



# Yes, You Can! Conquering Copyright Confusion

Kristin Hokanson and Renee Hobbs  
Media Education Lab  
Temple University

What are schools doing to prepare for this?

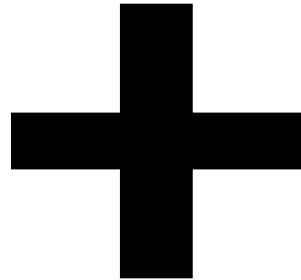


# Let's Discuss Media Literacy for today's Digital Culture



# What is Media Literacy?

- ▶ ...an expanded conceptualization of literacy that includes mass media, popular culture and digital technology
- ▶ ...the ability to access, analyze, evaluate and communicate messages in a wide variety of forms

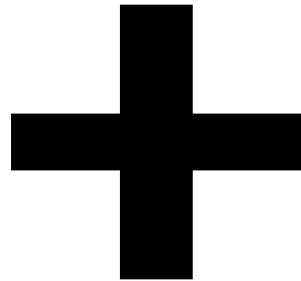


Critical Thinking

Communication Skills

# Exercising your right to Fair Use demands...

- ▶ ...an expanded conceptualization of literacy that includes mass media, popular culture and digital technology
- ▶ ...the ability to access, analyze, evaluate and communicate messages in a wide variety of forms



Critical Thinking

Communication Skills

Is copyright a little fuzzy?

**What's your level of confidence in understanding copyright and fair use:**

- A. Very confident
- B. Confident
- C. I think I understand it
- D. Confused
- E. Completely confused!

Image: 'fuzzy copyright'

[www.flickr.com/photos/58764797@N00/1384247192](http://www.flickr.com/photos/58764797@N00/1384247192)

Code of  
Best Practices in  
Fair Use for  
Media Literacy  
Education

Finally  
the end to  
copyright  
confusion  
has arrived!



[centerforsocialmedia.org/medialiteracy](http://centerforsocialmedia.org/medialiteracy)



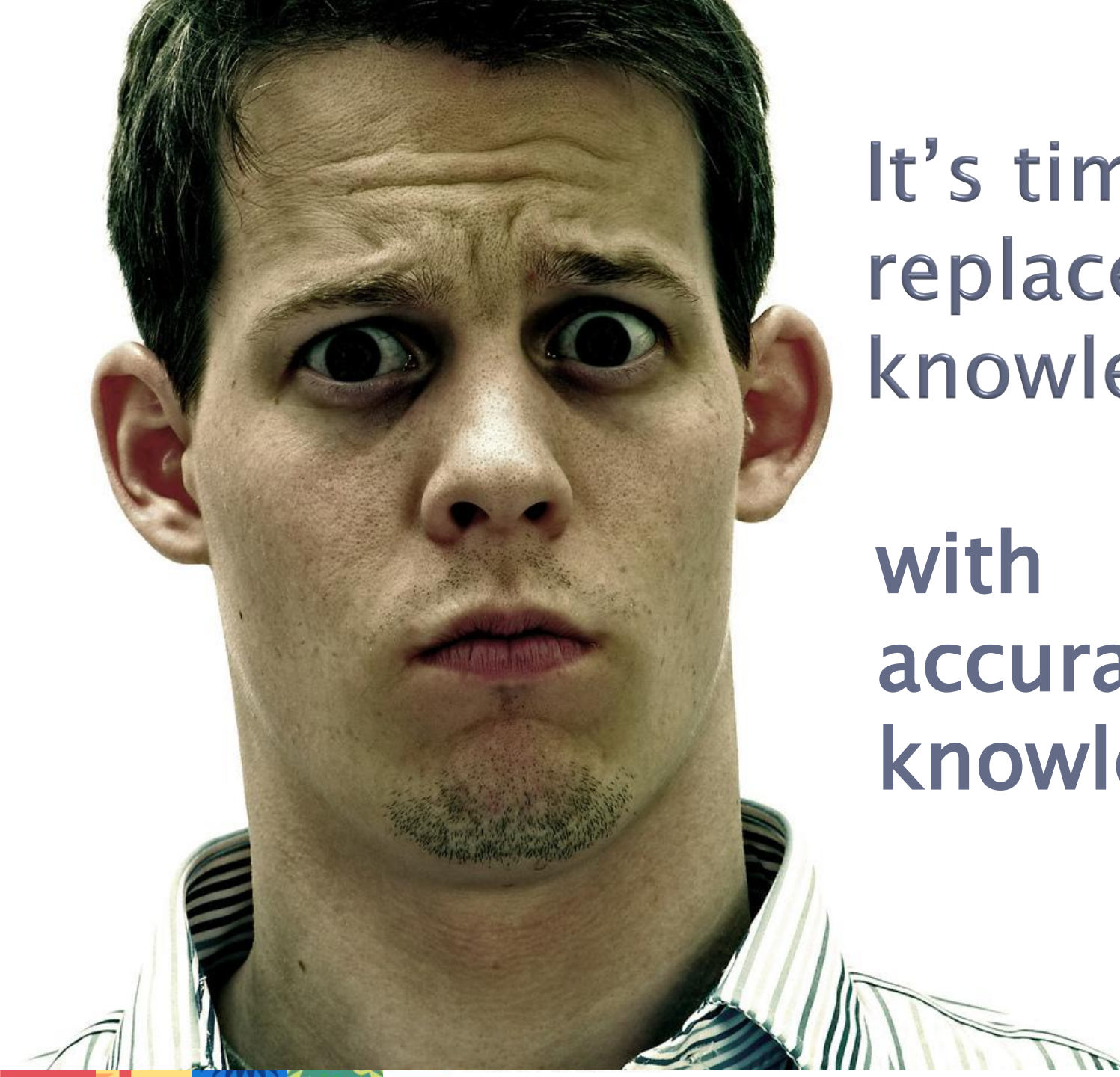
# FAIR USE FOR MEDIA LITERACY EDUCATION



<http://mediaeducationlab.com/index.php?page=293>



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**It's time to  
replace old  
knowledge**

**with  
accurate  
knowledge**

**What is the purpose of**

**© copyright?**

We the People

of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article 1

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

To promote creativity,  
innovation and the  
spread of knowledge

Representatives and electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

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Article 1 Section 8  
U.S. Constitution

# Technology makes it easy to...

- ✓ Share
- ✓ Use
- ✓ Copy
- ✓ Modify
- ✓ Repurpose
- ✓ Distribute

Owners  
**forcefully** assert  
their rights to:

- ✓ Restrict
- ✓ Limit
- ✓ Charge high fees
- ✓ Discourage use
- ✓ Use scare tactics



# The Result Copyright Confusion



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The unauthorized reproduction or distribution of this copyrighted work is illegal. Criminal copyright infringement, including infringement without monetary gain, is investigated by the FBI and is punishable by up to 5 years in federal prison and a fine of \$250,000.

# How Teachers Cope

See no Evil



Close the Door



Hyper-Comply

## THE SECURITY OF REGULATION

1. you must answer accordingly to my questions - Don't turn them away
2. Don't try to hide the facts by making pretexts this and that  
You are strictly prohibited to contest me.
3. Don't be fool for you are a chap who dare to thwart the revolution.
4. you must immediately answer my questions without wasting time to reflect.
5. Don't tell me either about your immoralities or the essence of the revolution.
6. While getting lashes or electrification you must not cry at all
7. Do nothing, sit still and wait for my orders. If there is no order, keep quiet. when I ask you to do something, you must do it right away without protesting.
8. Don't make pretext about Kampuchea Krom in order to hide your secret or traitor.
9. If you don't follow all the above rules, you shall get many lashes of electric wire.
10. If you disobey any point of my regulations you shall get either ten lashes or five shocks of electric discharge.



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# Problem:

Educational Use Guidelines are Confusing!

**NEGOTIATED AGREEMENTS BETWEEN MEDIA  
COMPANIES AND EDUCATIONAL GROUPS**

Agreement on Guidelines for Classroom Copying  
in Not-for-Profit Educational Institutions

Fair Use Guidelines for Educational Multimedia

Guidelines for the Educational Use of Music



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# Educational Use Guidelines are NOT the Law!

The documents created by these negotiated agreements give them “the appearance of positive law. These qualities are merely illusory, and consequently the guidelines have had a seriously detrimental effect. They interfere with an actual understanding of the law and erode confidence in the law as created by Congress and the courts”

--Kenneth Crews, 2001



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# The Doctrine of Fair Use

## §107 · Limitations on exclusive rights: Fair use<sup>40</sup>

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining

--Section 107  
Copyright Act of 1976



# Five Principles

## Code of Best Practices in Fair Use

### **Educators can:**

1. make copies of newspaper articles, TV shows, and other copyrighted works and use them and keep them for educational use
2. create curriculum materials and scholarship with copyrighted materials embedded
3. share, sell and distribute curriculum materials with copyrighted materials embedded

### **Learners can:**

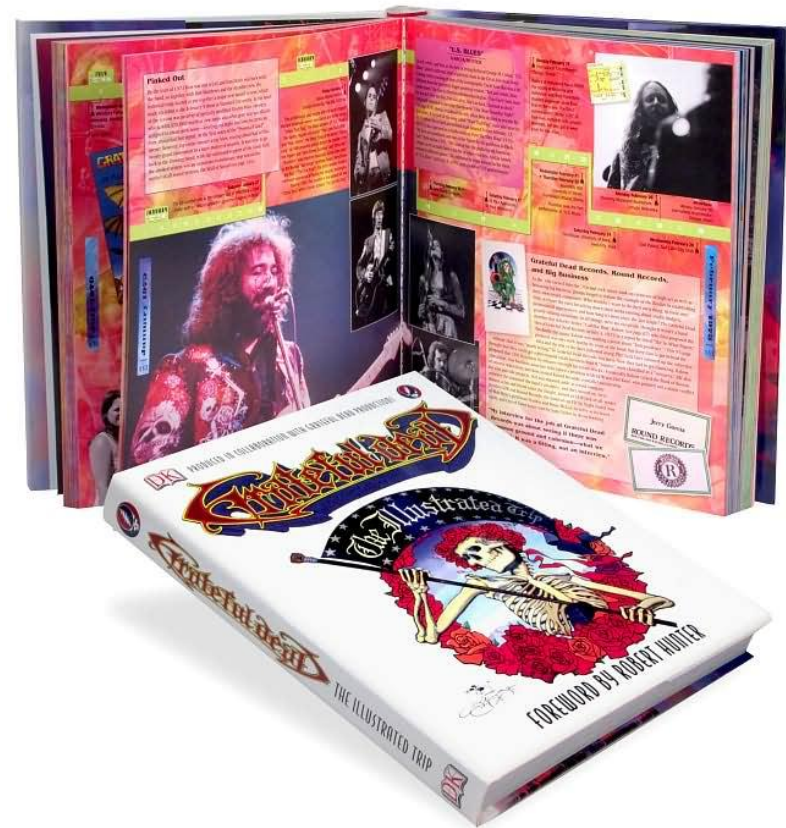
4. use copyrighted works in creating new material.
5. distribute their works digitally if they meet the transformativeness standard

# Transformative Use is Fair Use

When a user of copyrighted materials adds value to, or repurposes materials for a use different from that for which it was originally intended, it will likely be considered transformative use; it will also likely be considered fair use. Fair use embraces the modifying of existing media content, placing it in new context.

--Joyce Valenza, *School Library Journal*

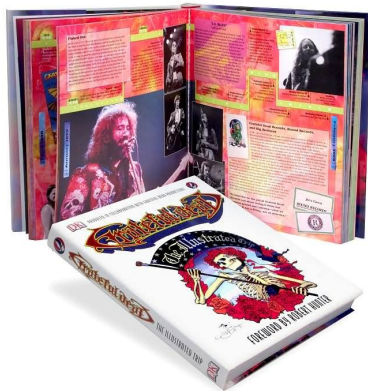
# Bill Graham Archives vs. Dorling Kindersley, Ltd. (2006)



# An Example of Transformative Use



The purpose of the original:  
To generate publicity for a concert.



The purpose of the new work: To document and illustrate the concert events in historical context.



# Users' Rights, Section 107



<http://mediaeducationlab.com/index.php?page=295>

# Is Your Use of Copyrighted Materials a Fair Use?

nature

purpose

1. Did the unlicensed use “transform” the material taken from the copyrighted work by using it for a different purpose than that of the original, or did it just repeat the work for the same intent and value as the original?
2. Was the material taken appropriate in kind and amount, considering the nature of the copyrighted work and of the use?

effect

amount

# Video Case Studies



**Elementary School Case Study:**  
P.S. 124 The Silas B. Dutcher School  
Brooklyn, NY



**High School Case Study:**  
Upper Merion Area High School  
King of Prussia, PA



**College Case Study:**  
Project Look Sharp at Ithaca College  
Ithaca, NY



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# Fair Use Empowers Educators

