



Leverage Fair Use in the ELA Classroom: Enacting Best Practices for Open Educational Resources

AMERICAN UNIVERSITY
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PIJIP

NCTE®

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Introduction

NCTE and the Program on Information Justice and Intellectual Property at American University's Washington College of Law have partnered to develop guidance for applying fair use and examples for using open educational resources (OER) in the English language arts (ELA) classroom. A diverse and dedicated group of K–12 educators, librarians, and instructional designers came together as the OER Fellowship to explore opportunities to use OER, including inserts and illustrations relying on fair use, and how ELA teachers can use, adapt, and/or share OER materials, Creative Commons licenses, and fair use guidelines in their instructional practice.

Based on the [*Code of Best Practices in Fair Use for Open Educational Resources*](#), this document can be used as a guide for teachers to leverage fair use to create and distribute open resources for the classroom. We recommend treating the two documents as companions to each other. The original document provides the framework for understanding these legal concepts, and this text provides examples and structures that are beneficial when determining what and how copyrighted materials can be used for educational purposes. It is not meant to definitively answer copyright questions, but rather to offer guidance on and understanding of what is allowable and what should be questioned.

Preceding the case studies, you will find a list of the key concepts from the [*Code of Best Practices in Fair Use for Open Educational Resources*](#). You may use them in your classroom if:

- You want to utilize a picture to further explain a concept or idea. Here, the illustration principle could be useful.
- You'd like your students to critique a poem. In this case, you might consider taking a look at the criticism or commentary principle.

The OER Fellowship spent a year exploring best practices around the implementation of fair use in the K–12 ELA classroom and creating examples and scenarios for the adoption, adaptation, and creation of these resources. We hope that this document will provide teachers with case studies and examples so they can take advantage of the full range of open content.

PROJECT LEADERS



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Key Concepts

from *Code of Best Practices in Fair Use for Open Educational Resources*

The **fair use** doctrine in United States copyright law enables incorporation of a wide range of copyrighted inserts into OER for common teaching and learning purposes.¹

Open Educational Resources (OER) are broadly defined as teaching, learning, and research materials in any medium—digital or otherwise—that are in the public domain or have been released under an open license that permits no-cost access, use, adaptation, and redistribution by others with no or limited restrictions.²

Core Principles of OER³:

- A. Using inserts as objects of criticism and commentary
- B. Including inserts for the purpose of illustration
- C. Incorporating content as learning resource materials
- D. Repurposing pedagogical content from existing educational materials

Each core principle has its own four components⁴:

- Description
- Principle
- Considerations
- Hard Cases

Key questions:

Is this material protected by copyright?

What is my pedagogical purpose for using this material?

1. American University. *Code of Best Practices in Fair Use for Open Educational Resources*, <https://www.wcl.american.edu/impact/initiatives-programs/pijip/documents/upload/code-of-best-practices-in-fair-use-for-open-educational-resources.pdf>, p. 5

2. *Code of Best Practices* p. 18

3. *Code of Best Practices* p. 11–18

4. *Code of Best Practices* p. 10

ANALYZING MULTIPLE REPRESENTATIONS OF *ROMEO AND JULIET*, ACT II, SCENE II

MARYANN HASSO, JENNIFER MEDEIROS, AND KRISTEN TINCH

OER MATERIALS

In this Grade 9 lesson, students read, view, and analyze multiple representations of act II, scene ii, of William Shakespeare's *Romeo and Juliet* (1595). As students engage with multiple linguistic and nonlinguistic representations of the scene, they examine the author's or artist's choices that create meaning or style.

This resource includes four text sets that teachers may use in various instructional settings such as a cooperative [jigsaw](#) strategy or as daily warm-ups. Each text set includes:

1. A novel or book excerpt
2. Two or three images
3. One or two videos

Each text set also includes driving questions for students to consider in their analysis of each representation. After reading, viewing, and analyzing each text in the set, students write a claim with supporting evidence to argue which representation from the set offers the strongest portrayal of falling in love today, supporting conversations about the relevance of Shakespeare for modern audiences.

