

## Fair Use Test

Is the copyrighted work being used for the purpose of education, criticism, comment or research?

- No. If not, the use probably doesn't qualify for the Fair Use defense
- Yes. If so, proceed to apply the four balancing factors below:

<b>PURPOSE</b> <ul style="list-style-type: none"><li><input type="checkbox"/> Use is for a non-profit/teaching objective</li><li><input type="checkbox"/> Use is not primarily for entertainment*</li><li><input type="checkbox"/> Use transforms the nature of the work (parody, review, commentary)</li><li><input type="checkbox"/> Use will be limited/occasional</li></ul>	<b>NATURE OF THE WORK BEING USED</b> <ul style="list-style-type: none"><li><input type="checkbox"/> Non-fiction or a collection of facts (some use of fiction can be Fair Use, if the amount used is reasonable and meets other Fair Use criteria)</li><li><input type="checkbox"/> Work being used is not specifically sold or marketed for use in the educational market</li></ul>
<b>AMOUNT OF THE WORK</b> <ul style="list-style-type: none"><li><input type="checkbox"/> Limited excerpts; a small portion of the work</li><li><input type="checkbox"/> Portion used is not the "heart of the work"</li><li><input type="checkbox"/> Work used does not exceed the amount needed to achieve the educational purpose</li><li><input type="checkbox"/> Amount used is within the parameters set forth in the <i>Agreement for Guidelines on Classroom Copying</i>**</li></ul>	<b>EFFECT ON THE MARKET</b> <ul style="list-style-type: none"><li><input type="checkbox"/> Work will be used with current students (password protected if online)</li><li><input type="checkbox"/> Copy is lawfully acquired</li><li><input type="checkbox"/> One or a few copies made</li><li><input type="checkbox"/> No significant effect on the market or potential market for the work</li><li><input type="checkbox"/> Copyrighted work is out of print, or the copyright owner is unidentifiable</li></ul>

\*Check Pittsford's movie licensing agreement for details surrounding public performance rights.

\*\* See [www.copyright.gov/circs/circ21.pdf](http://www.copyright.gov/circs/circ21.pdf)

Is it reasonable to conclude that, in balance, the factors surrounding your use favor "Fair Use"?

- No. Seek permission of the copyright owner. See your librarian with any questions.
- Yes. Don't forget to give credit to the creator of the work.

→ Consider keeping a copy of this worksheet in the event of an infringement claim.