How do I determine if something is fair use?

Section 107 of the Copyright Act, 17 U.S.C. § 107, allows use of copyrighted works for certain limited purposes, such as teaching and scholarship, but only if the use is fair as determined by applying a four factor test. Specific information about fair use and the four factor test is available via Loyola University Chicago’s web page Fair Use Checklist and Use of Copyrighted Works by University Faculty. Additional resources discussing fair use are listed below:

Know Your Copy Rights, Resources for Teaching Faculty, Part II: Uses in the Online Classroom/Course Management System answers FAQs pertaining to copyright and courseware. Source: Association of Research Libraries.

Copyright Crash Course, Fair Use discusses each of the four fair use factors with examples. Source: University of Texas Libraries.

Fair Use Check List helps determine how to apply each of the four factors. Source: Columbia University Copyright Advisory Services.

Kenneth D. Crews, Copyright Law for Librarians and Educators 53-77 (3d ed. 2012), available as an e-book and in print at Call No. KF 2995 .C74 2012, includes a detailed discussion of the four fair use factors and how to apply them.

“The Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions with Respect to Books and Periodicals” (“Classroom Guidelines”) may be another source for determining what constitutes fair use in a courseware environment.1 The Classroom Guidelines stemmed from an agreement reached in 1976 between publishers, educational institutions, and authors regarding photocopying for classroom use.2 The Guidelines are not the law, and were not originally intended to apply to course web pages, but may offer some fair use guidance.

The Guidelines allow multiple copies of articles and excerpts from books if the copying complies with certain standards. For example, the Guidelines allow the following, assuming other standards are also met:

a. Copying a complete article, story, or essay of less than 2,500 words.

b. Copying an excerpt of any work of prose, if the excerpt is not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.


There are a number of accompanying requirements in the Classroom Guidelines, such as posting a copyright notice, and limiting copying to one term per instructor. You should review the Classroom Guidelines carefully before relying on them.