

# Capilano Fair Dealing (Copyright) Policy

## PURPOSE

Legal Counsel for the Association of Canadian Community Colleges (ACCC) recommends that members adopt and implement the following Fair Dealing Policy that sets out the uses, or “dealings”, with a copyright-protected work that is permitted without permission from the copyright owner or the payment of copyrighted royalties under fair dealing. ACCC member institutions that keep their copying and communicating of copyright-protected works within the limits described in the Fair Dealing Policy run a very low risk of a court finding instances of copyright infringement. Each instance of copying or communicating beyond the described limits requires an evaluation of whether the dealing is fair based on all relevant circumstances.

## POLICY

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, and 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 schools and post-secondary educational institutions.

This Fair Dealing Policy applies fair dealing in non-profit K-12 schools and post-secondary educational institutions and provides reasonable safeguards for the owners of copyright-protected works in accordance with the *Copyright Act* and the Supreme Court decisions.

## Guidelines

1. Teachers, instructors, professors and staff members in non-profit educational institutions 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 and parody.
2. Copying or communicating short excerpts from a copyright-protected work under this Fair Dealing Policy for the purpose of news reporting, criticism or review should mention the source and, if given in the source, the name of the author or creator of the work.
3. A single 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 a school or post-secondary educational institution
  - 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
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 this Fair Dealing Policy may be referred to a supervisor or other person designated by the educational institution 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 educational institution for communicating or copying a short excerpt from a copyright-protected work must be intended to cover only the costs of the institution, including overhead costs.

#### **PROCEDURE**

The University Librarian is the University's Copyright Officer and will be responsible for providing evaluation of when a "dealing" is considered to be fair and for information and training supporting this Policy and Statement.