Our Impetus
Fielding increasing numbers of copyright questions at the library without legal expertise:
• Can this go on reserve?
• Can I distribute this to my students?
• Can I put this in my presentation?
• Can I use this in class?
• Can I digitize this VHS?

The Lucky Break
Librarian Beth Dyer entered the 2015 NAHSL Scholarship raffle and won a copyright consultation with Barbara Ingrassia.

Case Studies
• Georgia State University (GSU) e-reserves case (Cambridge University Press v. Patton)
• Google Books Scanning (Authors Guild v. Google)
• + UNE Library scenarios

No Need to Reinvent the Wheel
We based our checklist on (and cited) those created and freely shared by Cornell University, Columbia University, and Grand Valley State University. Before placing it on the website, we passed it by UNE’s legal counsel for approval.

Copyright: Walking the Tightrope
University of New England

<table>
<thead>
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<th>Fair Use Checklist</th>
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<tr>
<td><strong>Name:</strong></td>
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<td><strong>Project:</strong></td>
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<td>Teaching (including multiple copies for classroom use)</td>
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<td>Research</td>
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<td>Scholarship</td>
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<td>Transformatively or productive use (changes the work for new utility)</td>
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<tr>
<td>Restricted access (to students or other appropriate group)</td>
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<td>Parody</td>
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**PURPOSE OF USE**

**FAVORING FAIR USE**
- Published work
- Factual or nonfiction based
- Important to educational objectives
- Non-consumable work

**OPPOSING FAIR USE**
- Unpublished work
- Highly creative work (art, music, novels, films, plays)
- Fiction
- Consumable work (i.e., workbook, test)
- Work made for the educational market (i.e. textbook)

**FAVORING FAIR USE**
- Small portion of work
- Portion used is not central or significant to entire work
- Portion is narrowly tailored to accomplish a demonstrated, legitimate purpose in the course curriculum

**OPPOSING FAIR USE**
- Large portion of whole work
- Portion used is central or "heart of the work"
- Amount taken is more than necessary to accomplish a demonstrated, legitimate purpose in the course curriculum

**AMOUNT COPIED**

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

**OPPOSING FAIR USE**
- Could resell sale of, or significantly impair market or potential market for copyrighted work or derivative
- Reasonably available licensing mechanism for use of copyrighted work
- Affordability of purchase available for use work
- Numerous copies made
- Made accessible on web or in another public forum

**EFFECT ON MARKET FOR ORIGINAL**

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

**OPPOSING FAIR USE**
- Could resell sale of, or significantly impair market or potential market for copyrighted work or derivative
- Reasonably available licensing mechanism for use of copyrighted work
- Affordability of purchase available for use work
- Numerous copies made
- Made accessible on web or in another public forum
- Repeated or long-term use

Or email me at bkenyon@une.edu and I’ll send you a copy.

The Balancing Act
Users don’t turn the checklist in; they fill it out to help determine whether their use is fair, and keep it for their records. The determination of fair use is made by the user, not the librarian. By walking faculty and students through the checklist, and referring to it ourselves, we help them answer their questions while teaching them about copyright.

TAKEAWAY
The correct answer to copyright questions usually begins with “It depends…”

Barbara Ingrassia, Certified Copyright Consultant
Photo Courtesy of Worcester Magazine