University of Arkansas
Fair Use Checklist

Name: __________________________________________ Date: _____________________________

Class or Project: _________________________________________________________________

Course and Term: ________________________________________________________________

Title of Copyrighted Work: ________________________________________________________

Author and Publisher: ____________________________________________________________

Portion (s) to be used (e.g. pages, timing periods)____________________________________

Instructions

Review the four factors necessary to support fair use. Check the pairs of factors that apply to your use. Not all of the factors may be applicable. Additional factors may come into play for media materials. Where the factors favoring fair use outnumber those against it, fair use is justified. In situations where fewer than half of the factors support fair use, permission should be sought through the copyright holders. The underlined factors way heavily in decisions of fair use and should be closely considered.

It is recommended that you complete and retain a copy of this checklist for each identified "fair use" of a work in order to establish a "reasonable and good faith" attempt at applying fair use in the situation that a dispute should arise.

For more information on using materials in your course, see copyright.uark.edu

Purpose and Character of the Use

Favoring Fair Use

☐ Nonprofit educational institution
☐ Teaching (including multiple copies for classroom use), scholarship, criticism, comment, news reporting, or parody
☐ Transformative or productive use (changes the work for new purpose)
☐ Restricted access Blackboard or library course reserves
☐ Use is necessary to achieve your intended educational purpose

Opposing Fair Use

☐ Commercial activity or profit from the use
☐ Used for entertainment
☐ Mirror image copying
☐ For public distribution
☐ Use exceeds what is necessary for your educational purpose
### Nature of Copyrighted Material

**Favoring Fair Use**
- Published work
- Factual/informational, or nonfiction based
- Non-consumable work

**Opposing Fair Use**
- Unpublished work
- Highly creative work (art, music, novels, films, plays) or fiction
- Consumable work (workbook, test)

### Amount and Substantiality of Portion Used

**Favoring Fair Use**
- Small quantity (no more than 10% of a work not divided into chapters or having fewer than 10 chapters or no more than 1 chapter of a 10 or more chapter work)
- Portion used is not central or significant to entire work
- Amount is tailored to accomplish the legitimate educational purpose

**Opposing Fair Use**
- Large portion or entire work used (more than 10% of a work not divided in chapters or having less than 10 chapters or more than one chapter of a 10 or more chapter work)
- Portion used is central to or “heart of the work
- Amount is more than is necessary to accomplish the legitimate educational purpose

### Effect on the Market for the Work

**Favoring Fair Use**
- Permission or licensing for digital excerpt is not readily available from the publisher or its agent at a reasonable price
- A decidely small portion is used
- User owns lawfully purchased or acquired copy of original work
- Use stimulates market for the original work

**Opposing Fair Use**
- Permission or licensing for the digital excerpt is readily available from the publisher or its agent at a reasonable price
- Large portion or entire work is used
- User does not own a lawfully acquired or purchase copy of a work (example - obtained through Interlibrary Loan)
- Significantly impairs market or potential market for copyrighted work or derivative