



## Fair Use Checklist

This is a tool to help you determine whether your use of copyrighted material is “fair use”. Check all boxes that apply. For each of the four sections, determine whether that factor favors or disfavors a finding of “fair use”. If all four sections favor “fair use” you may feel comfortable to use the material. If less than half of the factors favor "fair use," permission should be obtained before copying or disseminating copies of the work. When it is split between the sections, weigh each factor to make your determination.

Name: \_\_\_\_\_

Course: \_\_\_\_\_

Date to be used: \_\_\_\_\_

Title of Copyrighted Work: \_\_\_\_\_

### Purpose

#### Favoring Fair Use

- Teaching (including multiple copies for classroom use)
- Research
- Scholarship
- Nonprofit educational institution
- Criticism
- Comment
- News reporting
- Transformative or productive use (changes the work for new utility)
- Restricted access (to students or other appropriate group)
- Parody

#### Opposing Fair Use

- Commercial activity
- Profiting from the use
- Entertainment
- Bad-faith behavior
- Denying credit to original author

## **Nature**

### **Favoring Fair Use**

- Published work
- Factual or nonfiction based
- Important to favored educational objectives

### **Opposing Fair Use**

- Unpublished work
- Highly creative work (art, music, novels, films, plays)
- Fiction

## **Amount**

### **Favoring Fair Use**

- Small quantity
- Portion used is not central or significant to entire work
- Amount is appropriate for favored educational purpose

### **Opposing Fair Use**

- Large portion or whole work used
- Portion used is central to or “heart of the work”

## **Effect**

### **Favoring Fair Use**

- User owns lawfully purchased or acquired copy of original work
- One or few copies made
- No significant effect on the market or potential market for copyrighted work
- No similar product marketed by the copyright holder
- Lack of licensing mechanism

### **Opposing Fair Use**

- Could replace sale of copyrighted work
- Significantly impairs market or potential market for copyrighted work or derivative
- Reasonably available licensing mechanism for use of the copyrighted work
- Affordable permission available for using work
- Numerous copies made
- You made it accessible on the Web or in other public form
- Repeated or long-term use