Fair Use Checklist

Factor One – Purpose of the Use

Favoring Fair Use	Disfavoring Fair Use
☐ Educational (teaching, research, scholarship, criticism, comment)	☐ Commercial, entertainment, or other use
☐ Transformative or Productive (changes work to serve new purpose)	☐ Verbatim or exact copy, not transformative
☐ Nonprofit	☐ Profit generating

Factor Two – Nature of the Copyrighted Material

Favoring Fair Use	Disfavoring Fair Use
☐ Factual, nonfiction, news	☐ Creative or consumable work (art, music, feature film, fiction)
☐ Published work	☐ Unpublished work

Factor Three – Amount Copied

Favoring Fair Use	Disfavoring Fair Use
☐ Small quantity (single chapter, one article, < 10-15% of whole work)	☐ Large portion or entire work
☐ Portion used is not central to work as a whole	☐ Portion used is central or the "heart" of the work
☐ Amount if appropriate to the education purpose	☐ Includes more than necessary for educational purpose

Factor Four – Effect on the Market for the Original

Favoring Fair Use	Disfavoring Fair Use
☐ No significant effect on market or potential market for copyright	☐ Cumulative effect of copying would substitute for purchase of work
☐ One or few copies made and/or distributed	☐ Numerous copies are made and/or distributed
☐ No longer in print; absence of licensing mechanism	☐ Reasonably available licensing mechanism for obtaining permission
☐ Restricted access (limited to students in class or appropriate group)	☐ Copy will be available on the web or otherwise broadly distributed
☐ One-time, spontaneous use (no time to obtain permission)	☐ Repeated or long-term use