

Instructor's Name: \_\_\_\_\_ Date: \_\_\_\_\_

Course and Term: \_\_\_\_\_

Project/Class: \_\_\_\_\_

Title of Copyrighted Work: \_\_\_\_\_

Author and Publisher: \_\_\_\_\_

Portion to be used (i.e., page range): \_\_\_\_\_

**Instructions:** When the factors favoring fair use outnumber those against it, reliance on fair use is justified. When less than half of the factors favor fair use, instructors should seek permission from the rights holder. When the factors are evenly split, instructors should consider the total facts weighing in favor of fair use as opposed to the total facts weighing against fair use in deciding whether fair use is justified. Not all of the facts will be present in any given situation. Check only those facts that apply to your use. No single item or factor should determine fair use.

For more information regarding the fair use factors, please see the fair use sections of the PCC Copyright Practice and Compliance SPG.

Complete this checklist for each "fair use" evaluation of a copyrighted work. Retain a copy to establish a "reasonable and good faith" attempt at applying fair use, should a dispute arise regarding such use.

### Factor 1: Purpose and Character of the Use

<b>Favoring Fair Use</b>	<b>Opposing Fair Use</b>
<input type="checkbox"/> Teaching (including multiple copies for classroom use)	<input type="checkbox"/> Commercial activity
<input type="checkbox"/> Nonprofit educational institution	<input type="checkbox"/> Profiting from the use
<input type="checkbox"/> Parody	<input type="checkbox"/> Entertainment
<input type="checkbox"/> Scholarship	<input type="checkbox"/> Bad-faith behavior
<input type="checkbox"/> Criticism	<input type="checkbox"/> Denying credit to original author
<input type="checkbox"/> Comment	
<input type="checkbox"/> News reporting	
<input type="checkbox"/> Transformative or productive use (changes the work for new utility or purpose)	
<input type="checkbox"/> Restricted access (to students or other appropriate group)	
<input type="checkbox"/> <b>Factor Weighs in Favor of Fair Use</b>	<input type="checkbox"/> <b>Factor Weighs Against Fair Use</b>

## Factor 2: Nature of the Copyrighted Work

Favoring Fair Use	Opposing Fair Use
<input type="checkbox"/> Published work	<input type="checkbox"/> Unpublished work
<input type="checkbox"/> Factual/informational and educational in nature or nonfiction work	<input type="checkbox"/> Highly creative work (i.e., art, music, novels, films, plays, poetry)
<input type="checkbox"/> Important to educational objectives	<input type="checkbox"/> Fiction
<input type="checkbox"/> Non-consumable	<input type="checkbox"/> Consumable work (i.e., workbook, test)
<input type="checkbox"/> <b>Factor Weighs in Favor of Fair Use</b>	<input type="checkbox"/> <b>Factor Weighs Against Fair Use</b>

## Factor 3: Amount and Substantiality of Portion Used

Favoring Fair Use	Opposing Fair Use
<input type="checkbox"/> Small portion of work	<input type="checkbox"/> Large portion or whole work used
<input type="checkbox"/> Portion used is not central or significant to the entire work as a whole	<input type="checkbox"/> Portion used is central to or heart of the entire work
<input type="checkbox"/> Amount taken is narrowly tailored to accomplish a demonstrated, legitimate purpose in the course curriculum	<input type="checkbox"/> Amount taken is more than necessary to accomplish a demonstrated, legitimate purpose in the course curriculum
<input type="checkbox"/> <b>Factor Weighs in Favor of Fair Use</b>	<input type="checkbox"/> <b>Factor Weighs Against Fair Use</b>

## Factor 4: Effect on Market for Original

Favoring Fair Use	Opposing Fair Use
<input type="checkbox"/> User lawfully purchased or acquired copy of original work (i.e., linking to an article from library database)	<input type="checkbox"/> User does not own lawfully acquired or purchased copy of original work
<input type="checkbox"/> One or few copies made	<input type="checkbox"/> Numerous copies made
<input type="checkbox"/> No significant effect on the market or the potential market for copyrighted work	<input type="checkbox"/> Significantly impairs market or potential market for copyrighted work or derivative
<input type="checkbox"/> Lack of licensing mechanism available	<input type="checkbox"/> Reasonably available licensing mechanism for use of copyrighted work
<input type="checkbox"/> No similar product marketed by the copyright holder	<input type="checkbox"/> Affordable permission available for using work
<input type="checkbox"/> Access is restricted to students who are enrolled in the course and is only available during the term of the course	<input type="checkbox"/> Access is not restricted
	<input type="checkbox"/> Repeated or long-term use
<input type="checkbox"/> <b>Factor Weighs in Favor of Fair Use</b>	<input type="checkbox"/> <b>Factor Weighs Against Fair Use</b>