

FAIR USE ANALYSIS CHECKLIST

Course Information	
<i>Instructor's Name:</i>	
<i>Instructor's E-Mail</i>	
<i>Department and Course #:</i>	
<i>Course Title:</i>	
<i># of Students in Class:</i>	

Title of work: _____

Portion to be used (pages): _____

The following "fair use" checklist should be used in determining whether submitted materials may be placed on electronic reserves without obtaining permission from the copyright owner. For each of the four sections below, determine whether that factor favors or disfavors a finding of fair use.

Directions: Check all boxes that apply.

<u>Favors Fair Use</u>		<u>Disfavors Fair Use</u>	
PURPOSE			
Educational <ul style="list-style-type: none"> Teaching (including multiple copies for classroom use) Research 		Commercial, entertainment or other	
Transformative or Productive Use (work used to serve new purpose e.g. comment, criticism, parody)		Non-transformative, verbatim/ exact copy	
Non-profit use		For profit use	

NATURE			
Factual, nonfiction, news		Creative (art, music, fiction) or consumable (workbooks, test) work	
Published work		Unpublished work	

AMOUNT			
Small quantity <ul style="list-style-type: none"> A single chapter from book Excerpt less than 10% of work An article from journal 		Large portion or entire work	
Portion used is not central or significant to entire work		Portion used is central or "heart of the work"	
Amount is appropriate to educational purpose		Includes more than necessary for education purpose	

(Continued)

EFFECT			
	Copyrighted work lawfully purchased or acquired by library or instructor		Copyrighted work obtained through loan or other method
	One or few copies made and/or distributed		Numerous copies made and/or distributed
	No longer in print and/or lack of licensing mechanism		Currently available for purchase or licensing
	No significant effect on the market or potential market for copyrighted work		Significantly impairs market or potential market for copyrighted work <ul style="list-style-type: none"> • Copying is to substitute for purchase • Could replace sale of copyrighted work
	Restricted access (limited to students in a class or group)		Publicly accessible on Web or broad dissemination
	One-time use <ul style="list-style-type: none"> • Spontaneous use • No time to obtain permission 		Long-term or repeated use

Where the factors favoring "fair use" outnumber the factors weighing against a finding of "fair use," then you may conclude that "fair use" applies. Where less than half of the factors favor "fair use," then permission from the copyright owner should be obtained. Where there is an even split or if there is uncertainty as to the treatment of the work with respect to "fair use", or you have questions about interpretation, please feel free to contact the Reserves Room Manager (ckprkman@memphis.edu) in the McWherter Library Circulation Department.

To be filled out by professor requesting the submission of the material for placement on electronic reserve:

I have reviewed the material submitted for placement on electronic reserve and have concluded from the checklist, that (*please check only one*):

_____ The material is protected under "fair use" and should be placed on electronic reserve

_____ Permission must be obtained from the copyright owner before the material can be placed on electronic reserve

Signature: _____

Date: _____