

## Alverno College Library Fair Use Checklist

Instructor's name: \_\_\_\_\_

Course number: \_\_\_\_\_

Title of copyrighted work: \_\_\_\_\_

Portion of work used (number of pages, chapters...) \_\_\_\_\_

While fair use is difficult to quantify, the factors provided in this Fair Use Checklist will help instructors determine if the use of a copyrighted work is allowed under the [Fair Use exception of Federal copyright law](#).

When using this checklist, consider which factors apply to your use of a copyrighted work and place a check next to any factors that apply. Check only those factors that apply to your use. Generally speaking, when the factors favoring fair use outnumber those opposing it, reliance on fair use is justified.

No single item or factor is determinative of fair use – however, the amount copied and the impact on the market value may have more weight than other factors when determining fair use.

Please keep a completed copy of this checklist for your records.

### **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

## **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- Unpublished work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

## **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 or “heart of work”

## **Effect**

### **Favoring Fair Use**

- User owns lawfully purchased or acquired 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 the Web or in other public forum
- Repeated or long-term use

**Please note:** This checklist provides guidance for determining fair use but should not be considered legal advice. Please [contact an Alverno Librarian](#) with questions or concerns.

This checklist was revised for use by the Alverno College Library and adapted from the Fair Use Checklist created by Kenneth D. Crews and Dwayne K. Buttler. More information about fair use in an academic setting can be found in the book *Copyright law for librarians and educators* (3<sup>rd</sup> edition) by Kenneth D. Crews.