

DRAFT Fair Use Checklist adapted from the Copyright Management Center at IUPUI. See also Columbia University's Copyright Advisory Office Fair Use Checklist: <http://copyright.columbia.edu/fair-use-checklist> and the University of Minnesota's "Fair Use Analysis Tool" at <http://www.lib.umn.edu/copyright/checklist.phtml>

### Test for Fair Use at Virginia Tech

*[record the citation for your test item]*

Fair Use Factor	In Favor of Fair Use	In Favor of Copyright Holder (not fair use)
<b>Purpose and Character of Use</b>		
commercial or educational use	<i>Research</i>	<i>Commercial activity</i>
for profit or not	<i>Scholarship</i>	<i>Profit (monetarily) from use</i>
degree of transformation; value added	<i>Nonprofit university</i>	<i>Entertainment</i>
for criticism, commentary, news reporting, teaching, scholarship, research	<i>Criticism</i>	<i>Bad-faith behavior</i>
	<i>Comment</i>	<i>Denying credit to original author</i>
	<i>Transformative: changes the original work for new purpose</i>	
	<i>Parody</i>	
<b>Nature of the Copyrighted Work</b>		
character of the work	<i>Published work</i>	<i>Unpublished work</i>
for example, fact or fiction	<i>Factual or non-fiction based</i>	<i>Highly creative work (art, music, novels, films, plays)</i>
worthy of (extensive) protection?	<i>Important to favored educational objectives</i>	<i>Fiction</i>
<b>Amount and Substantiality</b>		
use only what's necessary	<i>Small quantity of the work</i>	<i>Large portion or whole work used</i>
quantity and quality in relation to the whole work	<i>Portion used is not central or significant to entire work</i>	<i>Portion used is central to work or "heart of the work"</i>
	<i>Amount is appropriate for favored educational purpose</i>	
<b>Effect</b>		
harm to potential market or value of a work after a portion has been used separately from the whole	<i>User has lawfully acquired copy of the original work</i>	<i>Could replace sale of copyrighted work</i>
	<i>One or fewer copies made</i>	<i>Significantly impairs market or potential market for copyright work or derivative</i>
	<i>No significant effect on the market or potential market of copyrighted work</i>	<i>Reasonably available licensing mechanism for use of the copyrighted work</i>
	<i>No similar product marketed by the copyright holder</i>	<i>Affordable permission available for using work</i>
	<i>Lack of licensing mechanism</i>	<i>Numerous copies made</i>
		<i>You made it accessible on Web or in other public forum</i>
		<i>Repeated or long term use</i>