

## Fair Use Analysis Checklist

Use this checklist to help analyze whether a use of a copyrighted work could be a fair use.

**Remember:** No single item or factor is determinative of fair use

Find the annotated version of this checklist and the PDF at <http://copyright.psu.edu/checklist!>

Name:

Class or Project:

Date:

Course and Term:

Title of Copyrighted Work:

Author and Publisher:

Portion(s) to be used (e.g., pages, timer counts):

### Factor 1: Purpose and Character of the Use

#### FAVORS FAIR USE

- Nonprofit Educational Institution
- Teaching (including multiple copies for classroom use)
- Research or Scholarship
- Criticism, Comment, News Reporting, or Parody
- Transformative (use changes work for new utility or purpose)
- Personal Study

#### OPPOSES FAIR USE

- Commercial activity
- Profiting from the use
- Entertainment
- Non-transformative
- For publication or public distribution
- Bad-faith behavior
- Failure to provide appropriate credit to original author

---

Factor Weighs in Favor of Fair Use

Factor Weighs Against Fair Use

---

### Factor 2: Nature of Copyrighted Work

#### FAVORS FAIR USE

- Factual or nonfiction work
- Important to educational objectives

#### OPPOSES FAIR USE

- Unpublished work
- Highly creative work (art, music, novels, films, plays, fiction, poetry)

---

Factor Weighs in Favor of Fair Use

Factor Weighs Against Fair Use

---

### Factor 3: Amount and Substantiality of Portion Used

#### FAVORS FAIR USE

- Small portion of work used
- Portion used is not central or significant to entire work as a whole
- Amount is tailored to acceptable purpose

#### OPPOSES FAIR USE

- Large portion or entire work used
- Portion used is central to work or “heart of the work”
- Amount taken is more than is necessary

---

Factor Weighs in Favor of Fair Use

Factor Weighs Against Fair Use

---

### Factor 4: Effect on Market for Original Work

#### FAVORS FAIR USE

- No significant effect on the market on actual or potential market for copyrighted work
- Use stimulates market for original work
- One or few copies made
- No similar product marketed by the copyright holder
- Lack of licensing mechanism or out of print
- User owns lawfully acquired or purchased copy of original work
- Restricted Access
- Supplemental Reading

#### OPPOSES FAIR USE

- Significantly impairs market or potential market for copyrighted work or derivative
- Reasonably available and affordable licensing mechanism for use of the copyrighted
- Numerous copies made
- Repeated and/or long-term use that could diminish market for original work
- Could replace sale of copyrighted work
- Unrestricted access online or by other means
- Required Reading

---

Factor Weighs in Favor of Fair Use

Factor Weighs Against Fair Use

---

### Fair Use Analysis

- Based on the fair use analysis and weighing all the factors together, the use of the copyrighted material falls within the fair use exception.
- Based on the fair use analysis and weighing all the factors together, the use of the copyrighted material does not fit within the fair use exception. Permission should be obtained.

The Fair Use Analysis Checklist is licensed under [CC-BY 4.0](#) adapted from [Columbia University Fair Use Checklist](#) by Kenneth D. Crews (formerly of Columbia University) and Dwayne K. Buttler (University of Louisville) [CC-BY 4.0](#).