Representations include examples from a variety of cultures and perspectives. Students will explore the universality of *Romeo and Juliet* across various contexts, with the ultimate purpose of being able to construct a supported argument about whether *Romeo and Juliet* is still relevant to today's youth.

Note that teacher-facing materials and notes are italicized, while student-facing materials and notes are nonitalicized.

Standards Addressed

RL.9-10.7 Analyze the representation of a subject or a key scene in two different artistic mediums, including what is emphasized or absent in each treatment.

W.9-10.1: Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence.

L.9-10.3 Apply knowledge of language to understand how language functions in different contexts, to make effective choices for meaning or style, and to comprehend more fully when reading or listening.

INSTRUCTOR-FACING ANALYSIS

Taking classroom materials and making them into public-facing OER sometimes requires making the teacher-facing and student-facing framing and instructions explicit. Note that teacher-facing materials are in *italics*, and student-facing materials are nonitalicized.

Here we link to a description of the commonly used cooperative learning jigsaw strategy as described by Reading Rockets. Including a link to another source is not a violation of copyright. While we could have provided an insert of this material, we chose to keep the focus of the resource on the diverse media interpretations of Shakespeare's *Romeo and Juliet*.

Here we insert the Common Core State Standards (CCSS) addressed in this resource.

Are the CCSS protected by copyright?

The Council of Chief State School Officers (CCSSO), the organization that publishes the CCSS and other resources related to implementation of standards, operates their website under the most recent [Creative Commons](#) attribution license. Therefore, the CCSS and other materials on CoreStandards.org can be shared, repurposed, and used for free.

How do I know if a website is licensed under Creative Commons attribution licenses?

Often, this information is available at the very bottom of a website under a link that says "Creative Commons." Here you can see what types of permissions are available for repurposing or inserting within an OER.

What if I want to insert text, a photo, or video that isn't licensed under a Creative Commons attribution license?

See the examples below to see how the *Code of Best Practices in Fair Use for OER*⁵ can help you build an OER with optimal materials for your course and students!

Texts and Materials Included in This Resource

Text Set 1 includes

1. GRAPHIC NOVEL EXCERPTS: *Romeo and Juliet: No Fear Shakespeare Graphic Novels* + [The Most Excellent and Lamentable Tragedy of Romeo & Juliet](#)
2. IMAGE: Production photograph by Ed Blignault from Rebellion & Johannesburg dance performance (2015)
3. VIDEO: Royal Shakespeare Company (2018)
4. VIDEO: Family Guy—“Heartburn” (2019)

Text Set 2 includes

1. NOVEL EXCERPTS: [Street Love](#) (2006) by Walter Dean Myers and Ramón and Julieta by Alana Quintana Albertson
2. VIDEO: *Romeo + Juliet* (1996); directed by Baz Luhrmann
3. VIDEO: *Gnomeo and Juliet* (2011); directed by Kelly Asbury
4. IMAGE: Production photograph by Craig Mungavin from *Romeo and Juliet* (2018)

Text Set 3 includes

1. CHILDREN'S BOOK EXCERPT: *Romeow and Drooliet* by Nina Laden
2. VIDEO: BBC *Off by Heart Shakespeare* (2011)
3. IMAGE: Production photograph by Johan Perrson from *Romeo and Juliet* by Max Martin (2022)
4. VIDEO: *Beyond Words* (2019 ballet set to Sergei Prokofiev's 1935 opus)
5. PAINTING: *Laila and Majnun* by unknown artist (mid-1700s)

Text Set 4 includes

1. NOVEL EXCERPT: [These Violent Delights](#) (2020) by Chloe Gong
2. VIDEO: *West Side Story—“Tonight”* (1961); directed by Robert Wise
3. VIDEO: *West Side Story—“Tonight”* (2021); directed by Steven Spielberg
4. PAINTING: *Romeo and Juliet* by Ford Madox Brown (1821–1893)

STUDENT MATERIALS

Text Set 1

Directions: Read or view the four selected texts, videos, and images below that depict the balcony scene from *Romeo and Juliet*. Use the questions to guide your analysis of how author or artist choices shape the meaning or ideas communicated within each one.

