

FAIR USE CHECKLIST

This checklist should be used to help you determine whether your projected educational use of copyrighted materials falls under "fair use" as stipulated by U.S. Copyright Law. In making your determination, please check all boxes that apply in the left and right columns. The information in the middle column can add weight to a decision favoring fair use if applicable, but it does not guarantee fair use applies.

If you find that you have marked more boxes in the left column than in the right column, then you can assume that fair use is justified. Sign this form and submit it to Information Technology staff whether you are placing the item on BlackBoard or IT will do it.

If the number of marked boxes in the two columns is equal or there are more marked boxes in the right column, then you should first check to see if the Seminary is covered by its agreement with the Copyright Clearance Center, and if not, either pay for your planned use at the Copyright Clearance Center or seek permission directly from the publisher for your planned use.

In all cases, you should complete and retain a copy of this form in connection with each possible 'fair use' of a copyrighted work.

Name: _____

Date: _____

Course: _____

Term: _____

Signature (REQUIRED)

Favoring Fair Use

Guidelines/Rules of Thumb

Opposing Fair Use

What is the purpose and character of the work to be used?

<input type="checkbox"/> Non-profit <input type="checkbox"/> Educational <input type="checkbox"/> Personal	Criticism Commentary News reporting Parody Otherwise "transformative" use	<input type="checkbox"/> Commercial <input type="checkbox"/> Entertainment <input type="checkbox"/> Denying credit to original author
--	---	---

What is the nature of the work to be used?

<input type="checkbox"/> Fact or non-fiction based <input type="checkbox"/> Published <input type="checkbox"/> Important to favored educational objectives	A mixture of fact and imagination	<input type="checkbox"/> Unpublished <input type="checkbox"/> Highly creative (art, music, novels, films, plays)
--	-----------------------------------	---

How much of the work do you intend to use?

<input type="checkbox"/> Small amount <ul style="list-style-type: none"> • Complete article, story or essay of up to 2500 words 	<input type="checkbox"/> Large portion or whole work <input type="checkbox"/> Portion used is 'heart of the work'
---	--

<ul style="list-style-type: none"> • Prose: excerpt of not more than 10% of work • One chart, graph, diagram, cartoon or picture per book or periodical issue • Text source: 10% or 1000 words • Poetry: An entire poem of less than 250 words, but no more than 3 poems or excerpts by one poet • Music, Lyrics, Music Video: Up to 10% but not more than 30 seconds total from an individual work • Motion Media: Up to 10% or 3 minutes • Illustrations, Photographs: No more than 5 images by one artist; No more than 10% or 15 images, whichever is less, from any single published work <p><input type="checkbox"/> Portion used is not the 'heart of the work'.</p>	
---	--

What would be the effect on the potential market value of the copyrighted work?

<ul style="list-style-type: none"> <input type="checkbox"/> User has lawfully acquired copy of original work (Library or personal copy) <input type="checkbox"/> No more than one copy made per student <input type="checkbox"/> Lack of licensing mechanism <input type="checkbox"/> Used for only one term and class <input type="checkbox"/> The decision to use the material does not allow time to get permission (<u>first time use only</u>) <input type="checkbox"/> The evaluation of the first three factors tips the scales in favor of fair use 	<p>Original is out of print or otherwise unavailable</p> <p>Copyright owner is unidentifiable</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Could replace sale of copyrighted work <input type="checkbox"/> Avoids payment for permissions in an established permissions market <input type="checkbox"/> Affordable permission is available for using the work <input type="checkbox"/> You make the copy accessible on the Web or in another public forum <input type="checkbox"/> Same text is being used for a second term or second class or repeatedly over the years <input type="checkbox"/> You have very few or no texts that students must purchase so that the vast majority of your required texts are available on e-reserves.
---	---	---

This form was adapted for use by Union-PSCE from two publicly-shared documents. *Checklist for Fair Use*, Dr. Kenneth Crews, Copyright Management Center at Indiana University. http://www.ibiblio.org/pub/electronic-publications/stay-free/ml/readings/fairuse_checklist.pdf *Crash Course in Copyright* from the University of Texas, license under a Creative Commons License. <http://creativecommons.org/licenses/by-nc-sa/2.0/>