

RESOLVING COPYRIGHT CONCERNS IN THE DEVELOPMENT OF DIVERSE CURRICULUM MATERIALS FOR MEDIA ANALYSIS ACTIVITIES

Chris Sperry and Cyndy Scheibe

As educators, we have a fundamental responsibility to teach our students to think critically about the world in which they live and the messages they receive, including messages conveyed through popular and educational media. It is not possible for teachers to fulfill this responsibility without being able to view, discuss, and critique examples of these media materials—which are often copyrighted—in our classrooms. Fair use is therefore essential to one of the primary goals of education: teaching students the skills and habits they need to read their world.

Project Look Sharp is a not-for-profit grassroots initiative that was founded by Dr. Cyndy Scheibe at Ithaca College in 1996. Our mission is to give educators the training and support they need to integrate media literacy throughout the K–12 curriculum in ways that are literacy based, inquiry based, and curriculum driven. Over the past twenty years, we have reached more than 25,000 educators, librarians, and school administrators through our free online curriculum materials and professional development programs. When we first began working with teachers and librarians two decades ago, they quickly identified classroom media analysis as the key avenue for integrating media literacy into the curriculum, recognizing the need for diversifying the types of texts that were being discussed and analyzed by students (beyond traditional books and other print materials). Teachers understood the importance of developing critical reading skills through media analysis, particularly for students who were disenfranchised by strictly text-based analyses. Many of these early adopters were already using film

clips, paintings, advertisements, magazine covers, excerpts from TV shows, and a host of other media forms to teach both content and critical literacy skills.

While these educators were excited about the possibilities that media literacy approaches could provide for their work with students, they also had a very consistent refrain: “Sounds great, but I do not have the time to find the right media examples to use with my students.” They told us loud and clear that if Project Look Sharp wanted to support educators in integrating media literacy into their teaching, we needed to find ways to provide high-quality and diverse media materials they could use in the classroom. The content area educators teaching social studies, science, and health—particularly at the secondary level—said that they needed carefully chosen media documents with key questions and background information tied to their specific subject areas and grade levels. They told us that with the right materials that addressed their core content, they could consistently integrate media analysis across their curriculum.

Throughout the late 1990s, we began working with groups of educators and administrators in our local school district to develop these materials. At the elementary level, they were often used in interdisciplinary units that involved media production as well as analysis. One example was the development of *The Iroquois Kit* (Sperry 1999), produced by the Ithaca City School District in collaboration with Project Look Sharp and TST-BOCES (Anderson et al. 2001).

Working with fourth-grade teachers, librarians, the district social studies curriculum chair, and Haudenosaunee educator Freda Jacques, we created a series of slide shows that used diverse images of Native people to teach students about history, culture, and stereotyping through critical thinking and analysis of the media messages. Teachers throughout the district were then able to teach fourth-graders to analyze the historical representation of Native people while at the same time evaluating how paintings, advertisements, murals, money, cartoons, TV, film, and video games presented views of Native Americans from both historical and cultural perspectives. Figure 19.1 shows two different paintings representing first contact between Native Americans and European explorers. They are the *Discovery of the Mississippi* by William H. Powell (1955) and *The Last Support* by Jonathan Warm Day (1991). The Iroquois Kit involves teachers asking students questions about each of these paintings, such as:

- From whose perspective and point of view is this painting, and what makes you say that? What is the historical context for these events, and what is your evidence?
- What are the messages about Native peoples (and about Europeans) in this painting?
- Who created—and who commissioned—each of these paintings, and why?

In developing these materials, we also codified Project Look Sharp’s constructivist approach to media decoding. The images depicted in Figure 19.1 were not accompanied by a script for teachers to provide the analysis for students; the students were to do the analysis themselves, with key questions and focused probing by the teacher. The teacher would not attempt to fill students up with the “correct” analysis of the messages found in the media example but rather unearth students’ own meaning-making about the content and construction of each document by facilitating a developmentally appropriate dialogue with and among the students, enabling internalized understanding and analysis of content and building habits of asking key questions about all mediated messages. That philosophical approach to media literacy pedagogy is reflected in all of the free curriculum kits and lessons now available on the Project Look Sharp website (projectlooksharp.org), as well as in our professional development work with educators over the past two decades.

