

# RESERVE CHECKLIST FOR "FAIR USE"

**This form must be completely filled out for each item submitted**

Book chapters, journal articles (limited to one per any single journal), old exams, professor's notes, and homework solutions necessary for course work

Only one photocopy of any given copyrighted item can be put on Reserve.

The checklist is a tool to assist you in applying the balancing test for determining whether something that is protected by copyright can be placed on Reserve without having to obtain permission of the copyright holder.

Professor Name: \_\_\_\_\_ Course # \_\_\_\_\_  
Last (Please print) First

Title of Article or Chapter: \_\_\_\_\_ Author: \_\_\_\_\_

**PURPOSE** – Fair use is more likely to apply when a work is used for a nonprofit, educational purpose such as teaching, research, scholarships, criticism, or comment. The use must also be transformative or have a productive use. In other words, the work is used to be commented on, criticized, remade as a parody, or repurposed so that the main idea behind it can be more easily identified. In addition, the work must have some type of restricted access so that only a specific group of people, such as students, are able to access it.

## FAVORING FAIR USE

## OPPOSING FAIR USE

- Educational
  - Teaching
  - Research
  - Scholarships
  - Criticism
  - Comment
- Transformative or Productive use  
*(changes the work to serve a new purpose)*
- Restricted Access  
*(to students or other appropriate group)*
- Nonprofit use

- Commercial activity
- Profiting from the use
- Entertainment
- Bad-faith behavior
- Denying credit to original author

**NATURE** – In order for a work to fully favor fair use, it must be a published work that is factual, or nonfiction, and be important to the course objectives. Consumable works, such as standardized tests and workbooks, will never qualify for fair use.

## FAVORING FAIR USE

## OPPOSING FAIR USE

- Published work
- Factual, nonfiction
- Important to course objectives

- Unpublished work
- Creative (art, music, novel, film, play, etc.)
- Consumable work (workbooks, tests, survey, etc.)
- Fiction based

**AMOUNT** – In order for a work to fully favor fair use, it must be a small quantity of the work that is no more than necessary for its educational purpose, and the portion may not be the central part, or "heart" of the work which would weigh against fair use.

## FAVORING FAIR USE

## OPPOSING FAIR USE

- Small quantity
- Portion used is not central to entire work as a whole
- Amount is no more than needed for educational purpose

- Large portion or entire work
- Portion used is central to entire work as a whole
- Includes more than necessary for educational purpose

**EFFECT** – The effect of the work refers to the effect the use of the work will have on the potential market. In other words, will the use of the work cause an economic loss for the copyright holder? In order for a work to fully favor fair use, it must have been lawfully acquired, have no significant effect on the potential market, be no longer in print, or have no similar product on the market by the same copyright holder, and there can be only one or few copies made of the work.

## FAVORING FAIR USE

## OPPOSING FAIR USE

- Lawfully acquired or purchased copy of original work owned by me or the library
- One or few copies made
- No significant effect on the market or potential market for copyrighted work
- Lack of licensing mechanism; no longer in print
- No similar product marketed by the copyright holder

- Could replace sale of copyrighted work
- Numerous copies made and/or distributed
- Reasonably available licensing mechanism for obtaining permission to use the copyrighted work currently available
- Will be making it publicly available on the Web or using other means of broad dissemination
- Repeated or long-term use

*I have read and understand my responsibility regarding the "Fair Use Guidelines" and my signature reflects the verification that this photocopy submission for Traditional Reserve here at the Stapleton Library Reserve Department is within compliance of fair use.*

Signature \_\_\_\_\_ Date \_\_\_\_\_

Course Professor