

February 2011 Critical Connections Class  
Topic: Copyright Clarity by Renee Hobbs

Below info is from [teachingcopyright.org](http://teachingcopyright.org) and from [mediaeducationlab.com](http://mediaeducationlab.com)



## What is copyright?

U.S. copyright law generally gives the author/creator or owner of an original creative work an exclusive right to:

- Reproduce (copy) or distribute the original work to the public (e.g., create and sell copies of a film)
- Create new works based upon the original work (e.g., make a movie based on a book)
- Perform or display the work publicly (e.g., perform a play)

Ideas are not copyrightable. Only tangible forms of expression (e.g., a book, play, drawing, film, or photo, etc.) are copyrightable.

Once you express your idea in a fixed form — as a digital painting, recorded song, or even scribbled on a napkin — it is automatically copyrighted if it is an original work of authorship

## Are there any copyright limitations?

There are several limits on copyrights. For example:

**First Sale** allows a consumer to resell a product containing copyrighted material, such as a book or CD that the consumer bought or was given, without the copyright owner's permission.

**Public Domain** works can be freely used by anyone, for commercial or noncommercial purposes, without permission from an original copyright owner/author. Public domain status allows the user unrestricted access and unlimited creativity! These works may be designated for free and unlimited public access, or they may be no longer covered by copyright law because the copyright status has expired or been forfeited by the owner.

**Fair Use** allows the public to use portions of copyrighted work without permission from the copyright owner. To decide whether a use is a fair use, courts look at four factors:

1. the purpose and character of the use
2. the nature of the copyrighted work
3. the amount and substantiality of the portion used
4. the effect of the use on the market for the original

(in Copyright Clarity – Chap. 2. Dispelling Copyright Confusion: Fair Use, Beware Educ. Guidelines)

## New Instructional Practices

1. Use of Social Networking spaces to share ideas and engage in dialogue.
2. Use of digital files, slides, videos, and audio clips to teach
3. Use of images, quotes, video, audio, music, podcasts, wikis, and websites by students
4. Use of online tools for creative expression, like Flickr and Voicethread.

## What is transformativeness and why does it matter?

Bid Idea! “The key that unlocks the doctrine of Fair Use is the idea of transformativeness – **that is, has the user added value or repurposed the work?**” The copyright law permits and requires each person to make that determination for themselves. Copyright Clarity, pg. 41



Two specific questions to ask on transformative use:

1. Did the new use transform the original material by using it for a different purpose than the original?
2. Was value added to the original?

Use these 3 ideas to dig deeper:

**Context, purpose, and audience** are key elements to consider in assessing whether a work is transformative.

Example questions to ask when using an image:

- What is the **context** of the *original image*? What is the context of the *new image*?
- Who is the **audience** for the *original image*? Who is the audience for the *new image*?
- What is the **purpose** of the *original image*? What is the purpose of the *new image*?

## Two Case Studies:

For each, consider the 4 factors that would make these works fall under Fair Use for Educators Teacher Case Study Video: Elementary Project 5:49 min.

<http://mediaeducationlab.com/teacher-case-study-video-elementary>

Elementary school teachers strengthen critical thinking and communication skills by engaging students in using copyrighted materials to create their own Public Service Announcement on global warming.

Watch 3-4 minutes of the video to determine if the work falls within Fair Use guidelines.

Use the questions on this handout.

Think about....Would you feel comfortable posting this student project on YouTube?

A Fair(y) Use Tale on YouTube

10 min.

Fair Use? Use the 4 questions to justify your thinking.

(in Copyright Clarity – Chap. 3. Users Have Rights, Too: New Instructional Practices and Transformative).