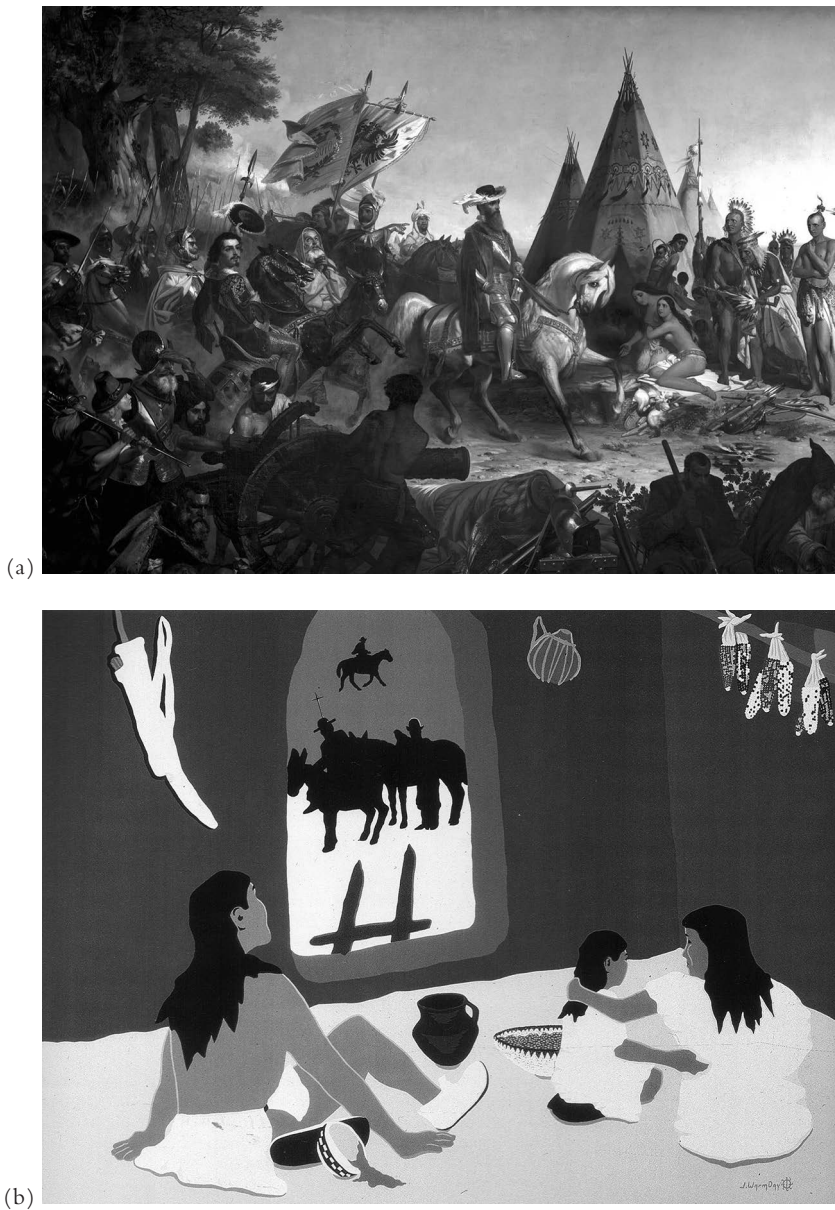


Figure 19.1 Sample Images for Decoding, The Iroquois Kit: (a) Discovery of the Mississippi; (b) The Last Support

This work has been deeply informed by decades of international scholarship and practice in the growing field of media literacy education. In the United States, media literacy was initially defined as “the ability to access, analyze, evaluate, and produce communication in a variety of forms” (Aufderheide & Firestone 1993). Today, most media literacy educators emphasize analysis, evaluation, creation, reflection, and action as the main components of media literacy, all of which are featured in the graphic representation of the Process of Media Literacy created

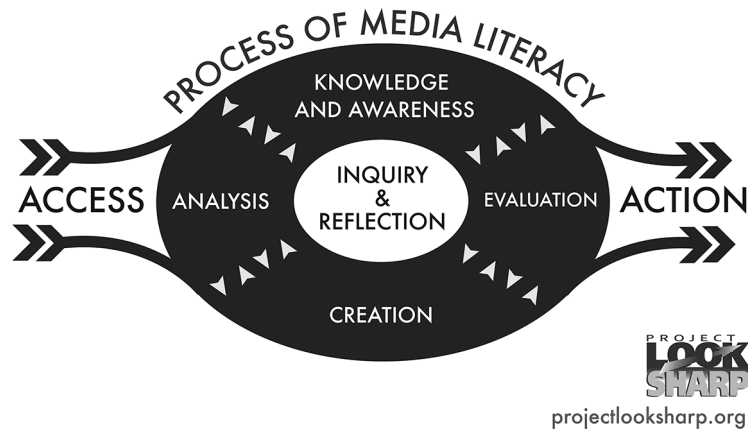


Figure 19.2 Project Look Sharp's Media Literacy Process

by Project Look Sharp (see Figure 19.2), a process that is grounded in ongoing inquiry and reflection. Our work is also based on The Core Principles of Media Literacy Education developed and published by the National Association for Media Literacy Education (2007), as well as its rubric Key Questions to Ask When Analyzing Media Messages. Project Look Sharp uses these and other collaboratively developed frameworks for media analysis as the basis for our local, national, and international work with teachers, librarians, and other educators in shaping the critical thinking questions found in our curriculum materials.

The Importance of Professional Development for Media Literacy

Our early work with teachers also helped us to identify the critical connection between materials development and staff development. Our lessons were designed to be constructivist, with teacher's guides that feature suggested questions the teacher could ask in facilitating a group analysis of media documents. These were accompanied by "Possible Answers" to illustrate the types of evidence-based responses teachers should be probing to elicit. Sometimes we also include "Additional Information" that the teacher could provide as students explored the documents, but the pedagogy was designed to emphasize the process of questioning and probing.

When we observed teachers using our materials in the classroom, however, we sometimes witnessed the familiar (but disconcerting) practice where the teacher provides their own analysis of the media messages to the students. Rather than using the questions and discussion among the students as the core of the activity, teachers were telling students what to see. Rather than facilitating student deconstruction of media messages, students were falling back on their more traditional role of being passive observers, "learning" and adopting the interpretations of the media messages provided by the teacher. These teachers clearly needed training in the pedagogy of media analysis from an inquiry-based approach.

We also began to see patterns in how teachers—particularly secondary content area teachers—struggled with the constructivist approach to media analysis. These teachers were often experienced in using media examples in their curriculum but rarely for teaching critical thinking, analysis, and evaluation. In English language arts, some teachers were using film clips (and even whole films) as a "reward" for the rigorous analysis of traditional novels and plays.

For instance, once the class had read and discussed the print version of *Romeo and Juliet*, they would get to enjoy the film—but without any discussion or analysis of the differences between the two, or about the casting and production elements, or choices made by the film director in telling the story. This reinforced the view that the printed word was the “hard stuff,” to be studied and discussed, while “media” like film was simply to be enjoyed. In social studies and science, media examples were typically used for providing information.

Science teachers regularly used educational videos, charts, and scientific reports to explore content, while social studies teachers often used historical writings, maps, and a library of documentary film and video clips to illustrate moments in history. But the integration of media literacy questions that taught students to critically analyze the construction of these media documents—as well as reflecting on the core content and information presented—was often new, even to experienced teachers. We needed to create staff development that would teach teachers (and teacher education students) to use media examples to teach literacy and critical thinking skills as well as to inform students about content. We needed to educate teachers and librarians about the ways in which a wide range of popular media examples (e.g., clips from TV shows, films, advertisements, comics, songs) could be used for analysis and discussion rather than simply viewing those media forms as purely for entertainment or information.

