

Fair Use Reasoning Process Worksheet*

1. What is the purpose of your project?

Answering this question sets the stage for making fair use determinations. Transformativeness rests, to a large extent, on using the copyrighted material for a purpose different from the intent of the original.

Example: I am using this image in my graduate thesis.

2. Who is the target audience?

This question also helps set the stage. Repurposing a work for a completely different audience than the original helps make the case for transformativeness.

Example: The target audience for this thesis is K-12 and university instructors.

3. I am using (describe copyrighted material here) because (provide a reason here).

This final stage-setting question requires you to think critically about the purpose for using the copyrighted material and will, hopefully, ensure there's a sound reason for doing so.

Example: I am using an image of a World War I poster because the arrangement of the text and image create an urgent and emotional experience, and achieves a strong rhetorical purpose.

4. Does your use of the work “transform” the material taken from the copyrighted work by using it for a different purpose than that of the original? Explain why your work does not just repeat the intent and value of the original source material.

You will need to describe how you've added value or repurposed the copyrighted material. Criticizing, commenting, marking up, deconstructing, making a parody, placing in context, and remixing are just a few examples of transformations.

Example: The original work was used to encourage community members to donate to the Bayside, New York Red Cross. I'm using the poster as a pedagogical tool for helping students understand visual literacy.

5. Did you use only the amount you needed to accomplish your purpose? Explain why you used the portion you did.

You need to review your use of the copyrighted work to make sure the amount used is proportional with the purpose of your use.

Example: I needed to use the entire poster to illustrate how its visual composition provides a powerful, crisp example of effective visual rhetoric, but I've used a reduced version of the image.

If you answer 'yes' to the questions about transformativeness and amount, the use is most likely fair. If you answer 'no' to one or both questions, then you have a choice:

- i. Make changes to your use so falls under fair use
- ii. Contact copyright holder for permission

* Adapted from Susan Kunda, USETDA 2013,
<https://conferences.tdl.org/usetda/index.php/USSETDA/USSETDA2013/paper/view/677/338>