LIBERTY UNIVERSITY FAIR USE CHECKLIST

This checklist can be helpful in determining if the use of a resource is within the limits of fair use under U.S. copyright law (Section 107 of the U.S. Copyright Act). It can help you determine if you may make or distribute copies of the copyrighted works without acquiring permission of the copyright holder. The law sets forth four factors to consider when determining if the use of a copyrighted work is fair under the law:

1. the purpose of the use;
2. the nature of the copyrighted work;
3. the amount and substantiality of the portion used; and
4. the effect of the use upon the potential market for or value of the work used.

Congress and courts have offered some insights into the specific meaning of the four factors, and those interpretations are reflected in the details of this form.

In some cases, the Jerry Falwell Library may have a license to use the material. A fair use analysis does not need to be conducted when the use of the material is permitted under the terms of the applicable license such as creating a permalink to the material within a library subscription. Contact your liaison librarian at Liberty.edu/library/liaison-librarians to inquire about applicable library resources.

Benefits of the Checklist

The checklist serves to help you focus on the specific circumstances of your use of the copyrighted material. It also provides an important mechanism to document your decision-making process. We recommend that you keep completed checklists on file for future reference. Maintaining a record of your fair use analysis can be critical for establishing good faith and due diligence.

How to Use the Checklist

Check each box that applies to your situation and specific use of the material. You are likely to have some factors favoring fair use and some opposing it. Determining fair use is not as simple as checking and counting boxes. The ultimate question is the cumulative weight of the factors and if the circumstances of your use lean most convincingly for or against fair use.

Additional Resources

If you determine that your use does qualify as fair use, please place this statement on the material: Notice: This material is subject to the U.S. Copyright Law; further reproduction in violation of the law is prohibited.

If you determine that your use does not favor fair use, you can request permission from the copyright holder to use the material. Additionally, you may be able to pay a fee for usage. You can refer to the sample permissions letter and other copyright information available on the Jerry Falwell Library Copyright Research Guide.

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LIBERTY UNIVERSITY FAIR USE CHECKLIST FORM

Person completing form: Daphne Bishop Date: 5/23/22

Class or Project: Fraud Risk Management to Detect and Prevent Employee Fraud in Small Rural Businesses

Instructor/Researcher: Daphne Bishop

Title and author of the work: COSO Risk Assessment in Practice, ” by Deloitte and Touche LLP

Portion of the work to be used (e.g., pages or sections): p.57

Favoring Fair Use	Opposing Fair Use
Purpose	
■ Teaching	☐ Commercial activity
■ Research	☐ Profiting from the use
☐ Scholarship	☐ Entertainment
■ Nonprofit educational institution	☐ Bad-faith behavior
☐ Criticism	☐ Denying credit to original author
☐ Comment	
☐ News reporting	
☐ Transformative or productive use (changes the work to serve a new purpose)	
☐ Parody	
Nature of the Work	
■ Published work	☐ Unpublished work
■ Factual or nonfiction based	☐ Highly creative work (e.g., art, music, novel, films, plays, etc.)
■ Important to educational objectives	☐ Consumable works (e.g., workbooks, tests, etc.)
Amount Used	
■ Small portion	☐ Large portion or whole work used
■ Portion used is not central or significant to the work as a whole	☐ Portion used is central to or “heart” of the work
■ Amount is appropriate for educational purpose	☐ Includes more than necessary for educational purpose
Effect on the Market for Original Work	
☐ One or few copies made and/or distributed	☐ Numerous copies made and/or distributed
■ No significant effect on the market or potential market for copyrighted work	☐ Copying substitutes for purchase of the work
☐ No longer in print; absence of licensing mechanism	☐ Significantly impairs market or potential market for copyrighted work or derivative
☐ Restricted access (to students or other appropriate group)	☐ Reasonably available licensing mechanism for obtaining permission to use the copyrighted work
	☐ Will be making it publicly accessible online or other public forum
	☐ Repeated or long-term use

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