Fair Use Checklist

Course Code and Title: ________________________________

Venue:  ☐ Face-to-Face  ☐ Online in LMS  ☐ Online outside of LMS  ☐ Other: _____________

Instructional Material Title: ________________________________

Portion Used (e.g. pages, minutes): __________________________

Prepared by: ________________________________ Date: ____________

Purpose

Favoring Fair Use

☐ Teaching (including multiple copies for classroom use)
☐ Research / scholarship
☐ Criticism / parody
☐ Comment / news reporting

☐ Transformative or productive use (changes the work for new utility)
☐ Restricted access (to students or other appropriate group)

Opposing Fair Use

☐ Commercial activity
☐ Profiting from the use
☐ Entertainment
☐ Bad-faith behavior

☐ Denying credit to original author

Nature

Favoring Fair Use

☐ Published work
☐ Factual or nonfiction based
☐ Important to favored education objectives

Opposing Fair Use

☐ Unpublished work
☐ Highly creative work (art, music, novels, films, plays)
☐ Fiction

Amount

Favoring Fair Use

☐ Small Quantity (10% or less)
☐ Portion used is not central or significant to entire work
☐ Amount is appropriate for favored purpose

Opposing Fair use

☐ Large portion or whole work used
☐ Portion used is central to or “heart of the work”

Effect

Favoring Fair Use

☐ User owns lawfully purchased or acquired copy of original work
☐ One or few copies made
☐ No significant effect on the market or potential market for copyrighted work
☐ No similar product marketed by the copyright holder
☐ Lack of licensing mechanism

Opposing Fair Use

☐ Could replace sale of copyrighted work
☐ Significantly impairs market or potential market for copyrighted work or derivative
☐ Reasonably available licensing mechanism for use of the copyrighted work
☐ Affordable permission available for using work
☐ Numerous copies made
☐ You made it accessible on the Web or in other public forum
☐ Repeated or long-term use

☐ Overall Favoring Fair Use

☐ Overall Opposing Fair Use

Use this form only if you did due diligence to obtain copyright permission first.
1. Fill out form.
2. Majority favoring? Material may be used.
3. Majority opposing? Do not use material.
4. A tie? Reevaluate material used or do not use the material.
5. If changes are made to usage of materials, including a venue change, use a new fair use checklist.

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July 1, 2014