



# Journal of Copyright in Education and Librarianship

JCEL is published by Clemson University Press  
ISSN 2473-8336 | jcel-pub.org

Volume 2, Issue 1

**Breakout Session: Empowering Fair Use Decisions in Higher Education: Developing Copyright Instruction for 90 Minutes or Less. Presented by Ben Harnke, Education & Reference Librarian, the University of Colorado Anschutz Medical Campus Health Sciences Library, John Jones, Instruction & Curriculum Librarian, the University of Colorado Anschutz Medical Campus Health Sciences Library, and Meghan Damour, Reference Intern, the University of Colorado Anschutz Medical Campus Health Sciences Library.**

Jennifer Mayer

Mayer, Jennifer (2018). Breakout Session: Empowering Fair Use Decisions in Higher Education: Developing Copyright Instruction for 90 Minutes or Less. Presented by Ben Harnke, Education & Reference Librarian, the University of Colorado Anschutz Medical Campus Health Sciences Library, John Jones, Instruction & Curriculum Librarian, the University of Colorado Anschutz Medical Campus Health Sciences Library, and Meghan Damour, Reference Intern, the University of Colorado Anschutz Medical Campus Health Sciences Library. *Journal of Copyright in Education and Librarianship*, 2(1), 1–5.



© 2018 Jennifer Mayer. This open access article is distributed under a Creative Commons Attribution 4.0 License  
<https://creativecommons.org/licenses/by/4.0/>

**Breakout Session: Empowering Fair Use Decisions in Higher Education: Developing Copyright Instruction for 90 Minutes or Less. Presented by Ben Harnke, Education & Reference Librarian, the University of Colorado Anschutz Medical Campus Health Sciences Library, John Jones, Instruction & Curriculum Librarian, the University of Colorado Anschutz Medical Campus Health Sciences Library, and Meghan Damour, Reference Intern, the University of Colorado Anschutz Medical Campus Health Sciences Library**

Jennifer Mayer  
University of Northern Colorado

Author Note: Jennifer Mayer, Assistant Professor/Head of Library Research Services, University of Northern Colorado.

Correspondence regarding this article should be sent to Jennifer Mayer, 14th Avenue and 20th Street, University Libraries, Greeley, Colorado 80639. Contact: [jennifer.mayer@unco.edu](mailto:jennifer.mayer@unco.edu).

**Breakout Session: Empowering Fair Use Decisions in Higher Education: Developing Copyright Instruction for 90 Minutes or Less**

The presenters introduced themselves and shared their presentation goals. The first goal was to empower attendees to offer fair use instruction at their institutions. The second goal was for attendees to leave the session with a draft outline for fair use instruction or knowledge of fair use tools.

The presenters shared their experiences teaching fair use. They developed and taught fair use class sessions for researchers and faculty members, the primary groups on their campus.

The first portion of the presentation was titled “Group Discussion: How do you educate and communicate about fair use?” The audience members replied to this prompt by discussing topics such as:

- offering general copyright workshops for campus (sometimes targeted to graduate or online students)
- hosting webinars with faculty, having one-on-one consultations

- considering a blurb on reserve items (“Want to learn more about fair use?”)
- creating an entrepreneur research series
- placing a fair use checklist in student goody bags
- recording fair use sessions for future distribution

### **Obstacles and Challenges**

The presenters found their fair use session went over the 60–90 minute time-frame because there were so many questions. The audience shared ways to confront obstacles, such as finding appropriate time slots that maximize the number of people who can attend, improving adjunct attendance, and encouraging general faculty buy-in in terms of caring about fair use. Other tips included managing the time it takes to plan a class, overcoming the fear of legalese, acknowledging the fact that most librarians are not lawyers, and understanding that fair use is a gray area and librarians are not copyright police.

### **Developing the Fair Use Class Session**

The presenters shared their goal-setting process for planning a fair use class session. Their goals included:

- empowering participants to make basic fair use determinations on their own after the class, explaining why they should care about fair use
- explaining that they do not always have to ask the legal department
- describing the fair use statute as it relates to copyright law
- determining who owns the copyright of a work
- educating attendees on the advantages and limitations of using the checklist (this was particularly important)
- They focused the class content on fair use that was specific to their institution.

Fair use is a continuum. The presenters focused on questions about “safe” areas, such as “Can I post this article to a course management shell?”

“Can I distribute handouts in class?” and “Can I use an image in a PowerPoint presentation, and if so, how?” The presenters focused on low-risk fair use issues, since that mirrored their attendees’ needs and interests.

The presenters shared ideas for content. Examples included how to put images and media in PowerPoint presentations, giving attendees fair use resources; creating a Libguide with a fair use checklist that attendees can refer to later, and making the class feel personal to them; that is, giving them compelling reasons why fair use is important.

### **Evolution**

The presenters discussed how their class evolved. They had previously used canned scenarios but now use only one canned scenario and ask attendees about issues they want addressed. They had also received questions about using a YouTube video and the licensing of resources. Currently, they empower attendees to do fair use analysis, or they offer to coach them through the process.

During group discussions, the attendees and presenters shared some challenging issues that they had encountered related to fair use. One individual noted that her institution has a course management system, but students had posted course material on an invite-only Facebook page, and the professor approved it. Another individual said that they were tasked with deleting items not in fair use compliance from course reserves. Others in attendance noted that some individuals were taking on legal responsibility, which is probably not appropriate, and that they should revisit this issue with their administrators.

### **Planning and Logistics**

Attendees shared ideas about logistics; one was to market fair use points using red light, green light images. Other points were to avoid lingo and to explain what fair use means. Other ideas included framing fair use around a specific problem; conducting an anonymous survey on the fair use needs of faculty; and soliciting a list of questions from librarians, the faculty, and the instructional design office, in terms of what questions they typically get related to their roles.

A few recommendations were made regarding professional development for librarians. One recommendation was to take advantage of a Massive Open Online Course (MOOC)—Kevin Smith has done two useful projects on Coursera, one on media and one on copyright. Sara Benson has a YouTube video and podcast. The Copyright X class through Harvard is free and online.

One suggestion was to involve, or at least alert, the university legal office from the planning stages of the fair use class so that they would be aware of it.

The presenters gave specifics about what they presented in their fair use session. They targeted the fair use class at educators and researchers on their campuses, with students invited to come. However, they explained that their campuses do not have many undergraduate students. The presenters read books by Ken Crews, Renee Hobbs, and Carrie Russell to help prepare for the class session.

The presenters used an online format for the class using Zoom but found it challenging because there was not much discussion, and it was complex and difficult to conduct online. They advertised on the campus listserv and had 30 people in the class.

The fair use classes they offered had attendance in the 20s for a while. Attendance is now dropping to three to five faculty per session. Ninety percent of attendees are faculty and staff. When undergraduate students attend, they do not find it relevant and want to discuss plagiarism. They offer monthly classes, and an IT staff member in the library sends out an email advertising the class. Some of the PR material included the following: “Do you find yourself not knowing how to do X, and want to know Y? Then come to this fair use class.” They pinpointed common fair use scenarios in their PR.

Other tips from the presenters included the creation of an elevator speech for the content of a fair use class. The presenters suggested that in terms of scenarios and tools—less is more. They also covered the TEACH Act in their copyright class.

Suggestions on content from the audience included dispelling the myths pertaining to the guidelines (e.g. only 20 words can be used in a poem), starting class with a straightforward quiz with obvious answers so that the students could not fail, and exemplifying what is and what is not fair use. Other suggestions from the audience on content included working together and showing the spectrum of fair use; sharing case law to tell a story that resonates with the audience; and using visual aids (images of the two *Gone with the Wind* books) to tell a story to relate to the audience and grab attention.

The presenters covered the fair use statute, which is vague, so they recommended implementation of the fair use checklist. The checklist is useful, but it should not be considered the be-all and end-all tool for decision-making. They directed the audience members to save their checklists when working with faculty as proof of a good faith effort. At the conclusion of their talk, the presenters also encouraged attendees to consult their handout with the following links.

- Presentation slides: <https://goo.gl/QMp1zB>
- The University of Colorado Health Sciences Library Fair Use Lib-guide: <http://hslibraryguides.ucdenver.edu/fairuse>
- The Fair Use Statute: <https://www.copyright.gov/title17/92chap1.html#107>
- The Fair Use Evaluator: <http://librarycopyright.net/resources/fairuse/index.php>
- The Center for Media and Social Impact: <http://cmsimpact.org>
- Copyright.gov Fair Use Index: <https://www.copyright.gov/fair-use/fair-index.html>