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Fair Use (A revision of <http://copyright.universityofcalifornia.edu/fairuse.html>)

The University of California encourages “the wide dissemination of information and knowledge for its teaching, research, and public service mission, while also complying with copyright law.”

Introduction to fair use in teaching and research

The **1976 Copyright Act** provides important exceptions to the rights of copyright holders that are specifically aimed at nonprofit educational uses of copyrighted works and libraries. Two provisions of the copyright statute are of particular importance to teachers and researchers:

- A provision that codifies the doctrine of "fair use," which allows for limited copying of copyrighted works without the permission of the owner is for certain teaching and research purposes ([Section 107 of US Copyright Law](#)).
- A provision that establishes special exemptions for the reproduction of copyrighted works by libraries and archives ([Section 108 of UC Copyright Law](#)).

Fair use allows reproduction and other uses of copyrighted works under certain conditions for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research for educational and research purposes.

Four factors of fair use

Fair-use Statute Section 107 lists the following factors to be evaluated in determining whether a particular use of a copyrighted work is a permitted fair use:

- The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes -- uses in nonprofit educational institutions are more likely to be fair use than works used for commercial purposes, but not all educational uses are fair use.
- The nature of the copyrighted work -- reproducing a factual work is more likely to be fair use than a creative work such as a musical composition
- The amount and significance of the portion used in relation to the entire work -- reproducing smaller portions of a work is more likely to be fair use than large or essential portions
- The impact of the use upon the potential market for or value of the copyrighted work -- uses which have no or little market impact are more likely to be fair than those that interfere with potential markets.

The fair use exception is purposefully broad and flexible. It requires a thoughtful analysis of each of the four factors based on specific circumstances. In applying the four fair use factors, each factor is relevant in order to determine whether a particular use is a fair use. A final determination on fair use depends on

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weighing and balancing all four factors against the facts of an individual situation. UC faculty, staff, and students are encouraged to make decisions about a contemplated fair use of copyrighted works in an informed and reasonable manner in order to meet educational and research objectives.

If it is unclear whether a particular use would be permitted under fair use, you should consider **obtaining permission** [link to page/section on obtaining permissions] to use the work from the copyright owner.

Guidance on the use and limitations of fair use

In addition to the four factors of fair use, you can use the following questions to help assess your particular situation:

- Are you planning on using the work in a different way, or for a different purpose, than the original creator? In copyright terms, is your use transformative?
- Are you using an amount of that work that is appropriate to your new purpose?

An affirmative answer to both of these questions weighs in favor of fair use.

Resources for learning more about fair use: [A couple of these will be included in a sidebar... the rest will be on a "resources" page.]

- Code of Best Practices in Fair Use for Academic and Research Libraries, Center for Social Media, School of Communications, American University:
<http://www.centerforsocialmedia.org/libraries>.
- Code of Best Practices FAQs for professors, with questions like "How do I know if the material I put on e-reserves or CMS is a fair use?" <http://www.centerforsocialmedia.org/libraries/faq-professors>
- Wikipedia entry on Fair Use: http://en.wikipedia.org/wiki/Fair_use
- University of Minnesota Libraries' "Thinking Through Fair Use" analysis:
<https://www.lib.umn.edu/copyright/fairthoughts>
- Fair Use Slider from the American Library Association:
<http://librarycopyright.net/resources/digitalslider/>
- Myths about Fair Use:
http://www.insidehighered.com/views/2011/08/02/essay_calls_on_academics_to_use_their_fair_use_rights
- "Making MOOCs Easier," Kevin Smith, Library Journal, January 24, 2013:
<http://lj.libraryjournal.com/2013/01/opinion/peer-to-peer-review/making-moocs-easier-peer-to-peer-review/>