

CHECKLIST FOR FAIR USE

Name: _____ Date: _____ Project: _____

Institution: _____ Prepared by: _____

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- Unpublished work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
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