# 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.

Learn about fair use and download this checklist: <http://copyright.psu.edu/fair-use>

Learn about attribution: [http://copyright.psu.edu/attribution](https://copyright.psu.edu/attribution)

# Factor 1: Purpose and Character of the Use

The first factor is one of the most important of the four factors.

## Favors Fair Use

Nonprofit Educational Institution

Teaching/Educational Purpose (including multiple copies for classroom use)

Research or Scholarship

Criticism, Comment, News Reporting, or Parody

Transformative (use is for purpose different from purpose for which work was created)

Personal Study

## Opposes Fair Use

Commercial/for-profit

Bad-faith behavior

# Factor 2: Nature of Copyrighted Work

The second factor typically is the least important of the four fair use factors.

## Favors Fair Use

Factual or nonfiction work

## Opposes Fair Use

Unpublished work

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

# 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 4: Effect on Market for Original Work

The fourth factor is one of the most important of the four factors.

## Favors Fair Use

No significant effect on actual or potential market for copyrighted work

No similar product marketed by the copyright holder

Lack of licensing mechanism

User owns lawfully acquired or purchased copy of original work

Restricted Access

## Opposes Fair Use

Significantly impairs market or potential market for copyrighted work or derivative

Reasonably available licensing mechanism for use of the copyrighted work

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

# My Fair Use Determination

Based on the fair use analysis and weighing all the factors together, the use of the copyrighted material is fair use.

Based on the fair use analysis and weighing all the factors together, the use of the copyrighted material is not fair use. The material should not be used without permission.

This checklist was last revised in December 2020. It is adapted from [Columbia University Fair Use Checklist](https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html) by Kenneth D. Crews (formerly of Columbia University) and Dwayne K. Buttler (University of Louisville), used under [CC BY 4.0](https://creativecommons.org/licenses/by/4.0/). This checklist is also licensed under CC BY 4.0.