

01 Jan 2015

## Know Your Copy Right – What You Can Do

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### Recommended Citation

Weaver, James Roger, "Know Your Copy Right – What You Can Do" (2015). *Scholarly Communications - Educational and Promotional Materials*. 5.

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# WHAT YOU CAN DO



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Often you can use works in your teaching without permission or fee.

This chart highlights some of those situations. However, there are other circumstances for which permission and/or fees are required.

Know Your Copy Rights		Proposed Use					
		Exhibit materials in a live classroom?	Post materials to an online class?	Post materials to an open web page?	Distribute readings?	Create electronic reserves?	
Legal Status of Work to Be Used	Work Not Copyrighted	Public Domain Works (US Governments and pre-1923 works, and certain other works)	Yes	Yes	Yes	Yes	Yes
	Copyrighted Works	Your Own Works (If you kept copyright or reserved use rights)	Yes	Yes	Yes	Yes	Yes
		Open Access Works (Works available online without license, password, or technical restrictions)	Yes	Link	Link	Link	Link
		Electronic Works Licensed by Your Institution (depends on license, but usually permitted)	Yes	Link	Link	Link <small>(Most licenses also allow students to make an individual copy.)</small>	Link
		Electronic Works with a Creative Commons License (depends on license, but usually permitted; if not, LINK)	Yes	Yes	Yes	Yes	Yes
		Other Work (when none of above apply)	Yes	Yes <small>if meets either TEACH Act or Fair Use standards. If not, LINK or seek permission.</small>	Link	Yes <small>if meets Fair Use standards. If not, LINK or seek permission.</small>	Yes <small>if meets Fair Use standards. If not, LINK or seek permission.</small>

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# FAIR USE CHECKLIST



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For each item and every semester, you should review the materials that you plan to reproduce on Blackboard, in print, or in other ways using this checklist. You should retain a copy of this checklist for each item in order to establish a reasonable and good faith attempt at applying fair use, should any dispute regarding your use arise. In considering the fair use factors below, you are likely to find points both favoring and opposing fair use. This is not a mathematical exercise in counting boxes. By using the boxes, you will see the persuasive strength of your fair use argument and whether your use leans most convincingly for or against fair use.

**Description:** \_\_\_\_\_

**Instructor:** \_\_\_\_\_

**Course:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Amount:** Amount and substantiality of the portion used in relation to the copyrighted work as a whole

**Favoring Fair Use**

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

**Opposing Fair Use**

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

**Comments:**

**Purpose:** The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes

**Favoring Fair Use**

- Teaching (including multiple copies for classroom use)
- Research or scholarship
- Nonprofit education institution
- Criticism or comment
- News reporting
- Parody
- Transformative use

**Opposing Fair Use**

- Entertainment or Public Performance
- Commercial activity
- Profiting from the use
- Denying credit to original author
- Bad-faith behavior

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

**Favoring Fair Use**

- Restricted Access
- One or few copies made
- User own lawfully purchased or acquired copy of original work
- Lack of licensing mechanism for digital excerpt

**Opposing Fair Use**

- Making content publicly available
- Numerous copies made
- Could replace sale of copyrighted work
- Affordable permission or reasonably available licensing mechanism
- Repeated or long-term use

**Nature:** The nature of the copyrighted work. (fiction/creative or non-fiction/factual)

**Favoring Fair Use**

- Published work
- Factual or nonfiction based
- Important to educational objectives

**Opposing Fair Use**

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

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