Classroom Media Use and Copyright Concerns

These distinctions would come to play an important role as we confronted copyright issues. We do not advocate for the use of examples from popular and educational media in the ways that they were originally designed to be used: to illustrate a concept, provide information about a topic, portray a compelling story, or persuade about a product. An inquiry-based media literacy approach may use media examples in service of the teacher’s content goals, but it will also include some analysis and evaluation of how (and usually why) the media example was created and/or contrasting the same content presented in different media formats. Through a focus on critical analysis and constructivist decoding, transformative use occurs.

Technological changes in media access and availability have also played a critical role in our repurposing of copyrighted material for classroom use. We developed our first media literacy integration projects in the late 1990s when educational technology was evolving fast. The first draft of the *Iroquois Imaging Project* used 35mm color slides. Reproducing sixty slides for each of the eight elementary schools cost the Ithaca City School District over \$500 and required teachers to find a slide projector and an almost totally dark room. Within 5 years, we would be able to make the same set of images available to all educators at no cost by creating digital files that could be downloaded free from our website and shown on LCD projectors, and by 2010 those projectors were in nearly every classroom in the district. At the same time, the rise of YouTube and similar online video providers has made it enormously easier to find and show short video clips in the classroom (replacing the old VCRs and DVD players). The increased ease of media access has not only made Project Look Sharp’s media materials cheaper and easier to disseminate but has also fostered a new educational imperative to help students to think critically about their mediated environment—both inside and outside the classroom.

Media Construction of War

In 1999, we worked with Ithaca High School social studies teacher Andrea Kiely to develop a series of media literacy lessons for her ninth-grade global studies class. Her brother had fought in the Gulf War of 1991, and she had collected *Newsweek* covers and articles about

the war during that time, using them to successfully teach a mixed-ability class both content history and media analysis. During her participation in a summer media literacy institute for educators led by Project Look Sharp, Andrea asked us if we could get her a similar set of *Newsweek* covers from the Vietnam War so that she could contrast both the events of each war and also the different ways in which *Newsweek* covered those events during each war. Working collaboratively with her, we were able to identify the core vocabulary and content about the Vietnam War covered in the state tests and chose engaging *Newsweek* covers and photo spreads that not only reflected that historical content but that would also lend themselves to rich media analysis in the classroom. Andrea began using those materials to teach the history of those two wars (and to develop media literacy skills) with her students.

Word of Andrea's success—especially in engaging her more academically challenged students—led to a slew of requests for copies of the materials. Then the events of September 11 led to a new war in Afghanistan in the fall of 2001, which was covered by *Newsweek* in an entirely different way than it had covered the previous two wars, and we decided to add materials for that new war to the existing set. With the growing request for those materials, we secured funding from Ithaca College and collaborated with the Center for Media Literacy to publish our first kit for a national audience of educators, *Media Construction of War* (Sperry 2003). Figure 19.3 shows the cover of the curriculum, which shows *Newsweek* covers featuring foreign political leaders Osama Bin Laden, Saddam Hussein, and Ho Chi Minh. That experience came to define Project Look Sharp's approach to constructivist media decoding and to the application of fair use for copyrighted materials.

Our first challenge involved what to do about copyright for the *Newsweek* materials we planned to use. Our interactions with lawyers taught us that copyright law is an extremely gray area. Since our initial plan was to use grant funds to create the media literacy curriculum kits and then sell those kits to raise money for future publications, one intellectual property attorney said that we could not publish without *Newsweek's* permission (and likely royalty payments). Another said that the fair use doctrine clearly protected our right to publish these materials, even if we were selling the kits.

We decided to contact *Newsweek* to see how difficult and expensive it would be to get their permission, just to be on the safe side. They were very helpful in clarifying our perspective on fair use—although not in the way they intended. After multiple attempts, we were finally able to speak to a *Newsweek* representative to request permission to use images of the covers. He explained that we would need to pay a fee of \$250 for each photo and cover image—so with nearly fifty *Newsweek* images in the kit, the total would be over \$10,000. He also explained that *Newsweek* did not have permission to use the images for the purchase we intended, so we would need to contact each photographer to get their permission and likely pay them as well. Furthermore, we were told that we should also consider contacting each of the people featured in the photos (e.g., Saddam Hussein, Osama bin Laden) and get *their* permission to use their images in our kit. The implication was clear: *Newsweek* was telling us that it would be impossible for us to “legally” publish these materials for teachers to help students decode and evaluate *Newsweek's* presentation of global events.

Around the same time, Chris came across a description for a workshop at the National Council for the Social Studies (NCSS) annual conference titled *Media Construction of War*, presented by *Newsweek* magazine. To his amazement, the presenter used some of the very same images Project Look Sharp had selected for use in the creation our kit. On the surface, the two curriculum approaches seemed very similar, but there was a key difference. The *Newsweek* approach used the magazine's coverage to analyze the war but not to analyze *media coverage* of the war. Any critical questions about the constructed nature of the magazine's covers, articles,

