



FAIR USE CHECKLIST

(Required to Place Copyrighted Material on the Seminary's LMS)

This checklist must be completed by faculty and provided to the Academic Dean's Office on their campus together with a copy of the related syllabus if a faculty member wishes to place any copyrighted material on the Seminary's LMS that has not already been licensed for such use by the Seminary Library which is using links provided by the Library. 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 (by percentage) 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 the Academic Dean's Office on your campus together with a copy of the relevant syllabus**

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 the "Copyright in the Seminary" guide <https://upsem.libguides.com/copyright/home>)

In all cases, faculty should complete this form, provide a signed copy to the Academic Dean's Office on their campus, and retain a copy for their files.

Name: _____ Date: _____
Course: _____
Term: _____ Item Citation: _____

I confirm below by checking the appropriate box and signing my name that the materials that will be placed on the Seminary's LMS either comply with "fair use" guidelines or I have made appropriate arrangements to procure copyright permission for its use on the LMS.

- Intended use is "fair use"**
- OR**
- Payment required and has been arranged**

Signature (Required) _____ **Date** _____



What is the **PURPOSE** and **CHARACTER** of the work to be used?

FAVORS FAIR USE	OPPOSES FAIR USE
<input type="checkbox"/> Non-Profit Institution	<input type="checkbox"/> Commercial
<input type="checkbox"/> Educational setting / to teach (this includes multiple copies, as long as they conform to the UPSem Copyright Policy)	<input type="checkbox"/> Entertainment
<input type="checkbox"/> Personal Use, not to be used elsewhere	<input type="checkbox"/> Using the work in bad faith
<input type="checkbox"/> To transform the work in some way, i.e.: <ul style="list-style-type: none"> • Criticism • Commentary • News Reporting • Parody 	<input type="checkbox"/> Intent to deny credit to the work's original creator
<input type="checkbox"/> Access restricted to a small, specific group (such as a single class)	

What is the **NATURE** of the work to be used?

FAVORS FAIR USE	OPPOSES FAIR USE
<input type="checkbox"/> Published Work	<input type="checkbox"/> Unpublished Work
<input type="checkbox"/> Either Fact or Non-Fiction Based	<input type="checkbox"/> Highly creative (art, music, novels, films, plays)
<input type="checkbox"/> Important to favored educational objectives	<input type="checkbox"/> Fiction



HOW MUCH of the work will be used?

FAVORS FAIR USE	OPPOSES FAIR 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"/> Large portion or entire work is used
<input type="checkbox"/> Portion used is not central or significant to the “heart” of the work	<input type="checkbox"/> Portion is central to the “heart” of the work
<input type="checkbox"/> Amount is appropriate for the favored educational purpose, as long as it does not conflict with the amounts listed above	



What is the **EFFECT ON THE POTENTIAL MARKET VALUE** of the work to be used?

FAVORS FAIR USE	OPPOSES FAIR USE
<input type="checkbox"/> User owns a lawfully acquired copy of the work (personal or Library)	<input type="checkbox"/> Usage could replace the sale of the copyrighted work
<input type="checkbox"/> Only one (or no) copies are made	<input type="checkbox"/> Usage significantly impairs the market or potential market for the work or its derivatives
<input type="checkbox"/> Use will have no significant effect on the market (or potential market) for the copyrighted work	<input type="checkbox"/> Reasonably available licensing mechanism for the work exists
<input type="checkbox"/> No similar work is marketed by the copyright holder	<input type="checkbox"/> Affordable permission for using the work is available
<input type="checkbox"/> There is no mechanism to license the work	<input type="checkbox"/> Numerous copies are made by the instructor
<input type="checkbox"/> The decision to use the material was made at short notice, so there is no time to license the work (applicable only first time the work is used)	<input type="checkbox"/> Instructor makes a copy available on the internet or on another public forum.
	<input type="checkbox"/> Repeated and/or long-term use
	<input type="checkbox"/> The class requires the purchase of very few or no other texts for the class.



STEPS TO CLEARING COPYRIGHT

- I. Use the “Fair Use Checklist” to determine if your use represents “fair use” – (the checklist is available on the Library’s online copyright guide at <http://library.upsem.edu>)
- II. If the use appears NOT to represent “fair use” then seek copyright permission by:
 - A. Looking for a licensed copy in the Library’s databases or e-book collection
 1. For articles, search the Library’s databases:
<https://library.upsem.edu/research-resources/online-databases/>
 2. For e-books, search the Library’s catalog:
https://upsem.ent.sirsi.net/client/en_US/default
 3. Use the “permalink” option to link to the work. DO NOT DOWNLOAD THE WORK ITSELF! It’s only Fair Use if each student downloads their own copy.
 4. If you need help to create working permalinks, contact the Library’s Director of Public and Electronic Services.
 - B. Using the Copyright Clearance Center:
 1. <http://www.copyright.com/aclademic>
 2. Create an account the first time you visit this site
 3. Determine whether Union Presbyterian Seminary is covered through our arrangement with the Copyright Clearance Center
 4. If we are not covered, then pay for the use by invoice
 5. If you need help, contact the Director of the Library’s Instructional Resource Center.
- III. Give the signed “Fair Use Checklist” together with a copy of the relevant syllabus to the Academic Dean’s Office on your campus.
- IV. If payment is necessary, give the Invoice to Jennifer Britton, who will charge the cost to your department.

TEACH ACT ACCEPTABLE USE CHECKLIST