GRAPHIC NOVEL EXCERPTS: *Romeo and Juliet: No Fear Shakespeare Graphic Novels*⁸ and *The Most Excellent and Lamentable Tragedy of Romeo & Juliet*⁹

These materials are allowable for inclusion under the fair use doctrine in US copyright law as described in the *Code of Best Practices in Fair Use for OER* under Principle B: Inserts for the purpose of illustration; “For the purpose of illustration, fair use supports the incorporation of thoughtfully selected inserts in all subject matter areas, derived from a full range of sources and media”⁶

AND Principle C: Incorporating content as learning resource material; “Resource materials suited to the learning objectives of an OER may be incorporated in reliance on fair use.”⁷

The use of text SETS responds to consideration 4 of Principle 2: “In relying on fair use for illustrative inserts, it is important to (i) select illustrations to avoid repetition or redundancy, and (ii) draw or rely, where possible, on a range of source works.”

The use of *No Fear Shakespeare* might seem to contradict Principle C, consideration 4: “Wherever possible, resource materials should be derived directly from primary sources, rather than from versions that have been edited or simplified for educational purposes.” **However, we are asking students to compare the artistic choices between the materials with the original text vs. the materials with the simplified text, which responds to the learning objective of the overall lesson, understanding the creative choices modern authors use to make Shakespeare relatable to today’s youth.**

6. Code of Best Practices, p. 12

7. Code of Best Practices, p. 14

8. Wiegler, Matt. *Romeo and Juliet: No Fear Shakespeare Graphic Novels*. Sterling Publishing, 2008.

9. Hinds, Gareth. *The Most Excellent and Lamentable Tragedy of Romeo & Juliet*. Candlewick Press, 2013.

Compare these two graphic novel versions of *Romeo & Juliet*:

1. Consider the images from these two versions. What do you notice about the coloring and artistic style of each? How do the creative choices in the artwork *complement* (add to in order to improve) or *supplement* (help to complete) a reader's understanding of the dialogue?
2. How might the audience differ for these two versions of Shakespeare's play? How might they overlap?
3. Read the first paragraph of Hinds's [note to the reader](#). What elements of *Romeo & Juliet* make it a "universal story"? What benefits might come from diversifying the backgrounds of the characters in this classic retelling versus the broader reimaginings we have seen in other versions like *Ramón and Julieta* and *These Violent Delights*?

IMAGE: *Rebellion & Johannesburg Dance Production* (2015)¹⁰

Choreographed by Jessica Nupen



Rebellion & Johannesburg tells the story of forbidden love set in the backdrop of the streets of modern-day Johannesburg, South Africa.

1. What do you notice about the facial expressions the actors are choosing for this scene?
2. How do those emotions on their faces contrast with the movement of their bodies?
3. What idea from the original balcony scene or from *Romeo and Juliet*'s relationship does this performance capture?

Including sources in student-facing content provides attribution to original authors and content creators, an essential element of good faith while employing the fair use doctrine.

What about photographs?

This one comes from the producer/choreographer's website and was shot by a professional photographer.

Is this photograph protected by copyright?

Yes, this image is original, creative, and fixed in a medium where others can see it, so it qualifies for copyright protection and has not yet passed into the public domain.

Is what I'm doing regulated by copyright?

Yes, reproducing this photo is clearly regulated by copyright law: you are making a copy of expressive elements and sharing it widely.

How do I justify using this or other photographs from professional photographers in my OER?

First, attribute both the photographer and the website, museum, publication, or other source where you found it. The citation should be clear, complete, and provide a good model for students.

Second, determine your narrow pedagogical purpose for use: What pedagogical purpose does this photo specifically offer that other photos may not?

This image is not merely decorative—it serves a particular pedagogical purpose aligned to this lesson.

Since our learning objective is for students to analyze multiple representations of a scene across diverse media and cultures, we wanted to offer a portrayal of dance, particularly how the elements of dance may communicate a message perhaps not possible through film or stage acting alone. This image is also a still, or ONE moment in time that students can analyze closely to practice analysis skills without being overwhelmed by watching an entire video.

Third, use the *Code of Best Practices in Fair Use for OER* to determine which broad category for fair use this falls into.

10. Blignault, Ed. *Production Photograph of Rebellion & Johannesburg*. 2015. Jessica Nupen Productions, <https://jessicanupen.com/productions/romeo-juliet-rebellion-johannesburg/>.

What broad category from the *Code of Best Practices* does this image fall into?

Since students are directly examining this image and are prompted to do so with questions, this inserted photograph represents an example of **Principle A, Critique**, as students are practicing critical analysis while engaging with the image.

Note that the OER here adheres to consideration 1: “Where inserts are presented so that students can practice critical skills, the OER should also include appropriate guidance such as annotations or reflection questions.”¹¹

VIDEO: Royal Shakespeare Company (2018)¹²



Wait . . . this video is over five minutes long. I thought the only way we could use videos from the internet was if the clips were three minutes in length or less?

Fair use doctrine actually allows for the use of an entire film if the pedagogical purpose is clear and essential. According to Principle A, Consideration 2, “The extent to which any insert is included on the basis of fair use should be quantitatively and qualitatively appropriate; thus, depending on the scope of the commentary or analysis, fair use might justify including a whole popular song but not an entire feature-length film if only a portion were being examined” (*Code of Best Practices in Fair Use for OER*, p. 11).

1. The tone of this performance is much different from the traditional performance. How do the actors make this scene humorous?
2. How does the director’s and actors’ choice to stage this scene as comedic change our understanding of the characters and their desires?

11. *Code of Best Practices*, p. 12

12. Royal Shakespeare Company. “Act 2 Scene 2 | Romeo and Juliet | 2018 | Royal Shakespeare Company.” *YouTube*, uploaded by RSC Shakespeare Learning Zone, 31 Aug. 2018, <https://www.youtube.com/watch?v=tqylts6h0Eg>.

VIDEO: *Family Guy*—“Heartburn” (2019); directed by Steve Robertson; written by Matt Pabian & Matt McElaney¹³



1. What are some characteristics of Romeo as portrayed in this interpretation?
2. The writers of this show chose to use *hyperbole* (exaggeration) and *satire* (use of humor to criticize) in their reimagining of the balcony scene. What does this clip seem to be criticizing about Romeo and Juliet's relationship?

After Reading and Viewing the Entire Text Set:

Write a claim answering the following question. Provide evidence from at least two of the texts in this set to support your claim:

Which of the five representations best captures the experience of falling in love today? What artistic elements were included in the interpretation that allow audiences to connect to the story?

Text Set 2

Directions: Read or view the four selected texts, videos, and images below that depict the balcony scene from *Romeo and Juliet*. Use the questions to guide your analysis of how author or artist choices shape the meaning or ideas communicated within each one.

BOOK EXCERPT: *Ramón and Julieta* (2022) by Alana Quintana Albertson¹⁴

1. This scene with “Romeo” and “Juliet” is not a direct retelling of the balcony scene. What literary elements does Albertson include to link this meeting in the garden to the original play in readers’ minds?
2. Identify four literary elements the author includes to make this retelling unique. How might the inclusion of these elements help the story appeal to a broader audience?

Like other videos in this OER, this clip from *Family Guy* offers a clear pedagogical purpose for **critique**: students are prompted to engage in critical analysis of the writers’ choices compared to Shakespeare.

However, this clip was uploaded by a user called Mr. Rupert, not the writers or creators of *Family Guy*.

Is this video protected by copyright?

Yes, this clip is original, creative, and fixed in a medium where others can see it, so it qualifies for copyright protection and has not yet passed into the public domain.

Can an OER contain copyrighted material uploaded by random YouTube users (not the original creators or production companies)?

Yes. Fair use does not require that the material or excerpt come from an authorized or official source.

What if the citation does not attribute the resource to the original director or writers?

Although the YouTube user posted the clip, they were not associated with the creation of the material. We have added attribution above the clip to the director and writer in the section title. This thorough attribution acknowledges the original creators more fully and serves as a strong model for students.