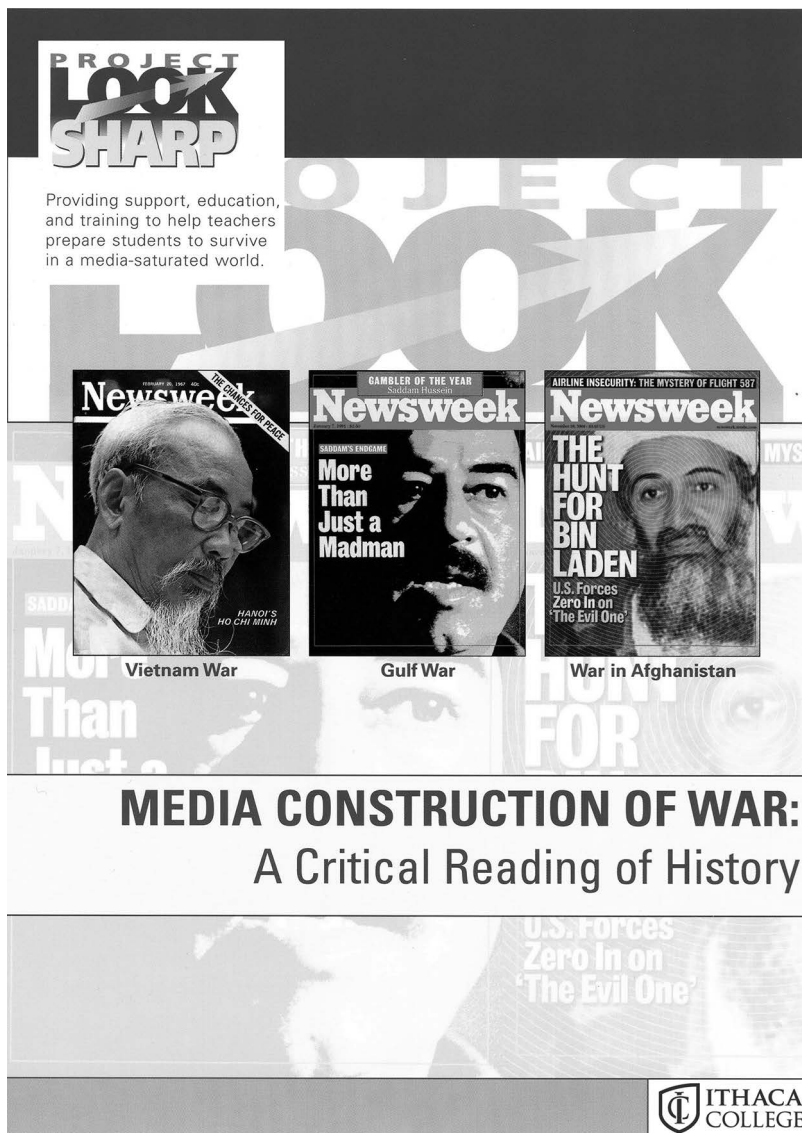


Figure 19.3 Media Construction of War

and photographs were missing. The presenter emphasized the “objective” nature of the coverage, rejecting any suggestion that *Newsweek*’s coverage may have been influenced by public opinion or corporate interests. In creating their curriculum, *Newsweek* was using the covers as illustration for a presentation of facts about the various wars.

At the end of the *Newsweek* presentation to social studies teachers, Chris had the opportunity to talk with the *Newsweek* coordinator who was attending the presentation. Without explaining our plans for the yet-to-be published kit, he asked her if she thought it was appropriate for educators to critique *Newsweek* content in the classroom without copyright permission. She agreed wholeheartedly that it was important for teachers to analyze and critique

Newsweek coverage—and that they did not need the company’s permission to do so. Furthermore, she agreed that media literacy organizations had the right—if not the responsibility—to support educators in that mission.


Her response helped to further clarify our approach to fair use. Project Look Sharp and the *Newsweek* educator shared a common understanding—that democracy is dependent upon having a thoughtful, media-literate, and independently thinking citizenry, and therefore it was essential that teachers and organizations supporting educators have the right to use all media documents in the classroom for teaching critical literacy. Fortunately, the members of Congress who constructed the Copyright Law of 1976 felt the same way when they codified the fair use exception. The provost of Ithaca College, Peter Bardaglio, agreed that we were on solid legal ground in publishing our new curriculum kit without getting licenses from *Newsweek* magazine. He informed us that the College would back us up in this endeavor—even if it meant going to the Supreme Court.

In 2004, we published *Media Construction of War: A Critical Reading of History*. The curriculum kit centered on classroom analysis of *Newsweek* magazine coverage of the Persian Gulf War from December 1990 to March 1991, the Vietnam War from 1965 to 1975, and the War in Afghanistan from October through December 2001. The kit included brief histories of each war, providing the background information needed to decode the slides of carefully chosen covers and photo spreads from *Newsweek*. Figure 19.4 shows an example of a slide used for an assessment activity, and Figure 19.5 shows a sample page from the teacher’s guide. Notice that the teacher’s guide presents an inquiry pedagogy based on the teacher asking questions about the interpretation of the covers with follow-up probing for both content knowledge and critical thinking on the part of students



Figure 19.4 *Newsweek* Images Used in Lessons About the Vietnam War from *Media Construction of War*

SLIDE #15



APRIL 12, 1971
"The Calley Verdict: Who Else Is Guilty?"

| | |
|----------|---|
| QUESTION | What impression does this cover give you about the U.S. role in Vietnam? |
| ANSWER | That the U.S. military is tied to the killing of Vietnamese civilians. |
| EVIDENCE | U.S. officer in clean dress uniform pasted over a photo of dead Vietnamese women and children |
| ANSWER | That the officer shown was found guilty but that others are also guilty. |
| EVIDENCE | text: "The Calley Verdict" and "Who Else Is Guilty?" |
| QUESTION | Is there a pro-war or anti-war bias to this cover? What is your evidence? |
| ANSWER | This is an anti-war cover. |
| EVIDENCE | shows an American officer as a perpetrator of war-time atrocities |

SEE INFO BOX →

| | |
|----------|---|
| QUESTION | How has this cover image been visually constructed or altered, and why? |
| ANSWER | This photo of Lt. William Calley was cut out and pasted over a photo of dead Vietnamese civilians to illustrate Calley's relationship to the My Lai Massacre. |

Like all magazines, *Newsweek* frequently uses visual manipulation of photos on its covers in order to create dramatic and sensational visuals that will sell magazines. However, like other reputable periodicals, it does not alter photographs appearing within the magazine.

