



Instructions for Fair Use Checklist

Under certain circumstances, the US Copyright Act allows for the "fair use" of copyrighted material without the permission of the copyright owner. Fair use aims to strike a balance between the rights of copyright owners and the public's need to access and utilize copyrighted content. This checklist is a tool that may assist you in making a well-reasoned and balanced assessment of whether your proposed activities could be considered fair use. However, it does not establish a definitive answer on fair use and is provided as a general resource. Nothing contained in this document should be construed as legal advice.

When using this checklist, give careful consideration to each factor listed within the four categories and check all boxes that apply. As this tool aims to assist you in organizing your assessment of fair use, the last section asks for your conclusion. Once finished, keep a copy of the completed form in case you need to provide evidence of your reasonable and good-faith efforts in evaluating your fair use of the copyrighted materials.

Keep in mind that the University Libraries may have a license to use the materials as you intend, in which case there would be no need to consider whether fair use applies – and no need to use this checklist.

Fair Use of Copyrighted Materials

4/10/24

Name: _____

Date: _____

Project: _____

PURPOSE OF USE

Favoring Fair Use

Teaching (including multiple copies for classroom use)
Research
Scholarship
Nonprofit educational Institution
Criticism
Comment
News reporting
Transformative or productive use (changes work for new utility)
Restricted access (to students or other appropriate group)
Parody

Opposing Fair use

Commercial activity
Profiting from the use
Entertainment
Bad faith behavior
Denying credit to original author

NATURE OF MATERIALS BEING USED

Favoring Fair Use

Published work
Factual or nonfiction based
Important to favored educational objectives

Opposing Fair use

Unpublished works
Highly creative work (art, music, novels, films, plays)
Fiction

AMOUNT OF USE

Favoring Fair Use

Small quantity
Portion used is not central or significant to entire work
Amount is appropriate for favored educational purpose
(only use as much as is necessary)

Opposing Fair use

Large portion or whole work used
Portion used is central to work or "heart of the work"

EFFECT OF USE

Favoring Fair Use

User owns lawfully acquired or purchased copy of original work
One or few copies are made
No significant effect on the market or potential market for copyrighted work
No similar product marketed by the copyright holder
Lack of licensing mechanism

Opposing Fair use

Could replace sale of copyrighted work
Significantly impairs market or potential market for copyrighted work or derivative
Reasonably available licensing mechanism for use of the copyrighted work
Affordable permission available for using work
Numerous copies made
You made it accessible on Web or other public forum
Repeated or long-term use

CONCLUSION

NAOMI: Is it reasonable to conclude that, in balancing the applicable factors above, the factors favor "fair use"

Yes

No

EFFECT OF USE

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Lack of licensing mechanism

Opposing Fair use

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Repeated or long-term use

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Yes

No

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