

Fair Use Evaluation

Fair use permits the unlicensed use of copyright-protected works in certain circumstances. As defined in the U.S. Code (17 U.S.C. § 107), there are four factors that must be considered in deciding whether an unlicensed use is acceptable.

For each factor listed below, check all that apply. When the factors favoring fair use outnumber the factors against fair use, reliance on the fair use exception can be justified. If only one or two factors favor fair use, permission should be obtained before copying or disseminating the work.

1. Purpose: Why are you using this particular work?

Favoring Fair Use	Opposing Fair Use
<input type="checkbox"/> Educational purpose (teaching, scholarship)	<input type="checkbox"/> Commercial activity
<input type="checkbox"/> Criticism or commentary	<input type="checkbox"/> Profiting from the use
<input type="checkbox"/> Non-commercial use	<input type="checkbox"/> Entertainment purpose
<input type="checkbox"/> News reporting	<input type="checkbox"/> Verbatim/exact copy
<input type="checkbox"/> Transforms into a new purpose	
<input type="checkbox"/> Parody	
<input type="checkbox"/> Research or scholarship	

2. Nature: How are you using this work?

Favoring Fair Use	Opposing Fair Use
<input type="checkbox"/> Published work	<input type="checkbox"/> Unpublished work
<input type="checkbox"/> Factual or non-fiction based	<input type="checkbox"/> Highly creative work (art, music, etc.)
<input type="checkbox"/> Important to educational objectives	<input type="checkbox"/> Fictional work

3. Amount: How much of the work are you using?

Favoring Fair Use	Opposing Fair Use
<input type="checkbox"/> Small quantity	<input type="checkbox"/> Large portion/entire work used
<input type="checkbox"/> Portion is not central/significant to work	<input type="checkbox"/> Portion used is central or “heart of” work
<input type="checkbox"/> Amount is appropriate for educational need	
<input type="checkbox"/> Access is restricted	

4. Effect: Does your use potentially disrupt sales for the work?

Favoring Fair Use	Opposing Fair Use
<input type="checkbox"/> User owns lawfully acquired work	<input type="checkbox"/> Could replace or affect sales of work
<input type="checkbox"/> One or few copies made	<input type="checkbox"/> Reasonable licensing mechanism is available
<input type="checkbox"/> No significant effect on (potential) market	<input type="checkbox"/> Permission is affordable and available
<input type="checkbox"/> No licensing mechanism	<input type="checkbox"/> Numerous copies made
	<input type="checkbox"/> Public sharing or display of work
	<input type="checkbox"/> Repeated or long-term use in education



Adapted from *The Fair Use Checklist* by Kenneth D. Crews (formerly of Columbia University) and Dwayne K. Buttler (University of Louisville).