

Fair Use Checklist

Your name:

Date of intended use:

Title of work that you want to use:

Copyright owner of the work:

Other identifying features (e.g., author, director)

Publication year:

Publication status:

published

unpublished

unknown

Brief description of the work:

Instructions: Complete and retain a copy of this checklist for every copyrighted work that you use. This worksheet serves as a "reasonable and good faith" effort to document fair use. Not all factors will be present or have the same significance in every situation. The items in this checklist help you determine the more applicable factors in your analysis. When factors favoring fair use outweigh factors opposing fair use, reliance on fair use is justified. Where fair use is not justified, you should request permission from the copyright owner. No single factor is determinative of fair use, but rather the analysis attempts to create a big picture view of the use across the spectrum of all four factors.

Factor 1: Purpose and character of use

includes whether the purpose is commercial or nonprofit educational and whether the character of the use is transformational

Favors fair use:

used for teaching, including multiple copies for classroom use

used for parody

used for research

used for news reporting

used at nonprofit educational institution

use is transformative (the use of the original work is changed or altered, such that it changes or alters the message)

used for criticism

attribution (crediting the source) is not sufficient justification for fair use

Opposes fair use:

used for commercial purpose

work being used is from a consumable source (e.g., workbook) or is sold specifically to the educational market

receive profit from use

used for entertainment purpose

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Factor 2: Nature of the work

includes whether the work is more creative or more factual and whether the work is published or not

Favors fair use:

work being used is already published

work is factual or nonfiction

Opposes fair use:

work is unpublished

work is unique or highly creative

work is fiction

Factor 3: Amount of the work

including quantity and substantiality of portion used in relation to the copyrighted work as a whole

Favors fair use:

small quantity is used

the amount and portion of the work selected for use is limited and relevant to what is necessary for the purpose

portion used is not the "heart of the work"

Opposes fair use:

large quantity or entire work is used

portion used is the "heart of the work" or most unique part of the work

Factor 4: Effect on the market

Favors fair use:

user owns or uses a lawfully acquired copy

use of the work is sporadic or spontaneous (no time to request permission)

few copies are made

access to the work will be restricted to the specific group of users for whom the use is made

use has no significant impact on market or potential market for the work

use of the work includes a copyright statement

no licensing mechanism is available for that particular use of the work

Opposes fair use:

unclear whether work to be used has been lawfully obtained

numerous copies are made

use could replace sale or license of the work

user makes the work publicly available via the Internet

significantly impacts market, or potential market, for the work

repeated or long-term use

a reasonably accessible system is available for obtaining permission to use the work

no copyright statement accompanies work