



## Fair Use Checklist

Use this checklist to determine whether your use of a copyrighted work might fall under the Copyright Act's Fair Use provision. This is provided as a general resource, not legal advice to answer specific questions.

Your Name: \_\_\_\_\_ Date: \_\_\_\_\_

Course/Project: \_\_\_\_\_

Title of work you want to use: \_\_\_\_\_

Other identifying info (e.g., author, director): \_\_\_\_\_

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### Factor 1: Purpose and Character 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 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

**Factor 2: Nature of Copyrighted Work**

**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- Unpublished work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

**Factor 3: Amount and Substantiality of the Portion Used**

**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”

**Factor 4: Effect on the Potential Market for Original**

**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 forum
- Repeated or long-term use