

## Transcript of the video “What is fair use?”

Fair use is a part of the U.S. law that allows an exception to the copyright law for educational and socially useful activities. These activities include teaching, research, criticism, commentary, parody, news reporting and other uses.

To determine whether a use is fair, one must balance the four factors that appear in the statute. This isn't a mechanical tallying, but rather a weighing of all four factors. Those four factors are:

- the **purpose** and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes;
- the **nature** of the copyrighted work, including whether it is more fact based or highly creative;
- the **amount** and substantiality of the portion used in relation to the copyrighted work as a whole, this includes not only the percentage used but also how important the part used is relative to the whole work;
- and finally the **effect** of the use upon the potential market for or value of the copyrighted work.

One thing to remember: you cannot assume that all educational use is fair use.

The fair use statute only provides a framework for analyzing and applying the facts. The law lacks specificity but this also means that it is also flexible and that we can apply the part of the law as new situations, uses, and technologies arise. It can be difficult to determine if an intended use fits within the limitations of the fair use statute. But using a checklist can help one think about fair use in an organized way.

What's the next step if one concludes that the intended use is outside of fair use? There are a few different options. One is to seek permission from the rightsholder. Another is to make a change in the intended use, such as reducing the amount used, changing the way that you distribute the work, or other changes. Another option is to substitute a work that is available in the public domain or with a Creative Commons license.

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