



## Fair Use Checklist for Conducting an Analysis before using Copyrighted Materials

This checklist is designed to assist you in applying the balancing test for determining whether you may make or distribute copies of works protected by copyright without having to obtain permission of the copyright holder. It is recommended that you *complete and retain* a copy of this form in connection with *each* "fair use" of a copyrighted work.

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

Class or Project: \_\_\_\_\_

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

Portion to be used (e.g. pages, video time): \_\_\_\_\_

### Directions:

Check all boxes that apply. For each of the four sections below, determine whether that factor favors or disfavors fair use. Where the factors favor fair use outnumber the factors against it, reliance on the fair use exception is justified. Where less than half of the factors favor fair use, permission should be obtained before copying or disseminating copies of the work. Select the appropriate final box at the end. Where the factors appear evenly split or you have questions about interpretation, please contact one of the identified individuals on the Best Practices Guidelines.

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### PURPOSE OF THE WORK

#### Favoring Fair Use

- ☐ Educational
  - Teaching
  - Research, Scholarship
  - Criticism, Comment
- ☐ Transformative or Productive use  
(changes work to serve a new purpose)
- ☐ Nonprofit use

#### Disfavoring Fair Use

- ☐ Commercial, entertainment, or other
- ☐ Non-transformative, verbatim/exact copy
- ☐ Profit-generating use

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### NATURE OF THE COPYRIGHTED MATERIAL

#### Favoring Fair Use

- ☐ Factual, nonfiction, news
- ☐ Published work

#### Disfavoring Fair Use

- ☐ Creative (art, music, fiction) or consumable (workbooks, tests) work
  - ☐ Unpublished work
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## AMOUNT COPIED

### Favoring Fair Use

- ☐ Small quantity (e.g. a single chapter or journal article or other excerpt consisting of less than 10% of entire work)
- ☐ Portion used is not central to entire work
- ☐ Amount is appropriate to education purpose (not more than is needed)

### Disfavoring Fair Use

- ☐ Large portion or entire work
- ☐ Portion used is central or the “heart” of the work
- ☐ More than is necessary is used

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## EFFECT ON THE MARKET FOR ORIGINAL

### Favoring Fair Use

- ☐ No significant effect on market or potential market for copyrighted work
- ☐ One or few copies made and/or distributed
- ☐ No longer in print; absence of licensing mechanism
- ☐ Restricted access (limited to students in one class or other appropriate group)
- ☐ One-time use, spontaneous use (no time to obtain permission)

### Disfavoring Fair Use

- ☐ Cumulative effect of copying would be to substitute for purchase
- ☐ Numerous copies made and/or distributed
- ☐ Reasonably available licensing mechanism available (CCC or off-prints)
- ☐ Use will make it publicly available on Web or other means of broad distribution
- ☐ Repeated or long-term use

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### Result of Analysis for this Copyrighted Work:

- ☐ Favors Fair Use
- ☐ Disfavors Fair Use