SEE FOCUS ON THE MEDIA BOX →

32

INFO

On March 16, 1968 Lieutenant William Calley led a group of American soldiers into the small South Vietnamese village of My Lai and proceeded to execute hundreds of unarmed villagers, mostly women, children and old men. The army tried to cover up the massacre but stories and photos made it into the press. Lieutenant Calley was tried and found guilty of war crimes in 1971 although he served only three years of a life sentence. The My Lai Massacre horrified many Americans who had perceived the U.S. role in Vietnam as just and honorable. It also further undermined the morale of U.S. troops who were increasingly turning against the war.

FOCUS ON THE MEDIA

News photos are always manipulated in some ways. For example, the photographer chooses the camera angle, source of lighting, and framing of the subject. Editors and art directors make other decisions such as cropping of the image, size, and placement on the page. These types of visual construction are considered within the accepted bounds of credible news photography. However, magazine covers are essentially considered to be advertisements, and photos shown on them are often altered in more sensational and manipulative ways in order to sell more magazines. Sometimes these kinds of manipulations have caused public criticism – like when *National Geographic* digitally moved two pyramids closer together, or when *Time* darkened O.J. Simpson's skin color after he was found guilty in a civil trial. But mostly the obvious and dramatic manipulation of photographs on magazine covers is considered to be within ethical bounds.

Figure 19.5 Sample Page from the Teacher's Guide for *Media Construction of War*

Both educators and reviewers found the kit's emphasis on analysis and evaluation of the events of each war and *Newsweek's* coverage of them to reflect a powerful pedagogical approach to teaching history and current events. According to Howard Zinn, historian and author of *A People's History of the United States* (1980):

[*Media Construction of War*] is an excellent teaching tool. It does an enormously important job in preparing students for a critical analysis of the media. In the course of that, it is

an education in the history of three recent wars, and raises the moral issues that are very often lacking in traditional curricula. It does not preach, but by asking provocative questions it leads student to think carefully and re-examine traditional ideas. In short, it fosters independent thinking, which, after all, should be the chief objective of a good education. (Zinn, personal communication 2004)

With new grant funding from the Schumann Center for Media and Democracy, Project Look Sharp went on to develop and publish two more media literacy curriculum kits: *Media Construction of Presidential Campaigns: 1800–2004* (Sperry & Sperry 2005) and *Media Constructions of the Middle East* (Sperry & Sperry 2006). Each of these kits included many media documents from different sources and in different formats—all used within the fair use guidelines.

In 2006, we decided to provide all of those curriculum materials free online for educators, and that practice continues today. A decade later—thanks to the fair use clause and funding from the Park Foundation and others—we now have twenty-one full curriculum kits containing more than 800 lessons, using over 2,000 media documents with accompanying questions, all available on our website for educators across the world to integrate media analysis and content instruction, from kindergarten through college. To date, we have not been challenged in a court of law for the unauthorized use of any of these documents, including clips from Disney films, political cartoons, TV shows, journal articles, documentary films, websites, and many more. While we never had the opportunity to argue our case for democracy and fair use to the Supreme Court, we became part of a larger movement of media literacy educators for the repurposing of copyrighted documents for criticism and critique in an educational context. Somewhat surprisingly, our initial battle for the fair use of copyrighted material in media literacy education was hardest fought with the gatekeepers of copyright in K–12 education: librarians.

Misunderstanding 1: You Can Claim Fair Use Only If You Use Less Than 10%

The most consistent response we have gotten from librarians and other educators about the application of fair use has to do with the list of “guidelines” for copyright, most notably the so-called 10% rule (see, for example, Crews (2001) for discussion of the brevity component of Classroom Guidelines in Fair Use). While these guidelines were not created to limit the application of fair use, that has often been the impact. We needed to set aside significant time during our media literacy staff development presentations to discuss copyright issues if librarians were present. Only in recent years are we encountering a sizable number of librarians who understand that the educators need the confidence and support in applying fair use when appropriate, even if all aspects of “the list” do not apply.

The concepts articulated in the various fair use guidelines are confusing. When analyzing a painting, a TV commercial or a magazine cover, clearly the 10% rule does not work. Teachers should be confident in their application of fair use as long as they are asking questions about the construction of the document. Should we need Don Black’s permission when analyzing his white supremacist website, www.martinlutherking.org? Should Greenpeace be able to stop teachers from engaging students in an analysis of biases in its YouTube video, *Genetic Engineering: The World’s Greatest Scam*? What would be the implications for our democracy if we needed Disney’s permission to ask, “What are the messages about the Arab World?” when decoding the introduction to the film *Aladdin*? While Project Look Sharp has often needed to challenge this inaccurate and stifling application of fair use, we have also seen a tendency on the part of many teachers to apply the fair use clause overly broadly.

Misunderstanding 2: It Is Fair Use Because It Is for Educational Purposes

We hear this overly simplified statement about fair use quite a bit from teachers. While we understand the impulse to use whatever helps us to teach more effectively, copyright law appropriately protects legitimate intellectual rights, and not all educational uses of media content fall under the fair use exemption. Just showing a clip from *Aladdin* for classroom entertainment or distributing the Greenpeace video for teachers to use to teach about GMOs is not—by itself—a fair use. However, a teacher can repurpose the Disney clip or Greenpeace video by asking media analysis questions about the video itself and the way it was constructed, such as, “Who produced this?” “For what purpose?” “From whose perspective is this shown?” “What information seems to be left out, and why?” or “Who might benefit from—and who might be harmed by—this message?” These questions shift the use of the media document from solely entertainment or information to the use of the document for purposes of critique.

Misunderstanding 3: Distinguishing Between Fair Use and the Need for Licenses

Nearly all of the media documents on the Project Look Sharp website fall clearly under the doctrine of fair use because the media content there is repurposed to provide critique, evaluation, or criticism in an educational context. Only a handful of our media documents are used solely for illustrative or informational purposes in the way they were originally intended (including, for example, segments from the wonderful Consumer Reports TV programs *Buy Me That!* that appear in our *Critical Thinking and Health* kit for early elementary grades). In those cases, we do seek copyright permission and pay whatever license fees are required to use the materials.

