


|  CAPILANO UNIVERSITY | | PROCEDURE | |
|--|--------------|---|-------------------|
| Procedure No. | | Officer Responsible | |
| B.601.1 | | Vice President, Academic and Provost | |
| Procedure Name | | | |
| Fair Dealing | | | |
| Policy This Procedure is Under | | Category | Next Review |
| B.601 Copyright | | IM&DT | April 2029 |
| Date Issued | Date Revised | Date in effect | Related Policies |
| April 28, 2026 | NEW | April 28, 2026 | |

1. PURPOSE

- 1.1 The processes set out in this document are designed to support B.601 Copyright Policy (the “Policy”) and guide University Community Members, contractors, and subcontractors in exercising their Fair Dealing rights at Capilano University (the “University”). It should be read in conjunction with the Policy and the Copyright Guide which is available through the Library website.

2. DEFINITIONS

- 2.1 The definitions as found in the Policy are used in this procedure.

3. SCOPE

- 3.1 The scope as found in the Policy applies to this procedure.
- 3.2 This procedure does not address other user’s rights under the *Copyright Act* that allow certain reproduction, performance and/or communication of copyrighted works to be done for specific educational purposes. Please see sections 29.4 to 30.04 of the *Copyright Act*, or the Copyright Guide for more information about these educational exceptions.
- 3.3 Indigenous Peoples have “right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions” (*United Nations Declaration on the Rights of Indigenous Peoples*, Article 31(1)). Using these works requires special considerations beyond this procedure.

4. PROCEDURE

Fair Dealing test

- 4.1 The Supreme Court of Canada has established a two-part test for Fair Dealing:
- a) Part 1: From the perspective of the user, understanding whether the copying is for one or more of the allowable purposes specified under the *Copyright Act*: research, private study, education, parody or satire, criticism or review, or news reporting

- b) Part 2: If the copying is for an allowable purpose, then consider all relevant Fair Dealing factors, including the following:
- i) the purpose of the dealing, which requires an objective assessment of the individual end user's purpose for using the work;
 - ii) the character of the dealing, including whether it involves single or multiple copies, consideration of industry practices, and whether the copy is destroyed after its use;
 - iii) the amount of the dealing from the individual end user's perspective, including the proportion of the work that is proposed to be copied;
 - iv) alternatives to copying the work, including whether there is a non-copyrighted equivalent or a realistic alternative available;
 - v) the nature of the work, including whether it is published or unpublished; and/or
 - vi) the effect of the dealing on the work, including whether the copy will adversely affect the commercial market of the original work.

4.2 Fair Dealing is case-specific and depends on context. The Fair Dealing factors are not conditions that must be met, but non-exhaustive considerations that ought to be weighed in evaluating fairness.

Short excerpts

4.3 If the two-part test determines that it is a Fair Dealing, a short excerpt from a copyrighted work may be copied or communicated, in physical or electronic form.

4.4 A short excerpt must contain no more of a work than is required to achieve the allowable purpose. Examples of a short excerpt include:

- a) up to 10% of a 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 work containing other artistic works;
- e) an entire newspaper article or page; or
- f) an entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work.

4.5 A copy of a short excerpt from a work may be provided to students in a course, unit or program at the University:

- a) as a class handout;
- b) as a posting to a learning management system that is accessible only by students in the specific course, unit or program; or
- c) as part of a course pack.

It is recommended (if practical) to include a notice indicating that the short excerpts are being copied in reliance on the Fair Dealing right.

- 4.6 Users must not make copies of multiple short excerpts with the effect of copying substantially the entire work.
- 4.7 Users must not circumvent a technological protection measure when obtaining a work for copying under Fair Dealing.
- 4.8 Any fee charged by the University for copying a short excerpt must not exceed the actual costs incurred by the University, including overhead costs, in making the copy.
- 4.9 Copies of short excerpts made for the purpose of news reporting, criticism, or review must mention the source and, if given in the source, the name of the author(s) or creator(s) of the work.

5. ADMINISTRATIVE RESPONSIBILITY FOR THIS PROCEDURE

- 5.1 The Copyright Officer is responsible for managing and administering this procedure under the oversight of the Provost and Vice-President Academic.

6. RELATED POLICIES AND GUIDANCE

B.601 Copyright Policy

B.604 Acceptable Use and Security of Digital Technology

S2017-05 Academic Integrity Policy

7. REFERENCES

Copyright Act of Canada (R.S.C., 1985, c. C-42)

United Nations Declaration on the Rights of Indigenous Peoples (2007)

This procedure was adapted from the *Model Fair Dealing Guidelines for University Faculty and Staff* (2025) endorsed by Universities Canada.