12.4: Common Examples of Fair Use

Common Examples of Fair Use

Students and teachers rely on fair use in order to accomplish many of their educational goals. Below are some, but by no means all, educational activities that rely upon fair use.

**Student Projects**

Includes both media and text.

Your fair use analysis will change depending on how the project is presented, i.e. only the professor sees it, you present it to the whole class, you present it to a group outside of the class, or you post it online for anyone to see.

**Course Reserves**

Includes electronic reserves.

Instructors may copy or post small portions of books or journals for supplementary student readings, but cannot copy entire copyrighted works as a replacement for materials that students would normally be required to purchase.

**Sound or Video Clips for Teaching**

Students and teachers can make use of video or sound clips in creating multi-media presentations for use in the classroom.

**Digitization Projects**

Many university libraries rely on fair use in order to create large scale digitization projects that preserve older materials,
as well as providing improved access to their collections for the purpose of research. For an example of this type of
digitization project check out the HathiTrust Digital Library.

**Content in Scholarly Articles**

It is common to quote other researchers’ writings or use others’ images, graphs or charts in your own scholarly writing. These practices have long been considered acceptable under fair use.

**Access for the Disabled**

When specific exemptions don’t fit.

While there are specific exceptions that allow for making copies of copyrighted works in order to provide access to the visually handicapped, they are sometimes too narrow to provide complete access. In these cases it is possible to rely upon fair use in order to provide access to materials.

**Fair Use for Non-Educational Purposes**

Fair use is not only available for educational purposes. Many other commercial and non-commercial activities depend upon fair use. Some of these common fair uses include:

- Quotes in books, news reports and blogs
- Mash-ups and remixes
- Parody, such as on television shows like South Park or Saturday Night Live
- Video or sound clips in documentary films
- Thumbnail images on search engines

**Movie: Sesame Street: Gone With the Wind**

Check out this parody from Sesame Street.

An interactive or media element has been excluded from this version of the text. You can view it online here: https://ohiostate.pressbooks.pub/choosingsources/?p=637

**Myths about Fair Use**

Many people have heard of fair use and have some ideas about what it is. Unfortunately, there are many myths or misunderstandings about exactly what fair use covers, what the law states or how it can be applied. Below we dispel just a few of the most common myths about fair use.

**Myth 1: All educational use is fair use.**

**Fact:** While many educational uses are considered fair use, there are some activities that do not meet the fair use
criteria. For example, a teacher can’t make copies of an entire text book so that students don’t have to buy it.

Myth 2: Every educational use is transformative.

Fact: Using copyrighted works for teaching can often be a transformative use, but not always. For example, using a text book created to teach Biology 101 to teach Biology 101 is not transformative.

Myth 3: All socially beneficial use is fair use.

Fact: Fair use is designed to help balance the rights of the creator and the social benefit of using copyrighted works in certain ways. Not all uses of copyrighted works that would be socially beneficial, however, qualify as fair use. For example, scanning and posting an entire medical text book online for anyone to access for free is socially beneficial but probably not fair use.

Myth 4: All commercial use precludes fair use.

Fact: Many commercial activities, such as newspapers and online news sites, rely heavily on fair use.

Myth 5: It is not possible to have a fair use when a permissions scheme exists for a work.

Fact: Just because rights holders are willing to charge you to use their copyrighted material, does not mean that fair use cannot apply. For example, the Associated Press created a licensing scheme to quote from AP stories but quoting from news stories has long been considered fair use.

Myth 6: Fair use specifies a percentage or amount of a work that is okay to use.

Fact: The law does not state that using 10% of a book or 30 seconds of a song or video clip is fair use. You can often use more than these arbitrary limits, while sometimes using even less might not be fair use. The amount of the original work used is only one of the four factors to consider.