

Copyright Education & Consultation Program



Fair Use Checklist

Copyright Education and Consultation Program

- Funded by a Library Services and Technology Act grant administered by the Illinois State Library

<http://www.go.illinois.edu/copyright>

Name: _____

Institution: _____

Project/Material Used: _____

Date: _____

Prepared by: _____

PURPOSE – *Educational use is much more likely to fall within the range of fair use. Generally, content creators are less likely to allow reuse of their work if someone intends to make a profit from it.*

Favoring Fair Use

- Teaching (including multiple copies for classroom use)
- Research and scholarship
- Criticism, comment, parody, or news reporting
- Nonprofit educational institution use
- Transformative use—changes the work for a new purpose
- Restrictive access—to students or other appropriate group

Opposing Fair Use

- Commercial activity
- Profiting from the use
- Entertainment
- Bad-faith behavior
- No attribution to original author
- For publication or public distribution

Fair Use Checklist adapted with permission from the Copyright Advisory Office—Columbia University Libraries
<http://copyright.columbia.edu>

NATURE – Generally, uses of published and factual works are more likely to be considered fair than unpublished and fictional works.

Favoring Fair Use

- Published work
- Factual or nonfiction
- Important to educational objectives

Opposing Fair Use

- Unpublished work
- Highly creative work—art, music, novels, films, plays
- Fiction

AMOUNT – Reproduction of an entire work is rarely considered fair use. The use of a small, relevant portion is much safer.

Favoring Fair Use

- Small quantity
- Portion used is not central or significant to entire work
- Amount is appropriate for favored educational purpose

Opposing Fair Use

- Large portion or whole work used
- Portion used is central to or “heart of the work”

EFFECT – If your use stands in the way of potential sales for the creator or is easily available for a reasonable price, you should consider licensing rather than copying.

Favoring Fair Use

- User owns lawfully purchased or acquired copy of original work
- One or few copies 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 the Web or in other public forum
- Repeated or long-term use