For a small number of media documents, however, the distinction between using a document for its intended purpose and providing a critical analysis can be ambiguous. We have struggled with fair use application for political cartoons and documentary films. In both cases, the producers of the materials count on payments from schools or publishers for at least part of their income. Additionally, the purpose of these documents often overlaps with classroom goals—such as commentary on current events using political cartoons or teaching about social issues using documentary films. Our intent is not to undermine or otherwise steal from the value of the copyrighted material. However, if our purpose is legitimate critical analysis, we believe we should be able to apply fair use. In the case of using political cartoons, our lessons typically ask students to compare the political perspectives of different cartoonists or to analyze the editorial position of a particular cartoonist. Documentary films likewise rely on school-based markets for their products and are produced to teach their audience about a topic. However, we believe that fair use applies when a teacher shows a trailer for (or short excerpt from) the film and asks about the credibility of the source or the perspective of the filmmaker.

We have worked to respect the legitimate limits to fair use when publishing media literacy lessons online for educators, and we believe that teachers and librarians must be advocates for the liberal and appropriate application of fair use if we are going to do our job of educating a generation of literate citizens who think critically about the information, ideas, and images they receive through the media. This approach, as outlined in the *Code of Best Practices in Fair Use for Media Literacy Education* (2008), has become increasingly accepted and promoted with the advent of the new national standards that promote critical thinking skills (Hobbs 2010).

Media Literacy, Fair Use, and Educational Standards

The Common Core Standards for English Language Arts, the English Language Arts and Literacy standards for secondary social studies and science, the new Next Generation Science Standards (NGSS) for science, and the new C3 Framework for Social Studies all place a strong emphasis on teaching students to ask and answer critical questions about credibility, sourcing, accuracy, and meaning—the very questions codified by media literacy leaders decades ago. The new standards promote inquiry-based methodologies that emphasize critical thinking skills over rote learning and memorization. They encourage close reading of diverse media documents, careful evaluation of sources, evidence-based analysis, and well reasoned thinking—core skills involved in media literacy. The Common Core ELA Standards make clear that views about “literacy” must be expanded to include “reading” and “writing” using the diverse media forms of the 21st century. For example, the ELA Common Core Standards: Reading for History (Grades 11–12) includes:

- Cite specific textual evidence to support analysis of primary and secondary sources. (CCSS.ELA.RH.11–12.1)
- Determine the central ideas or information of a primary or secondary source. (CCSS.ELA.RH.11–12.2)
- Evaluate authors’ differing points of view on the same historical event or issue by assessing the authors’ claims, reasoning, and evidence. (CCSS.ELA.RH.11–12.6)
- Integrate and evaluate multiple sources of information presented in diverse formats and media. (CCSS.ELA.RH.11–12.7)

The National Council for the Social Studies *College, Career, and Civic Life (C3) Framework for Social Studies State Standards* goes even further. C3 lays out four core dimensions that emphasize teaching students to ask and respond to questions, evaluate sources, provide evidence, communicate conclusions, and take action in addition to applying the skills and knowledge of various social science disciplines.

The recently published National Council for the Social Studies “Position Paper on Media Literacy” lays out the case for integrating constructivist media decoding throughout the K–12 social studies curriculum (Sperry & Baker 2016). In social studies, ELA, science, and health, these new standards will push educators to repurpose media documents for critical analysis in their classrooms. And as the following example shows, classroom media analysis is dependent the application of fair use.

A High School Lesson on Hydrofracking

In 2014, Project Look Sharp published two curriculum kits that used media literacy approaches to study sustainability concepts and topics, one focused on food, water, and agriculture and the other focusing specifically on sustainability issues in the Finger Lakes Region of New York State that surrounds Ithaca. One lesson in *Media Constructions of Sustainability: Finger Lakes* uses three different media formats—scientific diagrams, documentary film and television videos, and Google search results—to examine the controversial natural gas extraction process known as hydrofracking. In this complex lesson, students are asked to use critical thinking skills to explore a compelling content question: what role should hydrofracking play in our national energy policy? In the process of media decoding, students are also asked to consider these key media literacy questions:

- Who paid for this message?
- What are the sources of the assertions about hydrofracking?
- Is this fact, opinion, or something else?

The lesson begins with some basic background information about aquifers and groundwater from an Idaho Museum of History webpage, accompanied by the listing of sources and references for the article. The accompanying questions probe both for content information (“What is an aquifer?”) and for information about sourcing (“What organizations published the source information?”). Figure 19.6 shows an activity where students compare and contrast

