# Fair Use Checklist

**NOTE:** This checklist is not legal advice. It is provided as a tool to assist you in determining whether your use of copyrighted works is within the limits of fair use under U.S. copyright law (Section 107 of the U.S. Copyright Act). Four factors form the structure of this checklist. Congress and courts have offered some insight into the specific meaning of the factors, and those interpretations are reflected in the details of this form.

There are 4 factors to consider when determining whether something qualifies as “fair use”: purpose of use, nature of use, amount of use, and effect of use. Each fair use factor should be given careful consideration in analyzing your use of copyrighted works. Check all boxes that apply under each factor.

Be advised that there is no ~*~magic formula*~ to determining fair use. You cannot simply add up each column and assume if you have more checks favoring fair use your use falls under fair use. Depending on the specific facts of your case, it is possible that even if three of the factors would tend to favor a fair use finding, the fourth factor may be the most important one in that particular case, leading to a conclusion that the use may not be considered fair.

If the work you wish to use has a Creative Commons license (like this checklist has), you don’t have to worry about determining fair use! You simply need to follow the rules of the license. This checklist’s license (CC BY 4.0) states that the original creators must be credited. You can see that credit at the bottom of each page of this document.

## Purpose of Use

<table>
<thead>
<tr>
<th>Favoring Fair Use</th>
<th>Opposing Fair Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Teaching (including multiple copies for commercial activity classroom use)</td>
<td>□ Commercial activity</td>
</tr>
<tr>
<td>□ Research</td>
<td>□ Profiting from the use</td>
</tr>
<tr>
<td>□ Scholarship</td>
<td>□ Entertainment</td>
</tr>
<tr>
<td>□ Non-profit educational institution</td>
<td>□ Bad-faith behavior</td>
</tr>
<tr>
<td>□ Criticism</td>
<td>□ Denying credit or original author</td>
</tr>
<tr>
<td>□ Comment</td>
<td></td>
</tr>
<tr>
<td>□ News reporting</td>
<td></td>
</tr>
<tr>
<td>□ Transformative or productive use (changes the work for new utility)</td>
<td></td>
</tr>
<tr>
<td>□ Restricted access (to students or other appropriate group)</td>
<td></td>
</tr>
<tr>
<td>□ Parody</td>
<td></td>
</tr>
</tbody>
</table>

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Last Updated: June 2019
Nature of Use

Favoring Fair Use
- Published work
- Factual or nonfiction-based
- Important to favored educational objectives

Opposing Fair Use
- Unpublished work
- Highly creative work (art, music, novel, plays, poetry, films, etc.)
- Fiction

Amount of Use

Favoring Fair Use
- Small quantity (rule of thumb is 10% of a work, or one chapter)
- Portion used is not central or significant to entire work
- Amount is appropriate for favored educational use

Opposing Fair Use
- Large portion or whole work used
- Portion used to central to or “heart of the work”

Effect of Use

Favoring Fair Use
- User owns lawfully purchased or acquired
- One or few copies made
- No significant effect on the market or potential market for copyrighted work
- No similar product marketed by copyright holder
- Lack of licensing mechanism

Opposing Fair Use
- Could replace sale of copyrighted work
- Significantly impairs market or potential market for copyrighted work or derivative
- Reasonably available licensing mechanism for use of the copyrighted work
- Affordable permission available for using work
- Numerous copies made
- You made it accessible on the web or in another public forum
- Repeated or long-term use

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