

GRADE 7

The Four Factors of Fair Use

What rights to fair use do you have as a creator?



OVERVIEW

Kids can be voracious consumers -- and creators -- of media, and it's easier than ever for them to find and share digital content online. But do middle-schoolers know about concepts like fair use, copyright, and public domain? Give students a framework they can use to better understand how fair use works in the real world.

Students will be able to:

- Define the terms "copyright," "public domain," and "fair use."
- Identify the purpose of the Four Factors of Fair Use.
- Apply fair use to real-world examples, making a case for or against.

Lesson Snapshot

Estimated time: 50 mins.

Warm Up:	Copyright and Fair Use	15 mins.
Explore:	Fair and Square	20 mins.
Debate:	Sampling or Stealing	15 mins.

Key Standards Supported

Common Core ELA

L.7.1, L.7.3, L.7.6, RL.7.1, RL.7.2, RL.7.4, SL.7.1, SL.7.1a, SL.7.1b, SL.7.1c, SL.7.1d, SL.7.2, SL.7.4, SL.7.6, W.7.1, W.7.1a, W.7.1b, W.7.4, W.7.5, W.7.9, W.7.10

CASEL

1a, 1e, 2a, 2e, 3d, 4a, 4b, 4c, 4d, 5a, 5b, 5c, 5d, 5e, 5f

AASL

I.A.1, I.A.2, I.B.1, I.D.1, I.D.2, I.D.3, I.D.4, II.A.2, II.B.1, II.B.2, II.C.1, II.C.2, II.D.1, II.D.3, III.A.1, III.A.2, III.A.3, III.B.1, III.B.2, III.C.1, III.C.2, III.D.1, III.D.2, IV.B.2, IV.B.3, V.A.2, V.A.3, V.C.1, V.D.1, V

ISTE

1d, 2a, 2b, 2c, 3c, 3d, 4d, 6a, 6b, 7b

What You'll Need

Spanish-language student and family resources available soon!

- Lesson Slides
- Student Handout: Fair and Square **Student Version Teacher Version**
- Lesson Quiz **Editable Google form Answer Key**

Take-home resources

- Family Tips
- Family Activity
- Family Engagement Resources

LESSON PLAN

Key Vocabulary:

copyright

legal protection that creators have over the things they create

cyberbullying

using digital devices, sites, and apps to intimidate, harm, and upset someone

fair use

the ability to use copyrighted work without permission, but only in certain ways and in specific situations

public domain

creative work that's not copyrighted and free to use without permission

sampling

reworking a portion of a song or sound recording into a new composition

Warm Up: Copyright and Fair Use

15 mins.

Note: This lesson contains videos hosted on YouTube. You may need to get permission to bypass your district's firewall to view them.

1. **Ask:** *Imagine that you and some friends created a short stop-motion animated film. You wrote clever dialogue, designed the shots, and worked on the footage on the weekends. You post the video on YouTube, and people love it! One day, you see your film uploaded on someone's website. They wrote the caption, "Look at this cool stop-motion video!" But there is no mention of your name or your friends' names, and it's not linked to YouTube. How would you feel if something you had worked hard to create was being shared by other people without your name attached to it?*

Invite volunteers to share their thoughts. Help students connect their feelings to a shared definition of fairness: that when you work hard on something you create, you deserve credit for it. Emphasize that:

- It's unfair but also illegal to use other people's copyrighted writing, music, pictures, videos, or artwork without permission or citing them.
- There are laws in place in the United States that protect your creative work -- check the Constitution for the Copyright Clause.

2. **Distribute** the **Fair and Square Student Handout** and review the terms and definitions in Part 1. Tell students they will watch a short video and that afterward they'll try to match each word with its definition.

3. **Show** students the **Understanding Copyright, Public Domain, and Fair Use** video on **Slide 4** (2:41) and then have them complete Part 1 of the handout.

After watching, review the correct responses to Part 1 using the **Teacher Version**. If time allows, project **Slide 5** and ask students additional questions to check for understanding of the video:

- *What is copyright infringement? What can it result in?*
- *How are works in the public domain different from copyrighted works?*
- *Why is determining fair use "tricky"?*

4. **Summarize** by explaining that if you want to use copyrighted work (images, text, video, music, etc.), you either have to get permission from the author or be able to claim fair use.

Explore: Fair and Square

20 mins.

1. **Project Slide 6** and say: *Next we're going to learn more about fair use. When determining whether something is fair use, you can ask yourself: Is it fair ... and square? We're going to look at the Four Factors of Fair Use, which are in a square to help you remember.*

2. **Project Slide 7** and read aloud each of the descriptions for the Four Factors of Fair Use. As you read them aloud, students should fill in the blanks in their notes in Part 2 of the **Fair and Square Student Handout**.

As needed, provide examples for each factor as you go through them:

- **Purpose:** You are inspired by Marvel's comic superhero Black Panther. You draw your own original version of the character and use it to make a T-shirt. This is likely fair use. If you copy the original Black Panther image onto a T-shirt and try to sell the T-shirts, that is not fair use and would be a copyright infringement.
- **Nature:** If you are writing a research paper and want to use a quote from an article or book to support your ideas, this is fair use. You need to provide a citation for the author/work. Using informational works such as news, magazines, scholarly books, and articles is a better case for fair use because it encourages the spread of ideas and benefits the public.
- **Amount:** If you are creating a video for a school project, and a documentary by National Geographic supports your ideas, you can argue fair use by using a short clip from the movie. And because it's for school, you have a more compelling argument for fair use.
- **Effect:** Copying a still image from a movie and making it into a meme as a parody or commentary is typically an argument for fair use. The meme would likely not have a negative effect on the sales or performance of the movie. (In this case, the meme uses a small amount of the original work, is used for noncommercial purposes, and is transforming the original work into something different.)

3. **Project Slide 8** and read aloud the four common examples of fair use. Have students capture the four examples on their handouts.

4. **Say:** *Next, we're going to play a little game.* **Project Slide 9** and read the directions aloud.

Project Slide 10 and have a student read aloud the example. After one minute, ask students to give a thumbs-up or thumbs-down and call on two people to briefly explain their thinking. Prompt students to refer back to the Four Factors of Fair Use and ask: *Is it fair ... and square?*

Explain that this example probably isn't fair use because although Maya is only using part of the logo, it's for advertising and she plans to make a profit. That is less of an argument for fair use.

5. **Repeat** Step 4 for **Slides 11–13**. Use the answers below, but keep in mind that there's not a formula or clear-cut right or wrong answer for fair use.

- **Example No. 2:** Not fair use. Students are using the song for mood but not transforming or reworking the song in any way.
- **Example No. 3:** Most likely fair use. Eva is critiquing and commenting on unrealistic expectations about appearance that some magazines promote. It could even be thought of as a parody.
- **Example No. 4:** No, it is not fair use. But it is OK to use it in this example because the image is part of the public domain. This means creators can use it however they want. According to U.S. copyright law, there is a certain amount of time after an author's death when their works enter the public domain. Or authors can decide to have their works be public domain and freely used by others. Documents and works of the United States government also are in the public domain.

6. **Summarize** for students by saying: *Now you know about copyright, fair use, and public domain. You applied the Four Factors of Fair Use to some examples. Next, we're going to explore an even more tricky example: music sampling.*

Debate: **Sampling or Stealing**

15 mins.

Note: This section includes a music video by DJ Earworm, which is composed of clips from other popular music videos. Review this video in its entirety before showing it to students. If you are comfortable sharing only a segment of the video, feel free to do so.

1. **Ask:** *Have you ever heard a song with a sample in it?* Have students respond with the song and, if possible, the original song that was sampled.

Define **sampling** as *reworking a portion of a song or sound recording into a new composition*. (**Slide 14**) Note that sampling is a foundation for hip-hop music in which drum breaks or other sounds are sampled, looped, and rapped to. Explain that musicians often get permission from the original artist before they sample, or they use samples in the public domain ... but not always.

2. **Ask:** *Do you think sampling qualifies as an example of fair use?*

Invite students to respond. Help students connect their ideas to the Four Factors of Fair Use: purpose, nature, amount, and effect. Explain that, as with any creative work that involves fair use, it depends on the situation.

3. **Project Slide 15** and say: *Let's look at one example of sampling to see whether we think it qualifies as fair use.* Read the bullet points aloud and explain that students will watch the video and then work in pairs or groups to complete the graphic in Part 3 of their **Fair and Square Student Handout**. Show **DJ Earworm Mashup - United State of Pop 2018** video.

4. **Project Slide 16** and read the questions aloud to support students in completing Part 3 of their handouts.

Call on groups to share out their Final Decision responses. Use the **Teacher Version** for guidance. (For fun, you can play judge and actually make a call as to whether or not you believe it's fair use.) Explain that there are valid arguments on both sides. Highlight that one compelling argument for fair use is that sampling is a form of **collage**, which is *a piece of artwork made by piecing together different materials, including photos, images, or other artwork*. (**Slide 17**)

5. **Summarize** by explaining:

- When in doubt, the safest choice if you want to use copyrighted work is to get permission from the author. This means reaching out and emailing them, calling, or writing a letter. It's also the responsible thing to do as a digital citizen, and you might be surprised by what they say!
- But you also can follow the Four Factors of Fair Use. Whether you claim fair use or not, make sure to always give credit to the creator of the original work.

6. **Collect** handouts to assess student learning.

7. **Have** students complete the **Lesson Quiz**. Send home the **Family Activity** and **Family Tips**.

Extension Activity:

Explain that Creative Commons licenses provide creators with a way for their work to be shared more freely than a traditional copyright license allows, but it still allows creators control over their work. Allow students to view the **FAQ section of the Creative Commons website** or watch the **90-second explanatory video**. Ask students: *Would you be interested in putting a Creative Commons license on something you created? If so, which license sounds appealing?*



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