

Copyright Information Center (index.html)

[🏠 \(index.html\)](#) Understanding Copyright

Fair Use and Other Educational Uses

Using copyrighted material in your teaching

- Fair Use - the basics of "fair use"
- Rules of Thumb - help for determining if your use is "fair use"
- Educational Guidelines - additional guidelines for thinking about "fair use"

Fair Use

Copyright law provides for the principle, commonly called "fair use" that the reproduction of copyright works for certain limited, educational purposes, does not constitute copyright infringement. The Copyright Act establishes a four factor test, the "fair use test," to use to determine whether a use of a copyrighted work is fair use that does not require the permission of the copyright owner. The fair use test is highly fact specific, and much can turn on seemingly insignificant variations on the proposed use.

To determine whether a proposed use is a fair use, you must consider the following four factors, on which we elaborate more below:

1. **Purpose:** The purpose and character of the use, including whether such use is of a commercial nature, or is for nonprofit education purposes.
2. **Nature:** The nature of the copyrighted work.
3. **Amount:** The amount and substantiality of the portion used in relation to the copyrighted work as a whole.
4. **Effect:** The effect of the use upon the potential market for, or value of, the copyrighted work.

To establish the strongest basis for fair use, consider and apply the four factors along the lines of these suggestions. You may also want to use the Fair Use Checklist (<http://www.lib.uchicago.edu/copyrightinfo/fairusechecklist.html>) to help evaluate the nature of your use.

1. Purpose of the Use

- Materials should be used in class only for the purpose of serving the needs of specified educational programs.
- Students should not be charged a fee specifically or directly for the materials.

2. **Nature** of the Work

- Only those portions of the work relevant to the educational objectives of the course should be used in the classroom.
- The law of fair use applies more narrowly to highly creative works; accordingly, avoid substantial excerpts from novels, short stories, poetry, modern art images, and other such materials.
- Instructors should not distribute copies of "consumable" materials such as test forms and workbook pages that are meant to be used and repurchased.

3. **Amount** of the Work

- Materials used in the classroom will generally be limited to brief works or brief excerpts from longer works. Examples: a single chapter from a book, an individual article from a journal, and individual news articles.
- The amount of the work used should be related directly to the educational objectives of the course.

4. **Effect** of the Use on the Market for the Original

- The instructor should consider whether the copying harms the market or sale of the copyrighted material.
- Materials used in the class should include a citation to the original source of publication and a form of a copyright notice.
- Instructor should consider whether materials are reasonably available and affordable for students to purchase - whether as a book, course pack, or other format.

Rules of Thumb

The University of Chicago has not adopted official guidelines for determining fair use. However, the following web sites offer rules of thumb and other tools to assist faculty, staff and students in determining whether a use is a fair use in a variety of educational contexts.

Stanford University: Measuring Fair Use

(http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter9/9-b.html)

University of Washington:

Guidelines for Fair Use in Education

(http://depts.washington.edu/uwcopy/Using_Copyright/Guidelines/)

ALA Fair Use EVALUATOR

(<http://librarycopyright.net/resources/fairuse/>)

If your proposed use is not addressed by these guidelines, you will need to analyze the use under the four factor fair use test and/or Get Help (mailto:copyrightinfo@uchicago.edu?subject=Copyright%20Question%20for%20the%20Copyright%20Information%20Center). In cases of doubt, it is always most desirable to get permission.

Educational Guidelines

The Conference on Fair Use (CONFU) in the late 1990s was an attempt to create guidelines for fair use which could be mutually agreed upon by copyright holders and educators. In the end, the group failed to come to consensus and the Guidelines were never adopted. Many still use the guidelines as a framework for thinking about fair use.

For commentary on their use, see:

CONFU: The Conference on Fair Use

(<http://copyright.lib.utexas.edu/confu.html>)Multimedia Guidelines for Fair Use

(<http://copyright.lib.utexas.edu/ccmcguid.html>)Guidelines for Digital Images

(<http://copyright.lib.utexas.edu/imagguid.html>)



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