

# Fair Use and TEACH ACT Checklist

Please complete and retain a copy of this form in connection with each possible "fair use" of a copyrighted work for your project.

Name of Work: \_\_\_\_\_ Date: \_\_\_\_\_

Class: \_\_\_\_\_ Number of Semesters Used \_\_\_\_\_

Format:  Handout/Article  Electronic Resource (e.g., PDF, CD or DVD)  Library Reserve  Web Resource

Check the appropriate boxes for each of the categories:

## Purpose of the Work

### *Favoring Fair Use*

### *Opposing Fair Use*

<input type="checkbox"/> Teaching (including multiple copies for classroom use) <input type="checkbox"/> Research <input type="checkbox"/> Scholarship <input type="checkbox"/> Nonprofit Educational Institution <input type="checkbox"/> Criticism <input type="checkbox"/> News reporting <input type="checkbox"/> Restricted access (to students or other appropriate group) <input type="checkbox"/> Parody	<input type="checkbox"/> Commercial activity <input type="checkbox"/> Profiting from the use <input type="checkbox"/> Entertainment <input type="checkbox"/> Bad-faith behavior <input type="checkbox"/> Denying credit to original author
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## Nature of the Work

### *Favoring Fair Use*

### *Opposing Fair Use*

<input type="checkbox"/> Published work <input type="checkbox"/> Factual or nonfiction based <input type="checkbox"/> Important to favored educational objectives	<input type="checkbox"/> Unpublished work <input type="checkbox"/> Highly creative work (art, music, novels, films, plays) <input type="checkbox"/> Fiction
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## Amount of the Work

### *Favoring Fair Use*

### *Opposing Fair Use*

<input type="checkbox"/> Small quantity <input type="checkbox"/> Portion used is not central or significant to entire work <input type="checkbox"/> Amount is appropriate for favored educational purpose	<input type="checkbox"/> Large portion or whole work used <input type="checkbox"/> Portion used is central to work or "heart of the work"
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## Effect of the Work

### *Favoring Fair Use*

### *Opposing Fair Use*

<input type="checkbox"/> User owns lawfully acquired or purchased copy of original work <input type="checkbox"/> No significant effect on the market or potential market for copyrighted work <input type="checkbox"/> One or few copies made <input type="checkbox"/> No similar product marketed by the copyright holder <input type="checkbox"/> Lack of licensing mechanism	<input type="checkbox"/> Could replace sale of copyrighted work <input type="checkbox"/> Significantly impairs market or potential market for copyrighted work or derivative <input type="checkbox"/> Reasonably available licensing mechanism for use of the work <input type="checkbox"/> Affordable permission available for using work <input type="checkbox"/> Numerous copies made <input type="checkbox"/> You made it accessible on Web or in other public forum <input type="checkbox"/> Repeated or long term use
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If there are any boxes checked opposing fair use, please contact one of the KCC Copyright Officers at [copyright@kcc-online.org](mailto:copyright@kcc-online.org)

**TEACH Act requirements that will likely fall within the duty of the *Instructor*:**

- 1 The work to be transmitted may be any of the following:
  - A performance of a non-dramatic literary work; or
  - A performance of a non-dramatic musical work; or
  - A performance of any other work, including dramatic works and audiovisual works, but only in "reasonable and limited portions"; or
  - A display in an amount comparable to that which is typically displayed in the course of a live classroom session.
  
- 2 The work to be transmitted may not be any of the following:
  - Marketed primarily for performance or display as part of a digitally transmitted mediated instructional activity; or
  - A textbook, coursepack, or other material in any media which is typically purchased or acquired by students for their independent use and retention.
  
- 3 Any permitted performance or display must be both:
  - Made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic, mediated instructional activities of the educational institution; and
  - Directly related and of material assistance to the teaching content of the transmission.
  
- 4 The institution does not know or have reason to believe that the copy of the work to be transmitted was not lawfully made or acquired.
  
- 5 If the work to be used has to be converted from print or another analog version to digital format, then both:
  - The amount of the work converted is no greater than the amount that can lawfully be used for the course; and
  - There is no digital version of the work available to the institution or the digital version available to the institution has technological protection that prevents its lawful use for the course.