

Central Virginia Community College Policies
VI – Academic Services Assisting Instruction
Fair Use Doctrine



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| Responsible Dept.: | Library Services |
| Other Policy References: | NA |

Fair Use Doctrine

The 1976 Copyright Act included a four-factor test to determine fair use of a copyrighted work. These four factors, all of which must be considered, are:

- Purpose and character of use,
- Nature of the copyrighted work,
- Amount and substantiality of copying, and
- Effect of the use of the work on market value of the work

Non-profit educational uses are preferred in fair use determinations. Use of copyrighted published material based on fact rather than fiction is more likely to be allowable under the fair use doctrine. A small amount of the whole is preferred. However, if the section to be copied is central or critical to the work as a whole, it is considered substantial no matter how few words or pages are included. In this case, copying of such a section would violate fair use. A record of the application of the four-factor test should be maintained for all instances in which it is used. An example of a Fair Use checklist is provided (*Checklists For Fair Use/TEACH Act*).

Difficulty in applying the four-factor test for fair use mentioned above gave rise to a number of private groups developing additional guidelines in hopes of clarifying the legal requirements. **Please note that the guidelines included in the *Guidelines for Use of Copyrighted Materials* are in fact guidelines, not codified law.** A planned use of copyrighted materials may not fall within the guidelines, but still be permitted under the Fair Use Doctrine.