

**AZUSA PACIFIC UNIVERSITY
COPYRIGHT COMPLIANCE FAIR USE
CHECKLIST**

According to Azusa Pacific University's Copyright Compliance Policy, all members of the APU community, including faculty, staff, students, administrators, and volunteers are required to avoid actions that constitute an infringement of a third party's copyright. The university agrees to defend legal actions brought against members for alleged copyright violations which occur in the course of carrying out their responsibilities for the university, provided that such members acted in *good faith* by following the guidelines referenced below, the legal advice of the Office of General Counsel, and the direction provided by university officials regarding their department procedures, including the University Libraries' guidance concerning the use of its copyrighted resources and this Copyright Compliance Checklist. Members who disregard the foregoing place themselves individually at risk of liability and, in such cases, the university may decline to defend the individual.

Good faith is presumed when, prior to making use of any copyrighted work, the member (1) reviews the policy and this checklist and, in cases where the faculty member is not sure if the contemplated use of copyrighted material comports with copyright requirements, (2) completes this Copyright Compliance Checklist, submits it to the University Libraries, and follows the suggestions of the University Libraries and any legal advice provided by the Office of the General Counsel.

Instructions: Please (1) fill out this form, checking all boxes that apply, (2) retain a copy for your records, and (3) provide a copy to the University Libraries at copyright@apu.edu at least three weeks prior to the time you intend to use the copyrighted work.

Your Name: _____ Date: _____

Your Department: _____

Name, Author, Publisher and Publication Date (if known) of the Copyrighted Work:

Describe Anticipated Use of Copyrighted Work: _____

Do you have written permission or a license to use the copyrighted work for the purpose intended? Yes No If yes, please attach a copy of the permission or license.

Did you lawfully acquire your copy of the copyrighted work? Yes No How did you acquire it? _____

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This checklist is adapted from the Fair Use Checklist created by Kenneth D. Crews (Columbia University) and Dwayne K. Butler (University of Louisville), which is used under a Creative Commons Attribution Only license (<http://creativecommons.org/licenses>).

1. What is the purpose and character of your use of the copyrighted work?

Favoring Fair Use

- nonprofit
- educational
- personal (as opposed to commercial)
- restricted access to students or other appropriate group

- news reporting
- commentary

- criticism

- teaching (including multiple copies for classroom use)
- research
- scholarship
- parody
- other transformative use (changes the work for a new utility)

Opposing Fair Use

- commercial activity
- for profit
- advertising
- profiting from the use

- bad-faith behavior
- denying credit to original owner or copyright holder
- making it accessible on the internet for wide, unrestricted distribution
- entertainment

2. What is the nature of the copyrighted work itself?

Favoring Fair Use

- the work is factual / non-fiction
- the work is published
- the work is important to favored educational objectives

Opposing Fair Use

- the work is highly creative (music, art, novels, films, plays, etc.)
- the work is not published
- the work is fiction

3. What is the amount and substantiality of the portion used in relation to the copyrighted work as a whole?

Favoring Fair Use

- not the heart of the work (it is not central or significant to the entire work)
- appropriate in light of purpose (favored educational purposes)
- small amount of the entire work is used (state how much of the work is being used by percentage: ____%)

Opposing Fair Use

- portion used is central to the work (the “heart of the work”)
- more than a small amount or entire work is used (state how much of the work is being used by percentage: ____%)

4. What is the effect, if any, of your use of the copyrighted work on the potential market for or value of the copyrighted work?

Favoring Fair Use

- user owns lawfully acquired copy
- one or few copies made
- original is out-of-print
- original is not available for purchase
- permission (license) cannot be obtained
- copyright holder is unknown (search and documentation is required)

Opposing Fair Use

- use results in marketplace competition against the original work
- many copies made
- original is in wide-distribution
- affordable permission could be easily obtained
- avoids payment for permission (royalties) in an established permissions market
- repeated or long-term use
- replaces potential sale of work
- use is for a purpose for which the work is marketed (e.g., educational use of a textbook)

5. Balancing the above factors: Based on the above factors, do you believe the use you intend to make of the copyrighted work is *fair use*? Explain why or why not.

The use I intend to make of the copyrighted work is fair use / not fair use because:
