

FAIR USE CHECKLIST

**Prepared by the Mervyn H. Sterne Library
at the University of Alabama at Birmingham**

Name: _____ Date: _____
Class or Project: _____
Title of Copyrighted Work: _____
Portion to be used (e.g. pages): _____

Directions: Check all boxes that apply. For each of the four sections below, determine whether that factor favors or disfavors a finding of fair use. Where the factors favoring "fair use" outnumber the factors weighing against a finding of "fair use," 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.

It is recommended that you complete and retain a copy of this form in connection with each "fair use" of a copyrighted work.

FACTOR 1: PURPOSE OF THE USE

Favoring Fair Use

- Non-profit Educational Institution
- Used for Teaching, Research, or Scholarship
- Used for Criticism or Comment
- Transformative (using work for a new purpose)
- Non-commercial, non-profit use
- Use is necessary to achieve your educational purpose

Not Favoring Fair Use

- Commercial or for-profit use
- Entertainment
- Exceeds what is necessary to achieve your educational purpose

FACTOR 2: NATURE OF THE COPYRIGHTED MATERIAL

Favoring Fair Use

- Published work
- Factual or non-fiction work
- Non-consumable work

Not Favoring Fair Use

- Highly creative work
- Consumable work
- Unpublished work

FACTOR 3: AMOUNT & SUBSTANTIALITY OF THE PORTION USED

Favoring Fair Use

- Small portion of entire work used
- Portion used not “heart” of the work
- Amount is appropriate to achieve your educational purpose

Not Favoring Fair Use

- Large portion of entire work used
 - Portion used is “heart” of the work
 - Amount used is more than necessary to achieve your educational purpose
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FACTOR 4: EFFECT ON THE MARKET FOR ORIGINAL

Favoring Fair Use

- No significant effect on the market or potential market for the original
- Access is restricted to students enrolled in course for that term
- No longer in print
- Permission for digital excerpt is not readily available at a reasonable price
- User owns a lawfully acquired copy of the original

Not Favoring Fair Use

- Cumulative effect of copying would be to substitute for purchase of the copyrighted work
- Numerous copies made and/or distributed
- Reasonably available licensing mechanism for obtaining permission to use the copyrighted work currently available
- Will be making it publicly available on the Web or using other means of broad dissemination
- Repeated or long-term use

Revised with permission for use by the University of Alabama at Birmingham from the "CHECKLIST FOR CONDUCTING A FAIR USE ANALYSIS BEFORE USING COPYRIGHTED MATERIALS" at the Cornell University Copyright Information Center.

<http://copyright.cornell.edu/policies/docs/Fair Use Checklist.pdf>