
- College Policy #1-101 Honouring the Rights of Indigenous Peoples
- College Policy #2-201A Academic Integrity
- College Operating Procedure #2-201A Academic Integrity Procedure
- College Operating Procedure #2-201A.2 Use of Text Matching Software Procedure
- College Policy #5-506 Student Rights & Responsibilities
- College Operating Procedure #5-506 Student Rights & Responsibilities
- College Policy #7-701 Access and Accommodation for Students with Disabilities
- College Operating Procedure #7-701 Access and Accommodation for Students with Disabilities
- College Policy #9-901 Applied Research Policy (in development)
- College Policy #9-903 Intellectual Property
- College Operating Procedure #9-904 Copyright Procedure
- College Policy #9-907 Commercialization Policy

## 8.0 - History of Amendments/Reviews

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June 14, 1995	Originally approved by Board of Governors
January 30, 2008	Revised; renamed and renumbered to College Policy 2-215 <i>Intellectual Property and Copyright</i>
November 2022	Reviewed, renamed and renumbered to College Policy #9-904 <i>Copyright</i>