

Guidelines for Establishing Fair Use at William Paterson University

The basic fair use calculation – whether social benefit is greater than private loss – is framed in law with deliberate vagueness. Fair use is always a case-by-case decision. The Copyright Act builds in several examples of ways to reason about fair use. The statute requires, at a minimum, considering the character of the use (what are you doing with the material?), the nature of the original work (is it mainly factual reportage, or an imaginative production?), the amount taken (and whether it's the central part of the work), and the effect of taking on the market value of the work. A typical fair-use calculation today can be distilled into three questions as adapted from Aufderheide and Jaszi (24-25)¹:

1. Do you intend to use this copyrighted material for a different purpose than its original purpose? Do you intend to show it to a different audience than its original audience? (If so, it probably adds something new to the cultural pool.) For example, are you taking copyrighted material originally created for entertainment purposes and using it for educational purposes, and not showing it to a general audience but only to students enrolled in your course?
2. Do you intend to use only as much of the copyrighted material as is appropriate to your purpose of the use? (Can the purpose be clearly articulated? Is the amount taken proportional? Or is it too much?)
3. Is your particular use reasonable within your field or discipline?

If you find yourself answering “yes” to these questions, you probably have established grounds for claiming fair use.²

¹ Aufderheide, Patricia, and Peter Jaszi. *Reclaiming Fair Use: How to Put Balance Back in Copyright*. The University of Chicago Press, 2001. Print.

² WPU's official copyright policy is codified at: <http://www.wpunj.edu/library/copyright/copyright-policy.dot>

Request for Digitization for Courses

Name:

Department:

Email:

Phone:

Course Title and #:

Term (circle one): Fall/Spring/Summer

Year:

Course Type (circle one): Online/Hybrid/Face-to-face

Title of Work:

Call Number (if applicable):

Will you be using the whole work or just a part of it? (circle one) Whole/Part

Briefly describe the amount and purpose of the digitization you are requesting:

I have read and familiarized myself with my institution's fair use guidelines and am submitting this document to assert that my intended use of the copyrighted work as stated above is a fair one.

Signature:

Date: