This checklist is a tool to assist in determining the distribution of digital copies of works to the public, the UCSD campus use only, or limit access to library staff only. When copyright or access considerations differ within a single collection, please fill out the checklist for each rights scenario. When copyright status is unclear or unknown, an assessment of fair use must be undertaken.[[1]](#footnote-1)

**Directions:**

* 1. Complete Section 1-3 for all materials.
	2. If copyright is unknown or held by a third party and no license agreement exists, fill out Section 4-8.
	3. Fill out Section 9 Curatorial Recommendation of Access Level.
	4. Submit the completed form and any required documentation (e.g. copy of donor agreement or license agreement) to the UC San Diego Digital Library Development Program at dlp@ucsd.edu

If you have questions, please contact dlp@ucsd.edu. Thank you.

Prepared by

Program

Date Submitted

1. **GENERAL INFORMATION ABOUT THE COLLECTION OR ITEM**
* Collection or Item Name

* Number of Items

1. **DESCRIPTION**

[ ]  Single Item

[ ]  Collection

[ ]  Part of a collection

Format of Material to-be-made-accessible (please check all that apply)

[ ]  Text [ ]  Audio

[ ]  Data Sets [ ]  Video

[ ]  Graphic Materials (photographs, posters, slides, drawings, architectural records)

[ ]  Other - Please specify:

1. **COPYRIGHT STATUS**

[ ]  Public Domain. Please attach evidence indicating collection or item is in the public domain (justification or research into collection/item).

[ ]  UC Regents. Please attach evidence indicating UC Regents hold copyright for collection or item (donor agreement).

[ ]  3rd Party holds the copyright & license agreement exists permitting internet distribution. Please attach copy of license agreement.

[ ]  3rd Party holds the copyright & license agreement does not permit open internet distribution. **If the item is in this category, the access level must be in accordance with the terms of the license agreement.** Please attach copy of the license agreement.

[ ]  3rd Party holds the copyright & NO license agreement exists. **If no license agreement exists, please fill out Sections 5-9 of the checklist in order to complete a fair use analysis**.

[ ]  Unknown. **If copyright status is unknown, please fill out Sections 5- 9 of the checklist in order to complete fair use analysis**.

 If copyright status is in the Public Domain, held by the UC Regents, or a license has been obtained from a 3rd party holding copyright, fill out Section 9 and submit the form with the required documentation.

If copyright is unknown or held by a third party and no license agreement exists, continue to fill out Section 4-8.

1. **OTHER IMPORTANT CONDITIONS TO CONSIDER FOR ACCESS** If a collection or item requires restrictions or other special access conditions, please describe the circumstances and attach supporting documentation as appropriate.[[2]](#footnote-2)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**FAIR USE ANALYSIS**

1. **PURPOSE OF THE USE**

|  |  |
| --- | --- |
| **Favoring Fair Use** | **Disfavoring Fair Use** |
| [ ]  Educational* Teaching (including multiple copies for classroom use)
* Research
* Scholarship
* Criticism
* Comment
 | [ ]  Promotional, commercial, entertainment or other |
| [ ]  Transformative use (changes the work to serve a new purpose) | [ ]  Verbatim/exact copy or use is similar to original |
| [ ]  No fee charged | [ ]  Profit-generating use |

1. **NATURE OF THE COPYRIGHTED MATERIAL**

|  |  |
| --- | --- |
| **Favoring Fair Use** | **Disfavoring Fair Use** |
| [ ]  Factual, nonfiction, news | [ ]  Creative (art, music, fiction) or consumable work (workbooks, tests) |
|  | [ ]  Unpublished work |

1. **AMOUNT COPIED**

|  |  |
| --- | --- |
| **Favoring Fair Use** | **Disfavoring Fair Use** |
| [ ]  Small quantity (e.g. a single chapter or journal article or other excerpt consisting of less than 10% of the work) | [ ]  Large portion or entire work |
| [ ]  Portion used is not central to entire work as a whole | [ ]  Portion used is central or the “heart” of the work |
| [ ]  Amount is appropriate to education purpose | [ ]  Includes more than necessary for education purpose |

1. **EFFECT ON THE MARKET FOR ORIGINAL**

|  |  |
| --- | --- |
| **Favoring Fair Use** | **Disfavoring Fair Use** |
| [ ]  No significant effect on the market or potential market for the copyrighted work | [ ]  Cumulative effect on copying would be to substitute for purchase or license of the copyrighted work |
| [ ]  One or few copies made and/or distributed | [ ]  Numerous copies made and/or distributed |
| [ ]  No longer in print; absence of licensing mechanism | [ ]  Reasonably available licensing mechanism for obtaining permission to use the copyrighted work currently available, e.g. CCC licensing or off-prints available |
| [ ]  Restricted access (limited to students in a class or other appropriate group) | [ ]  Will be making it publicly available on the Web or using other means of broad dissemination or less limited access |
| [ ]  One-time use, spontaneous use (no time to obtain permission) | [ ]  Repeated or long-term use |

1. **CURATORIAL RECOMMENDATON ON ACCESS LEVEL**

**[ ]  Public**

**[ ]  Public access with click-through agreement**

**[ ]  Metadata only**

**[ ]  UCSD IP Restricted**

**[ ]  Curator View only (access restricted to Library staff)**

Please provide a brief written assessment for your recommended access level. Please specify if there is more than one access level in the collection.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **DIGITAL COLLECTIONS GROUP DECISION ON ACCESS LEVEL AFTER FAIR USE ASSESSMENT**

**[ ]  Public**

**[ ]  Public access with click-through agreement**

**[ ]  Metadata only**

**[ ]  UCSD IP Restricted**

**[ ]  Curator View only (access restricted to Library staff)**

**[ ]  Additional information needed to make a determination**

Please provide a brief written assessment of the Digital Collections Group decision. Please specify if there is more than one access level in the collection.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date Approved

1. In many cases, the UC San Diego Library may have a license to use material. A fair use analysis does not have to be conducted where the desired use is permitted under the terms of an applicable license. Similarly, other provisions of the copyright law cover such matters as library copying, in-class use and distance learning. [↑](#footnote-ref-1)
2. UC San Diego Library adheres to the practical approach in identifying and resolving rights issues outlined in OCLC’s “[Well-intentioned practice for putting digitized collections of unpublished materials online](https://www.oclc.org/content/dam/research/activities/rights/practice.pdf)” (2010) and the Triangle Research Libraries Network’s Intellectual Property Rights Strategy for Digitization of Modern Manuscript Collections and Archival Record Groups (2011) <http://www.trln.org/IPRights.pdf>. [↑](#footnote-ref-2)