

FAIR USE CHECKLIST
(Required to Place Copyrighted Material on Blackboard)

This checklist must be completed and provided to the Information Technology department if a faculty member wishes to place any copyrighted material on Blackboard. The checklist helps in determining whether a projected educational use of copyrighted materials falls under “fair use” as stipulated by U.S. Copyright Law or requires payment for permission from the publisher.

In making your determination, please check all boxes that apply in the left and right columns. The information in the middle column can add weight to a decision favoring fair use if applicable, but it does not guarantee fair use applies.

If you find that you have marked more boxes in the left column than in the right column, then you can assume that fair use is justified. Sign this form and submit it to Information Technology staff whether you are placing the item on BlackBoard or IT will do it.

If the number of marked boxes in the two columns is equal or there are more marked boxes in the right column, then you should first check to see if the Seminary is covered by its agreement with the Copyright Clearance Center, and if not, either pay for your planned use at the Copyright Clearance Center or seek permission directly from the publisher for your planned use. (See “Guide to Seeking Copyright Permission” on the library’s website at <http://library.upsem.edu/Pages/Copyright.html>)

In all cases, faculty should complete this form, provide a signed copy to the IT department and retain a copy for their files.

Name: _____ Date: _____

Course: _____

Term: _____

I confirm below by checking the appropriate box and signing my name that the materials that will be placed on Blackboard either complies with “fair use” guidelines or I have made appropriate arrangements to procure copyright permission for its use on Blackboard.

- Intended use is “fair use”** **Payment required and has been arranged**

Signature (REQUIRED)

Guidelines/Rules of Thumb

Favoring Fair Use *Opposing Fair Use*

What is the purpose and character of the work to be used?

<input type="checkbox"/> Non-profit <input type="checkbox"/> Educational <input type="checkbox"/> Personal	Criticism Commentary News reporting Parody Otherwise "transformative" use	<input type="checkbox"/> Commercial <input type="checkbox"/> Entertainment <input type="checkbox"/> Denying credit to original author
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What is the nature of the work to be used?

<input type="checkbox"/> Fact or non-fiction based <input type="checkbox"/> Published <input type="checkbox"/> Important to favored educational objectives	A mixture of fact and imagination	<input type="checkbox"/> Unpublished <input type="checkbox"/> Highly creative (art, music, novels, films, plays)
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How much of the work do you intend to use?

<input type="checkbox"/> Small amount <ul style="list-style-type: none"> • Complete article, story or essay of up to 2500 words • Prose: excerpt of not more than 10% of work • One chart, graph, diagram, cartoon or picture per book or periodical issue • Text source: 10% or 1000 words • Poetry: An entire poem of less than 250 words, but no more than 3 poems or excerpts by one poet • Music, Lyrics, Music Video: Up to 10% but not more than 30 seconds total from an individual work • Motion Media: Up to 10% or 3 minutes • Illustrations, Photographs: No more than 5 images by one artist; No more than 10% or 15 images, whichever is less, from any single published work <input type="checkbox"/> Portion used is not the 'heart of the work'.	<input type="checkbox"/> Large portion or whole work <input type="checkbox"/> Portion used is 'heart of the work'
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Favoring Fair Use

Guidelines/Rules of Thumb

Opposing Fair Use

What would be the effect on the potential market value of the copyrighted work?

<ul style="list-style-type: none"> <input type="checkbox"/> User has lawfully acquired copy of original work (Library or personal copy) <input type="checkbox"/> No more than one copy made per student <input type="checkbox"/> Lack of licensing mechanism <input type="checkbox"/> Used for only one term and class <input type="checkbox"/> The decision to use the material does not allow time to get permission (<u>first time use only</u>) <input type="checkbox"/> The evaluation of the first three factors tips the scales in favor of fair use 	<p>Original is out of print or otherwise unavailable</p> <p>Copyright owner is unidentifiable</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Could replace sale of copyrighted work <input type="checkbox"/> Avoids payment for permissions in an established permissions market <input type="checkbox"/> Affordable permission is available for using the work <input type="checkbox"/> You make the copy accessible on the Web or in another public forum <input type="checkbox"/> Same text is being used for a second term or second class or repeatedly over the years <input type="checkbox"/> You have very few or no texts that students must purchase so that the vast majority of your required texts are available on e-reserves.
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This form was adapted for use by Union-PSCE from two publicly-shared documents.
Checklist for Fair Use, Dr. Kenneth Crews, Copyright Management Center at Indiana University.
http://www.ibiblio.org/pub/electronic-publications/stay-free/ml/readings/fairuse_checklist.pdf
Crash Course in Copyright from the University of Texas, license under a Creative Commons License. <http://creativecommons.org/licenses/by-nc-sa/2.0/>

Steps to Clearing Copyright

1. Use the “Fair Use Checklist” to determine if your use represents “fair use” – (the checklist is available on the library website at <http://library.upsem.edu>)
2. If the use appears NOT to represent “fair use” then seek copyright permission by using the Copyright Clearance Center (www.copyright.com/aclacademic)¹
 - a. Create an account the first time you visit this site
 - b. Determine whether Union Seminary is covered through our arrangement with the Copyright Clearance Center
 - c. If we are not covered, then pay for the use by invoice
3. Give the signed “Fair Use Checklist” to Lou McKinney whether you place material on Blackboard yourself or Lou does
4. If payment was necessary, give the Invoice to April Swofford who will charge the cost to your department

¹ Full instructions for how to navigate the Copyright Clearance Center at <http://www.copyright.com> can be found on Blackboard under “OFINE” in the folder for “Copyright Info.”