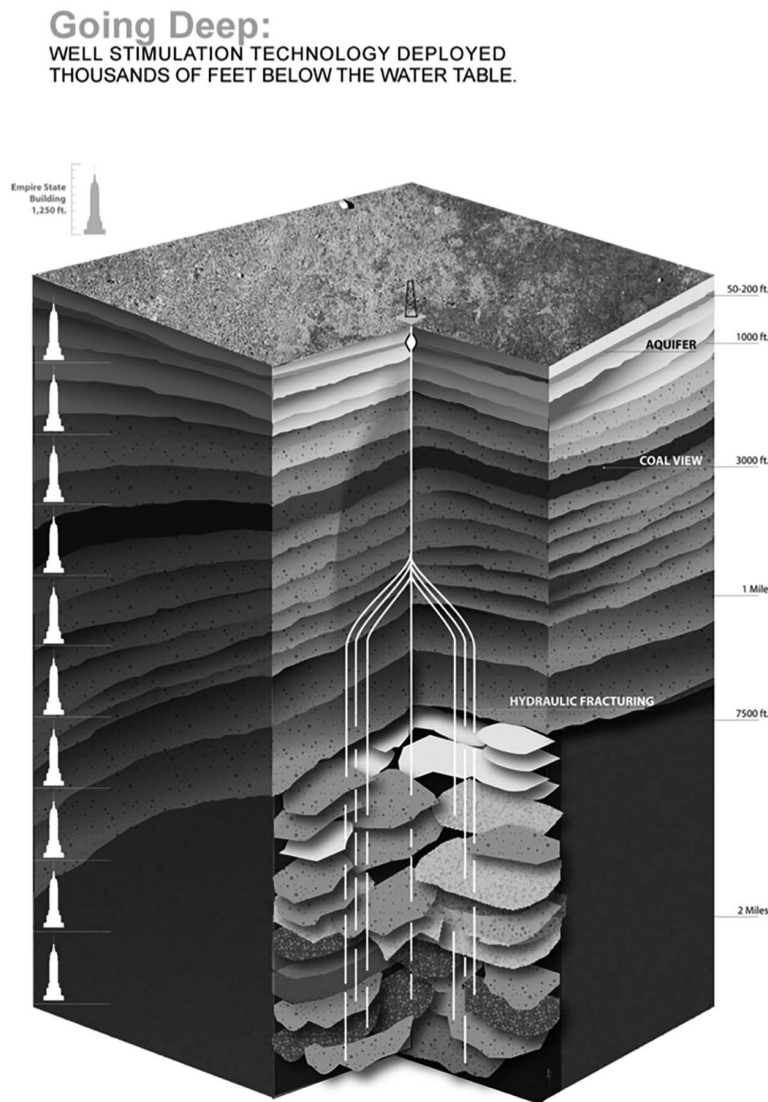


Figure 19.6 Compare and Contrast Activity: Diagrams About Hydrofracking From Two Different Sources

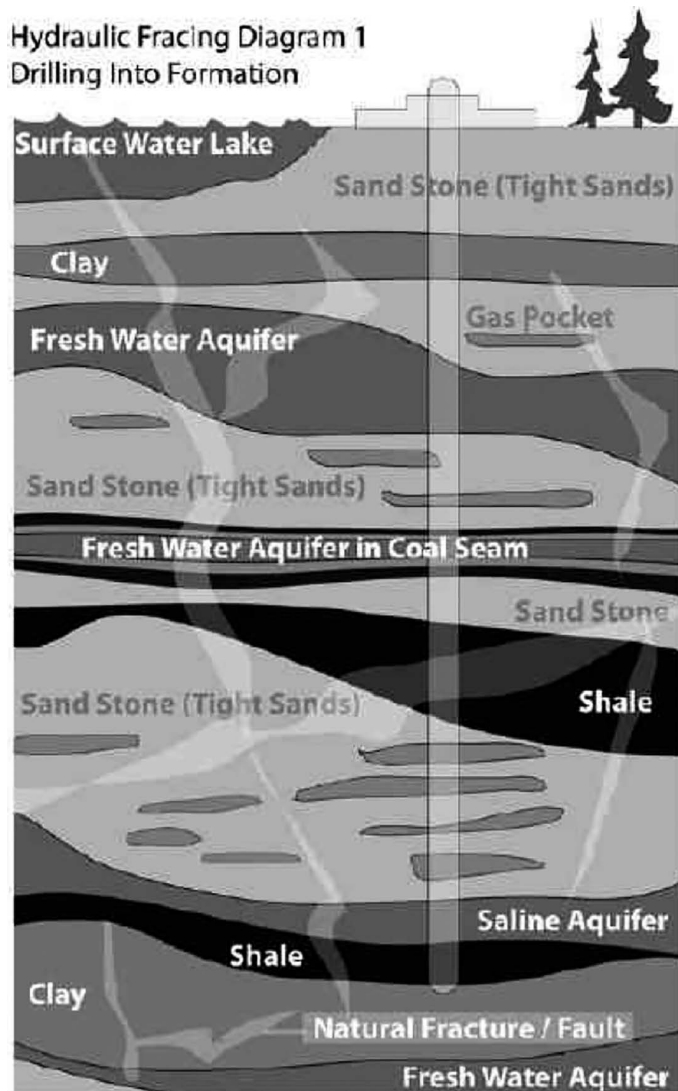


Figure 19.6 Continued

two scientific diagrams of the hydrofracking process. Each diagram leads to very different conclusions about the safety of the process. Students are invited to guess the likely source for each of the diagrams, giving evidence to support their conclusions.

As students reflect on the producers of these media documents, they are also asked to consider what questions *they* might ask about each of the diagrams in order to improve their understanding of the hydrofracking process and the credibility of the information being presented in each. This is an opportunity to extend the class discussion based on the students' own curiosities and observations. The lesson continues with three video clips reflecting very different perspectives on hydrofracking: a short clip from the Academy Award-nominated antifracking documentary *Gasland* by filmmaker Josh Fox; a clip from the film *The Truth About*



Figure 19.7 Three Video Clips for Critical Analysis From *Media Constructions of Sustainability: Finger Lakes*

Gasland sponsored by America's Natural Gas Alliance; and a clip from Josh Fox's appearance on the *Daily Show with Jon Stewart*. Figure 19.7 shows still images from the video clips.

After viewing each clip, students are asked:

- What are the messages about natural gas drilling?
- What techniques are used to convey the message?
- Do you consider this to be a credible source? Why or why not?

The goal of this questioning is not to lead students to some predetermined “correct answers” but rather to prompt them to analyze the content, construction, and credibility of media messages. In the process, students can develop deeper critical thinking skills, including being able to put their own assumptions to the test and to change their point of view as evidence warrants. The lesson concludes with students analyzing the first page of a Google search for the terms “Josh Fox” and “Gasland” (see Figure 19.8). The decoding question asks, “At first glance, which sources would you consider *more* credible and which *less* credible and why?” Once again, this is an opportunity to deepen students’ understanding of the (perhaps unconscious) judgments they make about the credibility of different sources of information, helping them develop their own habits of inquiry whenever they encounter mediated information.

This complex activity addresses many of the new Common Core ELA, C3 social studies, and NGSS. The lesson uses constructivist methodologies that ask students to apply knowledge while analyzing diverse media documents, and it would not be possible without the fair use ability to use these rich media documents in a classroom setting without worrying about copyright permissions. In essence, the rigorous new critical thinking literacy standards promoted in Common Core and C3 are dependent upon the application of fair use to the critique and analysis of contemporary media documents in 21st-century classrooms.

Media Documents and Assessments

As Sperry (2015) noted in his article on constructivist media decoding in social studies classrooms, while media analysis can be an effective tool in addressing the new standards, the structure of state tests will be the driving factor in shifting teachers’ classroom methodology. As long as exams continue to test the memorization of facts, most teachers are likely to prioritize rote coverage of the content over deeper analysis and interactive discussion. In contrast, assessments that ask students to analyze diverse media documents can provide models for evaluating the critical thinking skills embedded in the new standards.

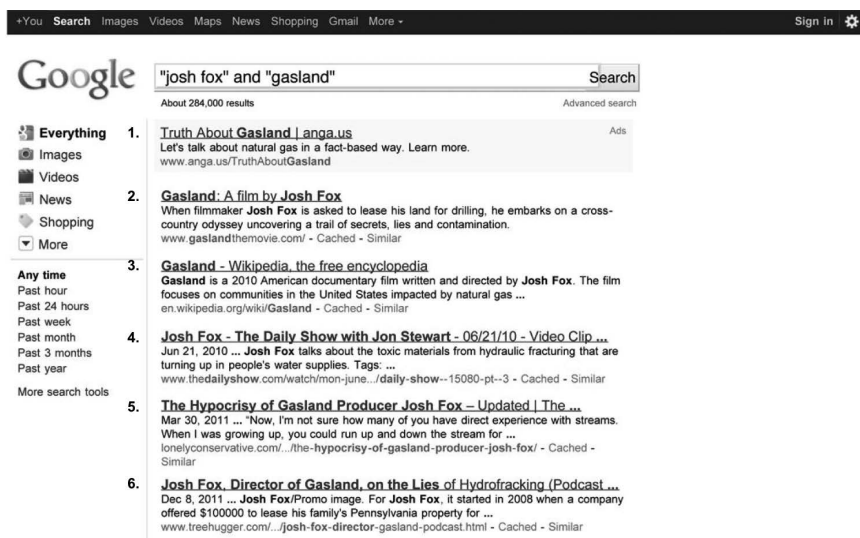


Figure 19.8 Spotting Point of View in the First Page of Results from a Google Search

Perhaps in the future, students will be expected to demonstrate critical media analysis skills in order to graduate from high school. Project Look Sharp's model for media analysis was used at the Lehman Alternative Community School in Ithaca, New York, to develop a Common Core-aligned test for the school's teacher evaluation assessment. In 2015, all students in grades nine through twelve took part in that assessment of the school's progress in teaching the Common Core literacy standards in ELA, social studies, and science. The test was based on student analysis of three documents about genetically modified organisms (GMOs): a 3-minute video by *Greenpeace*, excerpts from a *New York Times* op ed piece "How I Got Converted to GMO Foods," and a website critical of GMOs.

The first set of questions assessed each student's ability to analyze and compare the three documents for messages and biases, with students identifying techniques used by the creators of the messages to communicate their perspective. Students were then given excerpts from the mission statements of Monsanto, Greenpeace, and the Cornell Alliance for Science and were asked to give evidence that linked the organizations to each of the three media documents. The next set of questions assessed students' understanding of the credibility of information (a core standard in ELA, social studies, and science) by asking them to write questions about each document that would help them assess its credibility. The ability for students to ask questions is a core component of the new C3 standards for social studies, and it is rarely assessed in standardized tests. The final question asked students to "identify how your *own* views on the issue of GMOs might influence how you understand and interpret these documents." This question reflects one of the greatest contributions media literacy can play in educational reform—teaching students to reflect on *how* they think, their own biases in selecting and interpreting information from different sources, and the potential limitations of their own reasoning.

Nothing will have a greater impact on shifting teaching practice toward critical thinking standards than the design of these types of assessments of student learning and teacher performance. If media literacy skills and approaches can be built into state tests, then educators *will* integrate media literacy into their teaching. We in the field should be promoting media

literacy practices and the inclusion of diverse media documents into these new assessments in order to support the shift to the new Common Core and C3 standards. In the process, we will need to push those who will be revising the standards and creating new tests to incorporate progressively more complex metacognitive abilities taught through media analysis. Imagine a future where students are taught media literacy at every grade level and then assessed on their ability to make judgments about the credibility of information from different sources and to identify how their own biases influence those judgments.

The Future Is Global

The critical importance of fair use in media literacy education has become especially clear to us at Project Look Sharp as we have begun working in countries where copyright law includes no fair use clause. Media literacy organizations in some European countries have struggled with providing educators with the resources regularly available in the United States because of fears of litigation, while media literacy educators in countries like Iran struggle with much larger issues related to free access to media content and government restrictions on its use in education. While we have been able to do teacher training in media decoding in many of those countries (including Iran), their lack of fair use has hampered the creation and dissemination of curriculum materials relevant to their own histories and educational priorities. Because of fair use, in the United States we can legally disseminate media materials for use by educators around the world, supporting education much more broadly in an increasingly mediated world. It should come as no surprise, then, that Project Look Sharp's media decoding materials have been downloaded thousands of times by educators from over seventy nations worldwide. Documents from *Media Constructions of the Middle East* are being used in schools in the Middle East; documents from *Soviet History Through Posters* are being used in former Soviet Union countries. We can learn a lesson from these global experiences as we commit to defend, deepen, and disseminate the fair use of copyright law throughout educational systems in the United States and beyond.

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