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): ____________________________

________________________________________________________________

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- Unpublished work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

Adapted with permission, from Rina Elster Pantalony, Columbia University Libraries' Director of Copyright Advisory Services. http://copyright.columbia.edu