

Checklist for Fair Use

Please complete this analysis to determine whether your proposed use of a copyrighted work may be used within the scope of Fair Use. Review the completed form with the Copyright Licensing Office, 422-9339 or 3830 HBLL.

Name: _____ Date: _____

Citation/Description of work to be used:

Chapter/Article/Scene Title: _____

Total pages/minutes used: _____

Intended use:

Course (if applicable): _____ # of students: _____

Citation/Description of original work:

Author/Editor/Translator: _____

Publisher: _____

Book/Journal/Movie Title: _____

Total length of original work: _____

1. What is the **PURPOSE** of the proposed use? Check all that apply.

FAVORS FAIR USE

- Teaching
- Research
- Scholarship
- Criticism
- Comment
- Parody
- News reporting
- Nonprofit Educational Institution
- Restricted Access (Available only to students or other appropriate group)
- Transformative or Productive use (Changes the work for new utility; adds value to the work; or does not diminish the market.)

OPPOSES FAIR USE

- Commercial Activity (Ask, will this be sold?)
- Profiting from the use
- Entertainment
- Bad-faith behavior (Ignoring the Copyright law)
- Denying credit to original author
(Lack of or no attribution given to original author.)

2. What is the **NATURE** of the copyright work from which it will be used? Check all that apply.

FAVORS FAIR USE

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

OPPOSES FAIR USE

- Unpublished work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

3. What **AMOUNT** of the copyrighted work will be used? Check all that apply.

You should measure the amount of material both quantitatively and qualitatively. Evaluate quantity relative to the length of the entire work and the amount needed. (The reproduction of an entire work weighs against fair use.) A reproduction that is relatively small but still uses the “heart” of the work will also weigh against fair use.

FAVORS FAIR USE

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

OPPOSES FAIR USE

- Large portion or entire work to be used
- Portion used is central to work or “heart of the work”
- Fiction

4. What is the **EFFECT** on the market or potential market if this item is used? Check all that apply. Reproduction that substitutes for the purchase of the original weighs heavily against fair use.

FAVORS FAIR USE

- User owns lawfully acquired or purchased 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

OPPOSES 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 license fee available for using work
- Numerous copies made
- Made openly accessible on the internet or in other public forum
- Repeated or long-term use desired

Completed Analysis: (Check one of the following statements after completing the checklist.)

- Based on the fair use analysis completed above, I have determined that my use of the material falls within the fair use exception.
- Based on the fair use analysis completed above, I have determined that my use of the material does not fit within the fair use exception. I will attempt to obtain permission from the copyright owner before using the materials.

Signature: _____ Date: _____

Position/Title: _____

Notations: