

# Sun West Art Club Copyright Guidelines

Copyright infringement is a complicated topic with few clear answers. As the artist you are primarily liable for the work you produce. However, since our club could also be held liable if we knowingly allowed possible illegal actions of its members to continue, the SWAC Board has adopted the following guidelines for our artists.

## Source Materials

- Use your own source material and not another person's photo or artwork.

## Exceptions:\*

- If you **do** use material produced by others:
  - A. Use material where the copyright has expired.
  - B. Use public domain images. (i.e. *\*\*Creative works over which the creator no longer has an exclusive right to restrict, or receive a royalty for, their reproduction or use but which can be freely copied by the public.*)
  - C. Obtain written permission from the copyright holder.
  - D. Use a part of several images as reference to produce your artwork. (As a rule of thumb, if your artwork and the original were put next to each other, would someone say you'd based it on the original? If so, you may be risking copyright infringement.)
- \*\*\*Make sure work does not contain copyrighted logos, symbols, devices, brand names, company names, etc.
- Under Fair Use Law, you may copy or use a protected image for your own study purposes, educational use, or for personal development, but you cannot sign, sell, or exhibit work that isn't your original creation.

\*Reference: [http://drawsketch.about.com/cs/resources/a/copyright\\_3.htm](http://drawsketch.about.com/cs/resources/a/copyright_3.htm)

\*\*Reference: <http://legal-dictionary.thefreedictionary.com/Public-domain>

\*\*\*Reference: <http://www.pdimages.com/web9.htm>

## Actions of the Club

- If the club is aware that work submitted for exhibition in a Sun City West or SWAC sponsored event does not meet the Sun West Art Club guidelines, the member will not be allowed to show the work.

## **The Fair Use Four-Factor Test\***

Courts consider four factors when evaluating whether an unauthorized use of copyrighted material is fair. If your work fails any one of these factors, it is not fair use. These are the factors considered under the Copyright Act:

•**The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes:**1. Courts consider whether the use is transformative. For instance, was the purpose of the new use to transform (i.e. significantly change) it, did a new expression change the original work, or did the use create new information or lead to new ideas? The more transformative a new work, the more likely a court will consider it fair use. 2. Is the work being offered for sale?

•**The nature of the copyrighted work:** Courts look at whether the copyrighted work is creative or factual and whether it is published or unpublished. Creative works, such as fiction, creative nonfiction, **pictures, and graphic works**, typically receive more protection.

•**The amount and substantiality of the portion used in relation to the copyrighted work as a whole:** Courts consider how much material was copied and was the copied material a central part of the original work. When a large portion of the entire copyrighted material is used or it includes the use of a central point, it is less likely that a court will consider it fair use. If the work is parody or satire of a copyrighted work, however, it is acceptable to borrow a large portion and to use the central part of the original work.

• **The effect of the use upon the potential market for or value of the copyrighted work:** A court will look closely at a use that deprives a copyright holder of income, regardless of whether the new material is competing in the same market. Important factors include the current market and the potential market.

\*Reference: <http://smallbusiness.findlaw.com/intellectual-property/fair-use-law.html>

Jan. 2016