DRAFT Fair Use Checklist adapted from the Copyright Management Center at IUPUI http://www.copyright.iupui.edu/checklist.htm (accessed Oct 28, 2008). See also the University of Minnesota's "Fair Use Analysis Tool" at http://www.lib.umn.edu/copyright/checklist.phtml

As a test of fair use in ETDs at Virginia Tech: _____

test of

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character of the work		*Published work*		*Unpublished work*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