

STUDENT USE OF COPYRIGHTED MATERIALS IN THEIR OWN ACADEMIC AND CREATIVE WORK

DESCRIPTION: Students strengthen media literacy skills by creating messages and using such symbolic forms as language, images, sound, music, and digital media to express and share meaning. In learning to use video editing software and in creating remix videos, students learn how juxtaposition reshapes meaning. Students include excerpts from copyrighted material in their own creative work for many purposes, including for comment and criticism, for illustration, to stimulate public discussion, or in incidental or accidental ways (for example, when they make a video capturing a scene from everyday life where copyrighted music is playing).

PRINCIPLE: Because media literacy education cannot thrive unless learners themselves have the opportunity to learn about how media functions at the most practical level, educators using concepts and techniques of media literacy should be free to enable learners to incorporate, modify, and re-present existing media objects in their own classroom work. Media production can foster and deepen awareness of the constructed nature of all media, one of the key concepts of media literacy. The basis for fair use here is embedded in good pedagogy.

LIMITATIONS: Students' use of copyrighted material should not be a substitute for creative effort. Students should be able to understand and demonstrate, in a manner appropriate to their developmental level, how their use of a copyrighted work repurposes or transforms the original. For example, students may use copyrighted music for a variety of purposes, but cannot rely on fair use when their goal is simply to establish a mood or convey an emotional tone, or when they employ popular songs simply to exploit their appeal and popularity. Again, material that is incorporated under fair use should be properly attributed wherever possible. Students should be encouraged to make their own careful assessments of fair use and should be reminded that attribution, in itself, does not convert an infringing use into a fair one.

DEVELOPING AUDIENCES FOR STUDENT WORK

DESCRIPTION: Students who are expected to behave responsibly as media creators and who are encouraged to reach other people outside the classroom with their work learn most deeply. Although some student media productions are simply learning exercises designed to develop knowledge and skills, media literacy educators often design assignments so that students have the opportunity to distribute their work.

PRINCIPLE: Educators should work with learners to make a reasoned decision about distribution that reflects sound pedagogy and ethical values. In some cases, widespread distribution of students' work (via the Internet, for example) is appropriate. If student work that incorporates, modifies, and re-presents existing media content meets the transformativeness standard, it can be distributed to wide audiences under the doctrine of fair use.

LIMITATIONS: Educators and learners in media literacy often make uses of copyrighted works outside the marketplace, for instance in the classroom, a conference, or within a school-wide or district-wide festival. When sharing is confined to a delimited network, such uses are more likely to receive special consideration under the fair use doctrine.

Especially in situations where students wish to share their work more broadly (by distributing it to the public, for example, or including it as part of a personal portfolio), educators should take the opportunity to model the real-world permissions process, with explicit emphasis not only on how that process works, but also on how it affects media making. In particular, educators should explore with students the distinction between material that should be licensed, material that is in the public domain or otherwise openly available, and copyrighted material that is subject to fair use. The ethical obligation to provide proper attribution also should be examined. And students should be encouraged to understand how their distribution of a work raises other ethical and social issues, including the privacy of the subjects involved in the media production.