

Fair Use Worksheet

The fair use of a copyrighted work, including photocopies, digital scans, downloading or uploading to a course management system for classroom use, scholarship or research is not an infringement of copyright. Claiming “educational purposes” alone is not enough to claim fair use. However, in determining whether the use made of a work is a fair use there are four factors to be considered. Each factor is important, and you should examine your items on a case-by-case basis. Before you decide to use a copyrighted* work for your class, use the following checklist to determine whether your use of the material can be considered “Fair Use”:

The purpose and character of the use:

More likely to be considered Fair Use	Less likely to be considered Fair Use
Non-profit	Commercial
Educational	Entertainment
Research	For profit
Scholarship	
Restricted access	

The nature of the copyrighted work:

More likely to be considered Fair Use	Less likely to be considered Fair Use
Factual	Fiction/imaginative
Published	Unpublished (right of 1 st publication)
	Consumables (such as workbooks)

The amount and substantiality of the portion used in relation to the copyrighted work as a whole; any use that can adversely affect the market for the item will be considered an infringement:

More likely to be considered Fair Use	Less likely to be considered Fair Use
Less than 10% of a book or no more than 1 chapter	More than 1 chapter, or the “heart” of the book
1 article from an issue of a journal	Multiple articles from a journal issue
10% or less than 30 seconds of an audio recording	Workbook pages

Seek permission from the copyright holder if you intend to use the item for more than one calendar year in your course or exceed any of the following guidelines:

- use of up to 10 percent or one chapter from a book
- one article from a periodical issue or newspaper
- one short story, short essay, or short poem (250 words max), whether or not from a collective work

- one chart, diagram, graph, drawing, cartoon or picture from a book, periodical or newspaper

The effect of the use upon the potential market or value of the copyrighted work:

More likely to be considered Fair Use	Less likely to be considered Fair Use
Material is out of print and I can document a search made to obtain a copy or permission to copy at a reasonable price	Use substitutes for purchase of the original item
1 article from an issue of a journal	Item has been used for this class before.

*Keep in mind that an item is copyrighted as soon as it is in a fixed format, whether or not the copyright notice appears on the work.