# What Is Copyright?

Copyright is a form of protection provided by the laws of the United States (title 17, **U. S Ode**) to the authors of 'original works of authorship,' including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works...It is illegal for anyone to violate any of the rights provided by the copyright law to the owner of copyright. These rights, however, are not unlimited in scope. Sections 107 through 122 of the 1976 Copyright Act establish limitations on these rights. In some cases, these limitations are specified exem

Fair Use is identified in Section 107 of the U.S. Copyright Act. Fair use is determined by a balanced application of four factors set forth in the statute:

- 1. the purpose of the use
- 2. the nature of the work used
- 3. the amount and substantiality of the work used, and
- 4. the effect of the use upon the potential market for or value of the work used.

Use this checklist to guide and document your decision-making. You may find that you check more than one box in each column and even check boxes across columns. Consider each factor and evaluate whether the cumulative weight of your analysis favors or turns you away from fair use and towards seeking permission to use a copyrighted work.

# Purpose of the use

The fair use statute lists several purposes appropriate for fair use, such as criticism, comment, news reporting, teaching, scholarship, or research. These activities are also common and important at the university. But be careful: Not all nonprofit educat

factors, not merely the purpose. However, limiting your purpose to some of these activities will be an

new or of new utility, such as pieces of work mixed into a multimedia product for your own teaching needs or included in commentary or criticism of the original.

#### Favoring Fair Use:

Teaching (including multiple copies for classroom use)

Research

Scholarship

Nonprofit educational institution

Criticism

Comment

News reporting

Parody

Transformative (creation of a new work, new purpose)

Restricted access (to students or other group)

## Opposing Fair Use:

Commercial activity

Profiting from use

Entertainment or non-critical use

Bad-faith behavior

Denying credit to original author

#### Nature of the work used

This factor centers on the work being used, and the law allows for a wider or narrower scope of fair use,

correspondence or a manuscripts, can weigh against a finding of a fair use. The courts reason that copyright

# Amount and substantiality of the work used

Although the law does not set exact quantity limits, the more you use, the less likely you are within fair use.

needed to serve a proper objecti

might be a small portion of the book, but the same content might be published elsewhere as an article or essay of the work used is another key factor.

example, a short clip from a motion picture may usually be acceptable, but not if it encompasses the most extraordinary or creative elements of the film. Photographs and artwork often generate controversies, because a user usually needs the full image, or the full amount and this may not be a fair use. On the other hand, a

way to serve educational purposes.

## Favoring Fair Use:

Small quantity proportionate to the work
Portion used is not central or significant to entire work
Amount is appropriate for educational or other purpose

## Opposing Fair Use:

Large portion or whole work used
Portion used is central to or "heart of the work"

# Effect of the use on the potential market for or value of work used

Effect on the market is perhaps more complicated than the other three factors. Fundamentally, this factor means that if you could have realistically purchased or licensed the copyrighted work, that fact weights against a finding of fair use. To evaluate this factor,