

Fair Use Checklist

Z. Smith Reynolds Library, Wake Forest University

For additional information visit zsr.wfu.edu/copyright or contact Molly Keener, Director of Digital Initiatives & Scholarly Communication, keenerm@wfu.edu.

Name:

Institution:

Project:

Date:

Prepared by:

Original Work:

Purpose of the Use

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

Nature of the Copyrighted Work

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- Unpublished work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, etc.)
- Fiction



Amount Used

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 or “heart of the work”

Effect on the Market for the Copyrighted Work

Favoring Fair Use

- User owns lawfully purchased or acquired copy of 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
- User makes work accessible on the Web or in another public forum
- Repeated or long-term use