These are modern novels. They aren’t translations or interpretations. How are they protected under fair use?

The purpose of this lesson is to evaluate ways authors and artists interpret Shakespeare and connect his themes in modern works. As such, comparing balcony scenes (or their modern equivalent) covers use of these excerpts under the fair use principles A and B. There are a couple of considerations to take into account:

Principle A: “Fair use inserts for this purpose should generally be restricted to objects or source materials being directly examined. Where inserts are presented so that students can practice critical skills, the OER should also include appropriate guidance such as annotations or reflection questions.”

For our purposes, we have addressed this with reflective questions asking learners to reflect on the authors’ choices and connect them back to Shakespeare’s original work.

13. Source: “Family Guy - Oh, Romeo, Romeo, wherefore art thou, Romeo?” YouTube, uploaded by Mr. Rupert, 5 Dec. 2019. https://www.youtube.com/watch?v=yalRLvkn_Ig.

14. Albertson, Alana Quintana. *Ramón and Julieta*. Penguin Random House, 2022.

BOOK EXCERPT: *Street Love* (2006) by Walter Dean Myers¹⁵

1. What is the setting for this exchange between Damien and Junice? How does Myers incorporate the setting into the symbolism in Junice's comparison of her life to Damien's?
2. Damien says, "Why in a garden that for all the world seemed mine, she is the only rose that doesn't smell of plastic." What does Damien mean by this?
3. This line is an *allusion* to Shakespeare's original line, "That which we call a rose by any other name would smell as sweet." Why do you think Myers chose to use this line to tie Junice and Damien's meeting in the market to Shakespeare's balcony scene?

VIDEO: *Romeo + Juliet* (1996); directed by Baz Luhrmann¹⁶

Screenplay adaptation by Baz Luhrmann and Craig Pearce



1. This version offers a drastically different choice in the placement and positioning of the actors. How is this one different?
2. How does this choice to position them differently change our interpretation of Romeo and Juliet's relationship even though they are saying the exact same lines as the original text?

Principle B:

"When relying on fair use, authors should be prepared to explain the intended significance of an illustrative insert in the context of the OER where it appears; such significance may relate to what the insert depicts or describes, to its relationship to the text, or to the characteristics of the insert itself."

With the questions added after each text, we are addressing Principle B by illustrating literary devices and reflecting on their impact on audiences.

Like the insert from *Family Guy* in Text Set 1, this video was uploaded to YouTube by a random user rather than by the director or production company.

Is this video protected by copyright?

Yes, this clip is original, creative, and fixed in a medium where others can see it, so it qualifies for copyright protection and has not yet passed into the public domain.

Can I still use this video under fair use?

Yes! See our commentary on Fair Use Policy thorough attribution in the *Family Guy* insert in Text Set 1.

15. Myers, Walter Dean. *Street Love*. HarperCollins, 2006.

16. "Romeo and Juliet – Balcony scene." *YouTube*, uploaded by Scott Randall, 9 June 2014. <https://www.youtube.com/watch?v=1HbvBVhpChI>.

VIDEO: *Gnomeo and Juliet* (2011); directed by Kelly Asbury; screenplay by Rob Sprackling and John Smith¹⁷



1. Juliet in this clip says, “Are you crazy? If they find you, they’ll bury you under the patio.” What is the parallel line from the original text?
2. Following this rather serious line, this clip offers a great example of *comic relief*, or a funny scene following a more serious moment to break the tension. Shakespeare, likewise, uses this device in his writing. How do we see *comic relief* at work in the original text?

IMAGE: Production photograph by Craig Mungavin from *Romeo and Juliet* (2018); adapted by Hailey Bachrach and Matt Minnicino¹⁸



This image comes from a 2018 stage production featuring two women as Romeo and Juliet.

1. The photographer chose to capture this scene without showing the balcony in the frame. What does this photo emphasize instead? Why do you think the photographer made that choice?
2. Why do you think “remixes” like this one are so popular? How does this change the legacy of Shakespeare, if at all?

Like the insert from *Family Guy* in Text Set 1, this video was uploaded to YouTube by a random user rather than by the director or production company.

