

## Appendix 1: Copyright Fair Use Assessment Factors Checklist

### Purpose and Character of Use of Copyrighted Work

Use this checklist to analyze whether material falls under the *fair use doctrine*. Factors favoring fair use will generally indicate that material may be used without seeking permission from the copyright owner. Factors opposing fair use require permission to reprint or adapt the material from the copyright owner. If a copyright owner is known, always request permission before using any material.

<b>Favoring Fair Use</b>	<b>Opposing Fair Use</b>
<input type="checkbox"/> Teaching	<input type="checkbox"/> Commercial activity - gain of financial rewards from use; e.g., sale of goods, services; advertising; fundraising, etc.
<input type="checkbox"/> Research/Scholarship/Academics	<input type="checkbox"/> Profiting from use
<input type="checkbox"/> Nonprofit educational institution	<input type="checkbox"/> Bad-faith behavior; e.g., misrepresentation of intended use
<input type="checkbox"/> Criticism	<input type="checkbox"/> Denying credit to original author or artist
<input type="checkbox"/> Comment	<input type="checkbox"/> Entertainment
<input type="checkbox"/> News reporting	
<input type="checkbox"/> Used to create something new	
<input type="checkbox"/> Restricted access given	
<input type="checkbox"/> Parody	

### Nature of Copyrighted Work Used

<b>Favoring Fair Use</b>	<b>Opposing Fair Use</b>
<input type="checkbox"/> Published work	<input type="checkbox"/> Unpublished work
<input type="checkbox"/> Factual or nonfiction based	<input type="checkbox"/> Highly creative work (art, music, novel)
<input type="checkbox"/> Out of print work	<input type="checkbox"/> Fiction

### Amount and Substantiality of Copyrighted Work Used

<b>Favoring Fair Use</b>	<b>Opposing Fair Use</b>
<input type="checkbox"/> Small amount used	<input type="checkbox"/> Large portion or whole work used
<input type="checkbox"/> Portion used not central or significant to entire work	<input type="checkbox"/> Portion used is the heart of the work

### Impact on Market of Copyrighted Work

<b>Favoring Fair Use</b>	<b>Opposing Fair Use</b>
<input type="checkbox"/> User owns lawfully acquired/purchased copy	<input type="checkbox"/> Could replace sale of copyrighted work
<input type="checkbox"/> One or few copies made	<input type="checkbox"/> Significantly impairs market/potential market of copyrighted work or derivative work
<input type="checkbox"/> No significant effect on market/potential market for copyrighted work	<input type="checkbox"/> Reasonable available licensing mechanisms
<input type="checkbox"/> No similar product marketed by copyright holder	<input type="checkbox"/> Affordable permission to use copyrighted work available
<input type="checkbox"/> No ready licensing or permission mechanism	<input type="checkbox"/> Numerous copies made
	<input type="checkbox"/> Made accessible on the internet or elsewhere
	<input type="checkbox"/> Repeated or long-term use