

## NYIT Fair Use Checklist

The purpose of this checklist is to assist you in making an evaluation of fair use for copyrighted intellectual materials you are considering for use in your particular situation, be it in the classroom, online, or otherwise. In addition, this checklist provides a means for recording your decision-making process and maintaining a record of your fair use analysis. A completed checklist is self-protective and protective of the Institution in that it establishes your “reasonable and good-faith” attempts to apply fair use to meet educational objectives. *We suggest that you keep a copy of the completed checklist for your records.*

### Nature

#### Favoring Fair Use

- Published work
- Factual or nonfiction based
- Important toward educational objectives

#### Opposing Fair Use

- Unpublished work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

### Amount

#### Favoring Fair Use

- Small quantity
- Portion used is not central or significant to entire work

#### Opposing Fair Use

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

## Effect

### Favoring Fair Use

- User owns lawfully acquired or purchased 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 harm sales 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 the work
- Numerous copies made
- You make it accessible on the Web or in other public forum
- Repeated or long term use

Based on a checklist from the Copyright Advisory Office of Columbia University, Kenneth D. Crews, director. For additional information view their website: [www.copyright.columbia.edu](http://www.copyright.columbia.edu)