Is this video protected by copyright?

Yes, this clip is original, creative, and fixed in a medium where others can see it, so it qualifies for copyright protection and has not yet passed into the public domain.

Can I still use this video under fair use?

Yes! The analysis here is the same as the one for the *Family Guy* clip above.

This photograph comes from a producer’s website and was shot by a professional photographer.

Is this image protected by copyright?

Yes, this image is original, creative, and fixed in a medium where others can see it, so it qualifies for copyright protection and has not yet passed into the public domain.

However, fair use doctrine allows us to use this image for the pedagogical purpose of **critique** under Principle A of the *Code of Best Practices in Fair Use for OER*.

See our notes on the inclusion of a production photograph from *Rebellion & Johannesburg* for more information.

Note this photograph likewise has a narrow pedagogical purpose:

Students are invited to analyze the photographer’s choice to emphasize the couple rather than the balcony itself. This photograph also offers a substantial change to casting that allows students to engage with the legacy and relevance of Shakespeare in the contemporary era.

17. “Gnomeo & Juliet - Balcony Clip.” *YouTube*, uploaded by eOne Films Canada, 25 Jan. 2011. <https://www.youtube.com/watch?v=5Zil-1Kkl8>.

18. Mungavin, Craig. *Production Photograph of Romeo and Juliet*. 2018. *Jac Ford Productions*, <http://jac-ford.com/producer>.

After Reading and Viewing the Entire Text Set:

Write a claim answering the following question; provide evidence from at least two of the texts in this set to support your claim:

Which of the five representations best captures the experience of falling in love today? What artistic elements were included in the interpretation that allow audiences to connect to the story?

Text Set 3

Directions: Read or view the four selected texts, videos, and images below that depict the balcony scene from *Romeo and Juliet*. Use the questions to guide your analysis of how author or artist choices shape the meaning or ideas communicated within each one.

BOOK EXCERPT: *Romeow and Drooliet* by Nina Laden¹⁹

1. This is a fun “wag of the tail” to Shakespeare’s classic play. What wordplay is used in the text that lays out the rivalry between the main characters’ families?
2. Examine the picture of the balcony scene. What imagery do you see that reinforces the tale of the star-crossed lovers?

VIDEO: *BBC Off by Heart Shakespeare* (2011) featuring Ashley Walters²⁰



For this clip, only one actor is present, which provides a more in-depth look at a particular character.

1. Which character is the primary focus of this clip?
2. What kinds of movements and gestures does this actor use, and why do you think these decisions were made?
3. How do those choices shape our understanding of his character?

Similarly to *Ramón and Julieta*, this is a modern text, not a translation or interpretation. How is it protected under fair use?

The purpose of this lesson is to evaluate ways authors and artists interpret Shakespeare and connect his themes in modern works. As such, comparing balcony scenes (or their modern equivalent) covers use of these excerpts under the fair use principles A and B.

Unlike many videos used in this OER, this video was uploaded to YouTube by BBC, the production company that owns the rights to the clip.

Is this video protected by copyright even though it’s using Shakespeare’s text?

Yes, this clip is original, creative, and fixed in a medium where others can see it, so it qualifies for copyright protection. Even though the text from *Romeo and Juliet* has passed into the public domain because it was written prior to 1923, this actor’s portrayal has not.

How do I know I can use this clip?

In short, this video is used for **critique**, or for students to directly examine this material in comparison to other resource material. See our notes on establishing a narrow pedagogical purpose for critique with questions in our commentary on *Rebellion & Johannesburg* in text set 1.

19. Laden, Nina. *Romeow and Drooliet*. Chronicle Books, 2005.

20. “Shakespeare, Romeo and Juliet Act 2 Scene 2, “What light through yonder window breaks?” BBC.” *YouTube*, uploaded by BBC, 17 May 2011.
<https://www.youtube.com/watch?v=H3MiaSG1SMQ>.

