

Fair Use Analysis

Please complete this analysis to determine whether your desired use of a copyrighted work may be used within the scope of Fair Use.

Name: _____

Date: _____

Course (if applicable): _____

No. of students: _____

Indicate the term and year for which the item is needed:

Fall _____

Winter _____

Spring _____

Summer _____

Intended use:

Citation/Description

Author/Editor/Translator: _____

Publisher: _____

Book/Journal Title: _____

Chapter/Article Title: _____

1. What is the **PURPOSE** of the proposed use? Check all that apply.

Favors Fair Use

Teaching

Research

Scholarship

Criticism

Comment

Parody

News reporting

Non-profit Educational Institution

Restricted Access (Available only to the students or other appropriate group)

Transformative or Productive use (Changes the work for new utility; adds value to the work; or does not diminish the market)

Opposes Fair Use

Commercial Activity (Will this be sold?)

Profiting from the use

Entertainment

Denying credit to original author

Explanation/Notes:

2. What is the **NATURE** of the copyrighted work that will be used? Check all that apply.

Favors Fair Use

- Published Work
- Factual or nonfiction-based
- Important to favored educational objectives

Opposes Fair Use

- Unpublished work
- Highly creative work (Art, music, novels, poetry, films, plays, etc.)
- Fiction

Explanation/Notes:

3. What **AMOUNT** of the copyrighted work will be used? Check all that apply.

You should measure the amount of material both qualitatively and quantitatively. Evaluate quantity relative to the length of the entire work and the amount to be used. (The reproduction of an entire work weighs against Fair Use.) A reproduction that is relatively small but still uses the “heart” of the work will also weigh against Fair Use.

Favors Fair Use

- Small Quantity of work to be used
- Portion used is not central or significant to entire work
- Amount is appropriate for favored educational purpose

Opposes Fair Use

- Large portion or entire work to be used
- Portion used is central to work or is the “heart” of the work

Explanation/Notes:

4. What is the **EFFECT** on the market or potential market if this item is used? Check all that apply. Reproduction that substitutes for the purchase of the original weighs heavily against Fair Use. This factor is closely linked to the other factors

Favors Fair Use

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

Opposes 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 license fee available for using work
- Numerous copies made
- Made openly accessible on the internet or in other public forum
- Repeated or long-term use desired

Explanation/Notes:

Final Analysis:

(Check one of the following statements after completing the checklist.)

- Based on the Fair Use Analysis completed above, I have determined that my use of the material falls within the Fair Use exception.
- Based on the Fair Use Analysis completed above, I have determined that my use of the material does not fit within the Fair Use exception. I will obtain permission from the copyright owner before using the materials.

Signature: _____ Date: _____

Adapted from documents prepared by the Copyright Management Center, Indiana University, Purdue University Indianapolis; University of North Carolina's 2001 Copyright Policy; and existing copyright documents for Brigham Young University and Brigham Young University—Idaho.