



### Instructions for Fair Use Checklist

Under certain circumstances, the US Copyright Act allows for the "fair use" of copyrighted material without the permission of the copyright owner. Fair use aims to strike a balance between the rights of copyright owners and the public's need to access and utilize copyrighted content. This checklist is a tool that may assist you in making a well-reasoned and balanced assessment of whether your proposed activities could be considered fair use. However, it does not establish a definitive answer on fair use and is provided as a general resource. Nothing contained in this document should be construed as legal advice.

When using this checklist, give careful consideration to each factor listed within the four categories and check all boxes that apply. As this tool aims to assist you in organizing your assessment of fair use, the last section asks for your conclusion. Once finished, keep a copy of the completed form in case you need to provide evidence of your reasonable and good-faith efforts in evaluating your fair use of the copyrighted materials.

Keep in mind that the University Libraries may have a license to use the materials as you intend, in which case there would be no need to consider whether fair use applies – and no need to use this checklist.

# Fair Use of Copyrighted Materials

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

Date: \_\_\_\_\_

Project: \_\_\_\_\_

## PURPOSE OF USE

### Favoring Fair Use

Teaching (including multiple copies for classroom use)  
 Research  
 Scholarship  
 Nonprofit educational Institution  
 Criticism  
 Comment  
 News reporting  
 Transformative or productive use (changes 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 OF MATERIALS BEING USED

### Favoring Fair Use

Published work  
 Factual or nonfiction based  
 Important to favored educational objectives

### Opposing Fair use

Unpublished works  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

## AMOUNT OF USE

### Favoring Fair Use

Small quantity  
 Portion used is not central or significant to entire work  
 Amount is appropriate for favored educational purpose  
 (only use as much as is necessary)

### Opposing Fair use

Large portion or whole work used  
 Portion used is central to work or "heard of the work"

## EFFECT OF USE

### Favoring Fair Use

User owns lawfully acquired or purchased copy of original work  
 One or few copies are 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 Web or other public forum  
 Repeated or long-term use

## CONCLUSION

Is it reasonable to conclude that, in balancing the applicable factors above, the factors favor "fair use"?

Yes

No