

# COPYRIGHT POLICY

DEPARTMENT OF FACULTY SUPPORT AND CAMPUS SERVICES  
GEORGETOWN UNIVERSITY LAW CENTER  
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Georgetown Law recognizes and respects intellectual property rights and limits. As part of our mission to maintain the highest standards for ethical conduct, we are committed to fulfilling our moral and legal obligations with respect to our use of copyright-protected works. We are also committed to minimizing unnecessary costs to our students and environmental impacts of unnecessary printing.

You must submit a [Copyright Permission Request Form](#) for each document or publication for which you are seeking copyright permission.

The Department of Logistics has designated [Jennifer Lane](#) (x9645) as the copyright permissions manager at Georgetown Law. She is available to help you determine how to handle any special copyright issues or questions that you may have.

**For your convenience, basic copyright guidelines can be found below.** Part I addresses when permission is not required. Part II addresses when permission is required. Part III provides a fair use checklist if you need to determine whether a proposed use is fair.

**IMPORTANT NOTE: Any materials that can be found online or through library resources (Westlaw, Lexis, Proquest, Heinonline, etc.) may not be included in new and unedited coursepacks. This includes all cases, statutes, regulations, law review articles, and any material publicly available online. Instead of including these materials in coursepacks, instructors are expected to provide the citations or links to these materials within syllabi or provide the citation for their students to access the materials through these resources. Do not submit copyright permission requests for these materials. Georgetown Law will not process such requests as no copyright permission is needed for publicly available web pages, and faculty, students, and staff have unlimited access to such databases for educational use.**

This policy may not apply to coursepacks with highly edited materials. We may also make short-term exceptions for existing coursepacks where switching would be burdensome. **Faculty who have materials that fall into one or both these categories should email [Anna Selden](#), who can authorize exceptions.** If you are constructing a new coursepack and are not editing the materials (e.g., you are simply assigning a page range from an article), the policy applies to you.

If you are having difficulty locating links to particular materials, please contact the [Library Faculty Services](#) desk. Links can be made available within your course materials or can be posted on a course management website. More generally, we encourage you to use a course management website for your supplementary materials, for the convenience of students and the lower cost and environmental impact of electronic materials.

# Part I: Basic Copyright Guidelines for Coursepacks and Canvas

## All Materials:

All materials included in a coursepack or on Canvas (Georgetown's course management system) must include the source citation and a notice of copyright (where applicable) for each item.

## What does not require permission?

- Anything in the public domain, which includes all works published before 1923.
- Any works of the United States Government, works by state or local governments, international organizations, or foreign governments. (U.S. or state cases, statutes, and/or regulations, per this Copyright Policy, will not be reproduced.)
- Anything that has a Creative Commons license or other similar license allowing its free re-use for educational purposes. For example, many law reviews allow such use; you may have to check the law review's front matter or website if an individual article doesn't specify.
- Anything that the author has granted blanket permission for re-use, or has expressly stated is public domain.
- Anything where you, the professor, hold the copyright.
- Anything that is fair use. **A fair use checklist is included at the end of this document.**

If you are using original, unedited versions of cases or other works for which permission is not required, rather than including the entire text, please provide the citation and request that the students go to Westlaw or Lexis to obtain the material. While we do not pay copyright fees for those materials, decreasing the number of pages in your course pack will reduce the cost to the students in your course.

Faculty are encouraged, whenever possible, to post course readings and other material to Canvas, Georgetown's course management system. [Canvas](#) can be accessed by any faculty, student, or staff with a Georgetown NetID and password. Canvas sites are created automatically for each course listed with the Registrar's Office, with the teaching faculty given permissions to upload materials in many formats. For Canvas issues, please contact [Jennifer Lane](#).

## Part II: Obtaining Copyright Permissions

**Reminder:** You don't need to conduct a fair use analysis or obtain permission when you are using links. If you are having difficulty locating links, please contact [Library Faculty Services](#). You may make the links available within your materials or on Canvas.

**You must obtain copyright permission to reproduce copyrighted materials when (1) they are not available under a free license and (2) your use goes beyond fair use.** For any materials that are not available through links and for which permission is required, faculty must submit requests for copyright permission through the Office of Faculty Support.

You must submit a [Copyright Permission Request Form](#) for each document or publication for which you are seeking copyright permission.

**Please note:** Faculty Support will submit your request for copyright permission online via the Copyright Clearance Center, so it is very important to provide all the information requested, particularly the ISBN number for books, or the ISSN number for non-law journals. You will need to submit information for one publication at a time, but you may include multiple page ranges from the same article/book in the same submission form. Please contact [Jennifer Lane](#) (x9645) for questions regarding copyright permission.

# Part III: A Checklist for Determining Fair Use<sup>1</sup>

## *Introduction to the Checklist*

The Fair Use Checklist and variations on it have been widely used for many years to help educators, librarians, lawyers, and many other users of copyrighted works determine whether their activities are within the limits of fair use under U.S. copyright law (Section 107 of the [U.S. Copyright Act](#)). Fair use is determined by a balanced application of **four factors** set forth in the statute:

- (1) the purpose of the use;
- (2) the nature of the work used;
- (3) the amount and substantiality of the work used; and
- (4) the effect of the use upon the potential market for or value of the work used.

Those factors form the structure of this checklist. Congress and **courts** have offered some insights into the specific meaning of the factors, and those interpretations are reflected in the details of this form.

## *Benefits of the Checklist*

A proper use of this checklist serves two purposes. First, it should help you to focus on factual circumstances that are important in your evaluation of fair use. The meaning and scope of fair use depends on the particular facts of a given situation, and changing one or more facts may alter the analysis. Second, the checklist can provide an important mechanism to document your decision-making process.

## *The Checklist as Roadmap*

As you use the checklist and apply it to your materials, you are likely to check more than one box in each column and even check boxes across columns. Some checked boxes will favor fair use and others may oppose fair use. A key issue is whether you are acting reasonably in checking any given box, with the ultimate question being whether the cumulative weight of the factors favors or turns you away from fair use. This is not an exercise in simply checking and counting boxes. Instead, you need to consider the relative persuasive strength of the circumstances and if the overall conditions lean most convincingly for or against fair use. Because you are most familiar with your project, you are probably best positioned to evaluate the facts and make the decision.

## *Further Information*

You can learn more about fair use from many sources, including the Center for Media & Social Impact's [website on Fair Use Best Practices](#).

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<sup>1</sup> Adapted from the Columbia University checklist, by Kenneth D. Crews (Columbia University) and Dwayne K. Buttler (University of Louisville) under a Creative Commons Attribution Only license (<http://creativecommons.org/licenses/>), with additional material adapted from Georgia State University.

## Fair Use Checklist

Instructions: Where the factors favoring fair use outnumber those against it, reliance on fair use is justified. Where fewer than half the factors favor fair use, instructors should seek permission from the rights holder. Where the factors are evenly split, instructors should consider the total facts weighing in favor of fair use as opposed to the total facts weighing against fair use in deciding whether fair use is justified. Not all of the facts will be present in any given situation. Check only those facts that apply to your use. No single item or factor is determinative of fair use. Please contact [Jennifer Lane](#) with any questions.

Name: \_\_\_\_\_

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

Course and Term: \_\_\_\_\_

Title of Copyrighted Work: \_\_\_\_\_

Author and Publisher: \_\_\_\_\_

Portion(s) to be used (e.g., pages, timer counts): \_\_\_\_\_

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### Factor 1: Purpose and Character of the Use

#### *Weighs in Favor of Fair Use*

- Nonprofit Educational Institution
- Noncommercial, nonprofit educational use
- Purpose of teaching (including multiple copies for classroom use) and/or scholarship or criticism, comment, reporting, or parody
- Transformative (use changes work for new meaning, message, or purpose, e.g., juxtaposing excerpts to provide critical insights; exposing weakness or deep structure of original)
- Use is necessary to achieve your intended educational purpose

#### *Weighs Against Fair Use*

- For public distribution
- Commercial activity, profit from use
- Used for entertainment
- Mirror image copying (no new meaning, message, or purpose)

Overall:

*Factor Weighs in Favor of Fair Use*

*Factor Weighs Against Fair Use*

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## **Factor 2: Nature of Copyrighted Work**

### *Weighs in Favor of Fair Use*

- Published work
- Factual/informational and educational in nature or nonfiction work
- Non-consumable work

### *Weighs Against Fair Use*

- Unpublished work
- Fiction or highly creative work (art, music, novels, films, plays, poetry)
- Consumable work (workbook, test)

Overall:

- Factor Weighs In Favor of Fair Use*
  - Factor Weighs Against Fair Use*
- 

## **Factor 3: Amount and Substantiality of Portion Used**

### *Weighs in Favor of Fair Use*

- Small portion of work used (no more than 10% of a work not divided into chapters or having less than 10 chapters; or no more than 1 chapter of a 10 or more chapter work)
- Portion used is not central or significant to entire work as a whole
- Amount taken is narrowly tailored to accomplish a demonstrated, legitimate purpose in the course curriculum; amount taken corresponds to instructor's purpose and is not more than necessary
- Access limited to students enrolled in course for only the term of the course

### *Weighs Against Fair Use*

- Large portion or entire work used (more than 10% of work not divided into chapters or having less than 10 chapters or more than 1 chapter of a 10 or more chapter work)
- Portion used is central to work or "heart of the work"
- Amount taken is more than necessary to accomplish a demonstrated, legitimate purpose in the course curriculum or is not narrowly tailored to accomplish a demonstrated legitimate purpose in the course curriculum
- Access not limited

Overall:

- Factor Weighs in Favor of Fair Use*
  - Factor Weighs Against Fair Use*
-

**Factor 4: Effect on Market for Original**

*Weighs in Favor of Fair Use*

- Permission for digital excerpt is not readily available from publisher or Copyright Clearance Center at a reasonable price
- Decidedly small portion used
- User owns lawfully acquired or purchased copy of original work
- Use stimulates market for original work

*Weighs Against Fair Use*

- Permission for digital excerpt is readily available from publisher or Copyright Clearance Center at a reasonable price
- Large portion or entire work used
- User does not own lawfully acquired or purchased copy of original work
- Use impairs the market or potential market for original work

Overall:

- Factor Weighs in Favor of Fair Use*
- Factor Weighs Against Fair Use*