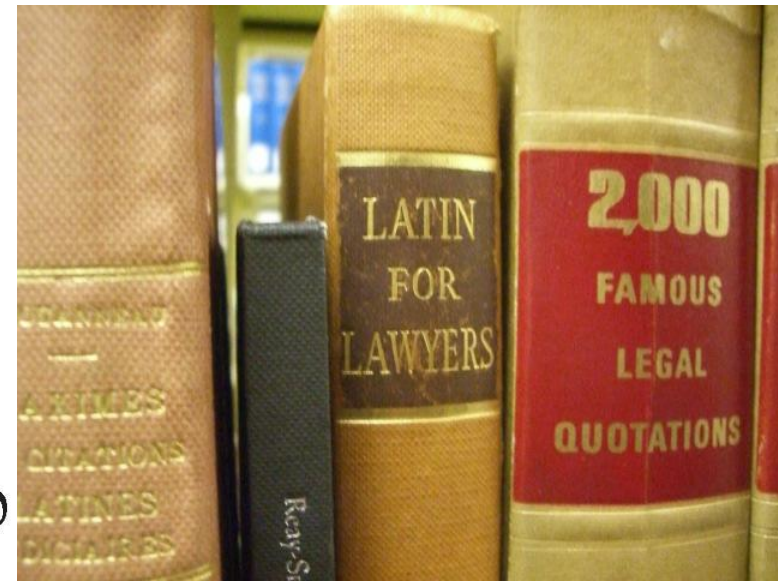
## MYTH:

FAIR USE IS TOO UNCLEAR AND COMPLICATED FOR ME; IT'S BETTER LEFT TO LAWYERS AND ADMINISTRATORS.

**TRUTH:** The fair use provision of the Copyright Act is written broadly because it is designed to apply to a wide range of creative works and the people who use them.

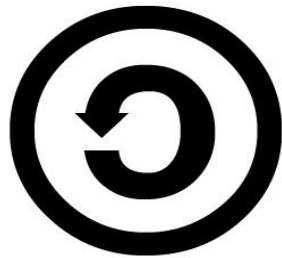
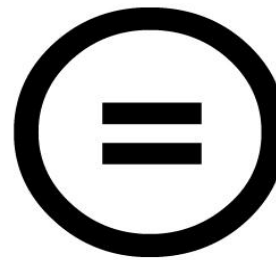
Fair use is a part of the law that belongs to **everyone**—especially to working educators.

Educators know best what they need to use of existing copyrighted culture to construct their own lessons and materials. Only members of the actual community can decide what's really needed. Once they know, they can tell their lawyers and administrators.



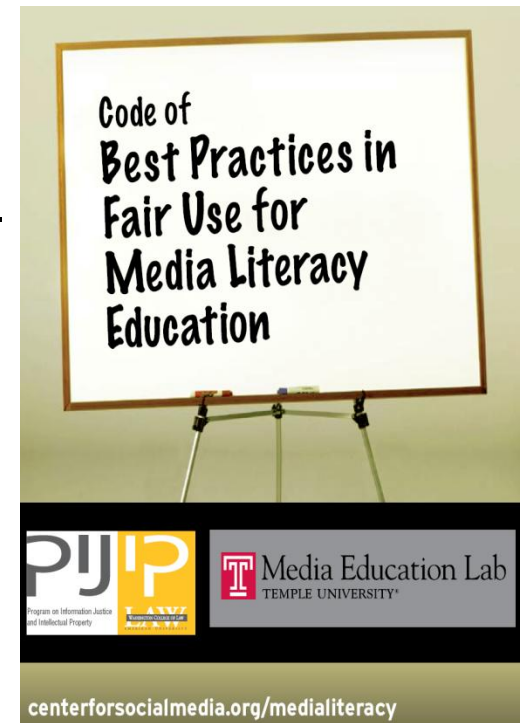
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# creative commons



# The Code of Best Practices Helps

- To educate educators themselves about how fair use applies to their work
- To persuade gatekeepers, including school leaders, librarians, and publishers, to accept well-founded assertions of fair use
- To promote revisions to school policies regarding the use of copyrighted materials that are used in education
- To discourage copyright owners from threatening or bringing lawsuits
- In the unlikely event that such suits were brought, to provide the defendant with a basis on which to show that her or his uses were both objectively reasonable and undertaken in good faith.



# Fair Use Policy

A whiteboard on a stand with a wooden frame. The text on the board is written in black marker.

Code of  
**Best Practices in  
Fair Use for  
Media Literacy  
Education**

NCTE adopted the Code of Best Practices in Fair Use for Media Literacy Education as the official policy on fair use:

*<http://www.ncte.org/positions/statements/fairusemedialiteracy>*

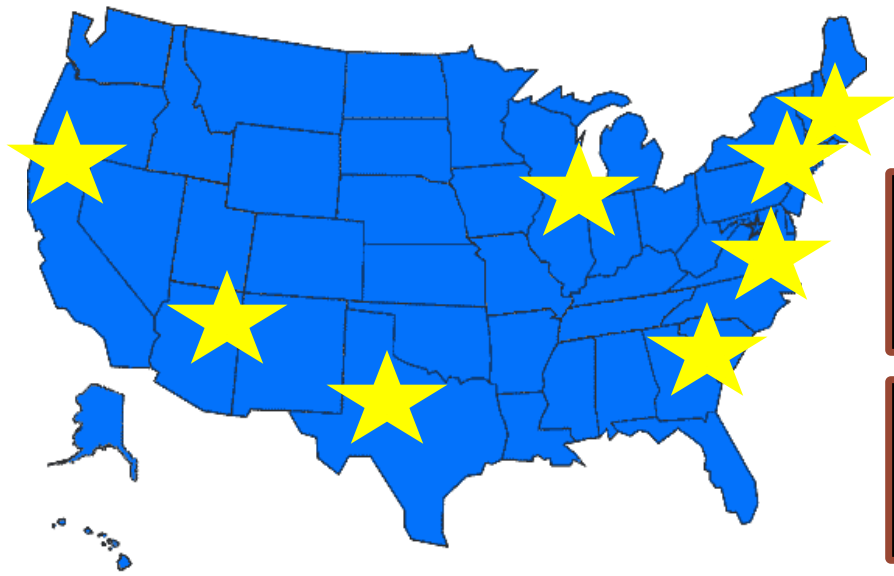


[centerforsocialmedia.org/medialiteracy](http://centerforsocialmedia.org/medialiteracy)



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# Organizations Supporting the Code of Best Practices



National Association for Media Literacy Education (NAMLE)

Action Coalition for Media Education (ACME)

National Council of Teachers Of English (NCTE)

Visual Studies Division  
International Communication Association (ICA)



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"It is the emergence of mass media which makes possible the use of propaganda techniques on a societal scale."

- Jacques Ellul



- Temple University Media Education Lab
- Key Resources
- Workshops and Seminars
- Curriculum Materials
  - My Pop Studio
  - AML for Elementary School
  - AML for Middle School
  - AML for High School
  - Copyright and Fair Use
  - Media Straight Up
  - KNOW TV
  - Tuning in to Media
- Publications
- Course Info
- Contact Information

## CURRICULUM MATERIALS: Teaching about Copyright and Fair Use

**PPT SLIDES** help you introduce the project to your colleagues

### Lesson Plans: Teaching about Copyright and Fair Use for Media Literacy Education

Download the whole **Copyright and Fair Use Curriculum Guide**

These lesson plans are complete with multimedia, readings, discussion questions, activities and hands-on production projects that enable students to strengthen their understanding of copyright and fair use. There are strands for *high school*, *undergraduate* and *graduate learners*.

- **Overview.** Why it's important to teach about copyright and fair use.
- **Section 1.** Understanding Copyright.
- **Section 2.** The Cost of Copyright Confusion
- **Section 3.** Defining and Applying Fair Use
- **Section 4.** The Five Principles
- **Section 5.** Advocacy
- **Resources for Learning More**

### Copyright and Fair Use Songs

These "Schoolhouse Rock" style songs introduce key ideas about copyright and fair use. Animated music videos coming soon!



**Song #1.** What's Copyright?

### Video Case Studies: Fair Use in Media Literacy Education

Watch how the Code of Best Practices for Fair Use in Media Literacy Education applies in 3 different educational contexts.



**Elementary School Case Study:** Dutcher School, Brooklyn, New York



**High School Case Study:** Upper Merion Station, King of Prussia, Pennsylvania



**College Case Study:** Project Look Sharp, Ithaca, New York

### The Code of Best Practices for Fair Use in Media Literacy Education

This **video** provides an introduction to the Code of Best Practices for Fair Use in Media Literacy Education and students. Read the **The Code of Best Practices for Fair Use in Media Literacy Education**

# Continue Your Learning

Online community for sharing:

*<http://copyrightconfusion.wikispaces.com/>*

Contact:

Professor Renee Hobbs  
Temple University  
Media Education Lab  
Philadelphia, PA  
Email: [renee.hobbs@temple.edu](mailto:renee.hobbs@temple.edu)  
Phone: 215 204-4291

Contact:

Kristin Hokanson  
Upper Merion High School  
King of Prussia, PA  
Email: [kristin.hokanson@gmail.com](mailto:kristin.hokanson@gmail.com)  
Phone: 484 432-9446



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