

# CHECKLIST FOR FAIR USE

Please complete and retain a copy of this form in connection with each possible "fair use" of a copyrighted work for your project

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

Item Description: \_\_\_\_\_

Institution: \_\_\_\_\_ Prepared by: \_\_\_\_\_

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## PURPOSE

### *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

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## NATURE

### *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- Unpublished work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

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## AMOUNT

### *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 work or "heart of the work"

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## EFFECT

### *Favoring 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

### *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 Web or in other public forum
- Repeated or long-term use