

CHECKLIST FOR CONDUCTING A FAIR USE ANALYSIS BEFORE USING COPYRIGHTED MATERIALS

This checklist is a tool 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 the 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.

PURPOSE OF THE USE

Favoring Fair Use

- Educational
 - Teaching (including multiple Copies for classroom use)
 - Research
 - Scholarship
 - Criticism
 - Comment

Disfavoring Fair Use

- Commercial
- Entertainment
- Other than Educational

NATURE OF THE COPYRIGHTED MATERIAL

- Factual, nonfiction, news
- Published Work
- Creative (art, music, fiction)
- Consumable (workbook, tests)

AMOUNT COPIED/SHARED

- Small quantity (i.e. single Chapter, journal article, excerpts consisting of less than 10% of the work)
- Portion used is not central to entire work as a whole
- Amount is appropriate to educational purpose
- Large portion or entire work
- Portion used is central or the “heart” of the entire work
- Includes more than necessary for educational purpose

EFFECT ON THE MARKET FOR ORIGINAL

- No significant effect on the market or potential market for the work
- One or few copies made
- No longer in print; absence of licensing mechanism
- Restricted access (limited to students in class or other appropriate group)
- One-time use, spontaneous use (no Time to obtain permission)
- Cumulative effect of copying would be to substitute for purchase of the copyrighted work
- Numerous copies made/distributed
- Reasonably available licensing mechanism for obtaining permission to use
- Making it publicly available on the Web or using other means of broad dissemination
- Repeated or long-term use