

Fair Use Checklist

This checklist is a tool to assist CSU-Pueblo instructors in determining whether you may make or distribute copies of copyrighted works without obtaining the permission of the copyright holder. The Library recommends you complete and retain a copy of this form in connection with each “fair use” application.

The Four Factors of Fair Use

Fair use permits the unlicensed use of copyright-protected works in certain circumstances. Copyright law names four factors that must be considered in deciding whether an unlicensed use is acceptable.

Purpose Why are you using this particular work?	Nature How are you using this work?
Amount How much of the work are you using?	Effect Does your use potentially disrupt sales for the work?

Instructor Name: _____ Form Completed Date: _____

Course or Project: _____

Copyrighted Work Title: _____

Author: _____ Publication Date: _____

Portion to be used (e.g., pages): _____

Directions

Check all that apply. When the factors favoring “fair use” outnumber the factors against “fair use,” reliance on the fair use exception is justified. If only one or two factors favor “fair use,” permission should be obtained before copying or disseminating the work. If factors appear evenly split or you have questions about interpretation, please contact:

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Consider: is this particular work (and the portion you’ve selected) essential? Or could another work (e.g., an openly licensed work) be substituted?

1. Purpose: Why are you using this particular work?

Favoring Fair Use:

- ☐ Educational purpose (teaching, research, scholarship)
- ☐ Criticism or commentary
- ☐ Non-commercial use
- ☐ News reporting
- ☐ Transforms into new purpose
- ☐ Parody

Opposing Fair Use:

- ☐ Commercial activity
- ☐ Profiting from the use
- ☐ Entertainment purpose
- ☐ Verbatim/exact copy

2. Nature: How are you using this work?

Favoring Fair Use:

- ☐ Published work
- ☐ Factual or non-fiction based
- ☐ Important to educational objectives

Opposing Fair Use:

- ☐ Unpublished work
- ☐ Highly creative work (art, music, novels, films, plays)
- ☐ Fictional work

3. Amount: How much of the work are you using?

Favoring Fair Use:

- ☐ Small quantity
- ☐ Portion is not central/significant to entire work
- ☐ Amount is appropriate for educational purpose

Opposing Fair Use:

- ☐ Large portion/entire work used
- ☐ Portion used is central or “the heart of” the work

4. Effect: Does your use potentially disrupt sales for the work?

Favoring Fair Use:

- ☐ User owns lawfully acquired/purchase work
- ☐ One or few copies made
- ☐ No significant effect on (potential) market
- ☐ No licensing mechanism

Opposing Fair Use:

- ☐ Could replace or affect sales of work
- ☐ Reasonable licensing mechanism is available
- ☐ Permission is affordable and available
- ☐ Numerous copies made
- ☐ Public sharing or display of work
- ☐ Repeated or long-term use in education