

# Copyright Under Quarantine

An OhioNET Webinar

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# Today

- Ask me your questions!
- Will work to provide information and direction to tools and resources that can help you make an informed decision
- Considerations for legal advice

# Working Through Your Options

Recommended resource: [A Framework for Analyzing any U.S. Copyright Problem](#)

1. Is the work protected by copyright?
  - i. If yes, who holds the rights?
2. Is there a license that covers my use?
  - i. This could be a license the library agreed to
  - ii. It could be a license attached to the work (e.g., a Creative Commons license)
3. Is there an exception (user right) that covers my use (e.g., 107, 108, 109, 110)?
4. Can I obtain permission or a license from the rightsholder?

# Special Resources for This Period of Remote Delivery of Services and Resources

- Resources on Copyright & Emergency Remote Teaching & Research: <https://tinyurl.com/v6dvmcb>
- Public Statement of Library Copyright Specialists: Fair Use & Emergency Remote Teaching & Research: <https://tinyurl.com/tvnty3a>
- Reading Aloud: [https://docs.google.com/document/d/15zf0ue6aWM-TaxQG2eALP612-E\\_f7A6JtoqZKxaQIM/edit](https://docs.google.com/document/d/15zf0ue6aWM-TaxQG2eALP612-E_f7A6JtoqZKxaQIM/edit)
- Consideration for Online Story Time: <https://programminglibrarian.org/articles/online-story-time-coronavirus-it%E2%80%99s-fair-use-folks>

# Tools and Resources

# Using Tools

- These decisions are very subjective and need to be made by the person utilizing the protected work
- Only work if you are completely honest!

# ALA Fair Use Evaluator

<http://librarycopyright.net/resources/fairuse/>



## What this tool can do for you:

- Help you better understand how to determine the "fairness" of a use under the U.S. Copyright Code.
- Collect, organize & archive the information you might need to support a fair use evaluation.
- Provide you with a time-stamped, PDF document for your records [\[example\]](#), which could prove valuable, should you ever be asked by a copyright holder to provide your fair use evaluation and the data you used to support it. [\[why is this important?\]](#)
- Provide access to educational materials, external copyright resources, and contact information for copyright help at local & national levels.

## What this tool cannot do for you:

- This tool does not provide legal advice. It records the information you provide it as well as your own judgment on the fairness of the use. See the tool [\[disclaimer\]](#) for more information.
- Only a court of law can definitively rule on whether a use is fair or unfair. This tool does not assume or predict a court outcome.



Make a Fair Use Evaluation



Learn More about Fair Use

Local Copyright Information  
© 2008 Michael Brewer & ALA Office for Information Technology Policy



# Kenneth D. Crews' Fair Use Checklist

<https://copyright.columbia.edu/content/dam/copyright/Precedent%20Docs/fairusechecklist.pdf>

**Fair Use Checklist**  
Copyright Advisory Office  
Columbia University Libraries  
Kenneth D. Crews, Director  
<http://copyright.columbia.edu>

Name: \_\_\_\_\_  
Institution: \_\_\_\_\_  
Project: \_\_\_\_\_  
Date: \_\_\_\_\_  
Prepared by: \_\_\_\_\_

**Purpose**

Favoring Fair Use	Opposing Fair Use
<input type="checkbox"/> Teaching (including multiple copies for classroom use)	<input type="checkbox"/> Commercial activity
<input type="checkbox"/> Research	<input type="checkbox"/> Profiting from the use
<input type="checkbox"/> Scholarship	<input type="checkbox"/> Entertainment
<input type="checkbox"/> Nonprofit educational institution	<input type="checkbox"/> Bad-faith behavior
<input type="checkbox"/> Criticism	<input type="checkbox"/> Denying credit to original author
<input type="checkbox"/> Comment	
<input type="checkbox"/> News reporting	
<input type="checkbox"/> Transformative or productive use (changes the work for new utility)	
<input type="checkbox"/> Restricted access (to students or other appropriate group)	
<input type="checkbox"/> Parody	

Fair Use Checklist p. 2

**Nature**

Favoring Fair Use	Opposing Fair Use
<input type="checkbox"/> Published work	<input type="checkbox"/> Unpublished work
<input type="checkbox"/> Factual or nonfiction based	<input type="checkbox"/> Highly creative work (art, music, novels, films, plays)
<input type="checkbox"/> Important to favored educational objectives	<input type="checkbox"/> Fiction

**Amount**

Favoring Fair Use	Opposing Fair Use
<input type="checkbox"/> Small quantity	<input type="checkbox"/> Large portion or whole work used
<input type="checkbox"/> Portion used is not central or significant to entire work	<input type="checkbox"/> Portion used is central to or "heart of the work"
<input type="checkbox"/> Amount is appropriate for favored educational purpose	

**Effect**

Favoring Fair Use	Opposing Fair Use
<input type="checkbox"/> User owns lawfully purchased or acquired copy of original work	<input type="checkbox"/> Could replace sale of copyrighted work
<input type="checkbox"/> One or few copies made	<input type="checkbox"/> Significantly impairs market or potential market for copyrighted work or derivative
<input type="checkbox"/> No significant effect on the market or potential market for copyrighted work	<input type="checkbox"/> Reasonably available licensing mechanism for use of the copyrighted work
<input type="checkbox"/> No similar product marketed by the copyright holder	<input type="checkbox"/> Affordable permission available for using work
<input type="checkbox"/> Lack of licensing mechanism	<input type="checkbox"/> Numerous copies made
	<input type="checkbox"/> You made it accessible on the Web or in other public forum
	<input type="checkbox"/> Repeated or long-term use

Most recent revision: 051408



# Think Through Fair Use

**Thinking Through Fair Use - My Analysis**

Name/title of document or item to be used

**Factor #1: Purpose and character of the use**  
[\(more info\)](#)

<b>Favors Fair Use</b>	<b>Weights Against Fair Use</b>
<input type="checkbox"/> Educational, scholarly, and research uses, and/or news reporting	<input type="checkbox"/> Commercial activity
<input type="checkbox"/> Criticism or commentary	<input type="checkbox"/> Profiting from use
<input type="checkbox"/> Non-profit use, including personal uses	<input type="checkbox"/> Decorative or other non-critical, non-commentary use
<input type="checkbox"/> Transformative use (creates a new work with a new purpose), including parody and transformative technologies	

**Notes:** Enter additional thoughts regarding the purpose of your proposed use.

**Overall thoughts on your purpose**

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
strongly favors fair use	somewhat favors fair use	neutral	somewhat weighs against fair use	strongly weighs against fair use

Tip: Think of checklist tools as a list of things to consider and a way to help you work-through/balance the factors, not an exercise in checking and counting boxes.

<http://www.lib.umn.edu/copyright/fairthoughts>

# TEACH Act Resources

- TEACH Act Toolkit:  
<https://www.lib.lsu.edu/services/copyright/teach/index>
- Copyright Crash Course/TEACH Act info:  
<https://guides.lib.utexas.edu/copyright/teachact>

# Creative Commons Licenses

- Literature, music, art, and much more!
- Use in terms with the attached license
- Learn more about the licenses:  
<https://creativecommons.org/licenses/>
- Search for CC licensed resources here:  
<https://ccsearch.creativecommons.org/>

# Determining the copyright status of a Work

- Copyright and the Public Domain in the US charts:

<https://copyright.cornell.edu/publicdomain>

# Questions?

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