Copyright law creates a balance between creators and users of information to advance society. Some copyright laws give creators exclusive control over others’ uses of their works. Other copyright laws give the public the right to use those works under certain circumstances. Fair use is one law that gives individuals flexibility to use copyrighted works without permission in ways that lead to progress in science and culture.

When courts evaluate whether a use of someone else’s copyrighted work is protected by fair use, they consider four factors:

1. **THE PURPOSE AND CHARACTER OF USE**
   - Educational uses such as teaching, research, scholarship, criticism, comment
   - Transformative or productive use
   - Nonprofit use
   - Commercial or entertainment uses
   - Verbatim uses/exact copies
   - Profit-generating uses

2. **THE NATURE OF THE ORIGINAL WORK**
   - Factual, nonfiction, news
   - Published works
   - Creative works (art, music, fiction), consumable works (workbooks, tests)
   - Unpublished works

3. **THE AMOUNT AND SUBSTANTIALLY OF THE PORTION USED**
   - Small quantity (e.g., single chapter or less than 10% of original)
   - Portion used is not central to entire work
   - Amount is appropriate to education purpose
   - Large portion/entire work
   - Portion used is the “heart” of the original work
   - Includes more than necessary for educational purposes

4. **THE EFFECT ON THE POTENTIAL MARKET FOR THE WORK**
   - No significant effect on the market for the original work
   - Copies made and/or distributed
   - Original work no longer in print, no licensing mechanism available
   - Restricted access (Limited to a small group)
   - One-time, spontaneous use
   - Acts as a substitute for purchase of the original work
   - Numerous copies distributed
   - Original material easily licensable, permissions easy to obtain
   - Public availability or broad dissemination
   - Repeated or long-term use

Every use of a copyrighted work is unique. Courts analyze each use on a case-by-case basis.

Use Cornell’s Fair Use Checklist to help determine if your use is a Fair Use!

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