IMAGE: Production photograph by Johan Perrson from *& Juliet* by Max Martin (2022)²¹



This image comes from a recent stage production called *& Juliet*, or what would have happened if Juliet had never met Romeo and had not decided to die for love. This production is truly unique as Juliet is alone on the balcony, raising questions about how modern views of gender, love, and power would play out if the plot of *Romeo and Juliet* were to happen today. The production also includes characters who are questioning their gender and sexual identities.

1. Other than Juliet alone on the balcony, what do you notice about how this scene is different from other portrayals we've examined?
2. Why do you think "remixes" like this one are so popular? How does this change the legacy of Shakespeare, if at all?

This photograph comes from *Gay Times*, an online publication whose copyright policy states, "No part of this publication or its website can be reproduced, stored in a retrieval system or transmitted in any form without prior written permission from the publishers or without payment of its digital delivery partners."

Can this image still be used in an OER despite these copyright protections?

Yes. This insert is being directly examined by students for the pedagogical purpose of **critique** (Principle A of *Code of Best Practices in Fair Use for OER*, p. 11). Under this principle, OERs should draw on a range of source works and attribution should be provided. Note that this OER fits both of those requirements. Because we can rely on the fair use provisions of copyright law, we don't need authorization or permission from the publisher.

Other than a range of source works and attribution, how else can I demonstrate the narrow pedagogical purpose of this photograph?

We include questions that ask students to directly examine the photograph, indicating it is not merely decorative. Likewise, we include a small paragraph signaling the importance of this specific photo for our pedagogical purpose: no other photo interprets Juliet alone and triumphant on the balcony, which is an important modern twist not otherwise represented in our resource materials.

Can I just say this is "for educational purposes" and has popular value for engaging students in the content?

Although popular appeal may be a factor in the selection of resource materials, OER authors should be prepared to explain the pedagogical value of each selection beyond its mere entertainment or informational content (*Code of Best Practices in Fair Use for OER*, Principle C, Consideration 2). A short paragraph providing the pedagogical purpose (as we have included) is sufficient.

See our notes on the inclusion of a production photograph from *Rebellion & Johannesburg* for another example of an inserted contemporary photograph.

21. Perrson, Johan. Production photograph from *& Juliet*. 2022. *Gay Times*, <https://www.gaytimes.co.uk/culture/juliet-is-max-martins-new-musical-boldly-giving-queer-people-a-voice/>.

VIDEO: *Beyond Words* (2019 ballet set to Sergei Prokofiev's 1935 opus); artistic director Simon Godwin; adapted for television by Emily Burns²²



1. In this clip, characters do not use dialogue to communicate. What other options do the dancers have to communicate their thoughts and feelings?
2. Unlike some representations, this clip offers little tension or acknowledgment of the danger of the relationship. How do we see some evidence of tension, fear, or anxiety in the movement or expressions of the dancers?

IMAGE: *Laila and Majnun* by unknown artist (mid-18th century)²³

The painting above depicts a Persian folktale of "Laila and Majnun," two young people whose love is forbidden. Because Majnun's marriage proposal was rejected by her father, Laila must meet him in secrecy in the wilderness. The painting is believed to have been created in Iran in the mid-1700s.



1. What do you notice about the contrast between Laila's and Majnun's appearances? What does the artist communicate about their situation using this contrast?
2. Notice this meeting does not take place on a balcony at Laila's house. How does this choice in storytelling and art change our understanding of the couple's relationship or situation?

Is this video protected under copyright? Yes. The music is in the public domain, but the performance video is protected under copyright law. However, this clip of the performance falls under fair use protections because the clip is not the heart of the production and is used for criticism and illustration.

Is this image protected by copyright?

No, this image is in the public domain because it was painted before 1923. Furthermore, the Metropolitan Museum of Art has an open access policy on some images that states that anyone can "freely copy, modify and distribute this image, even for commercial purposes."

How do I know if a museum or work of art operates under an open access policy like this one?

The Met, like many museums, denotes images that are in the public domain with a little box that says OA (Open Access). They likewise link to their open access policy within the popover graphic that accompanies this symbol.

So, this image can be inserted with no explanation of the pedagogical purpose?

Yes. Notice we do provide some background information for students to engage in critique, as with the other resource materials; however, this is not necessary since the painting is in the public domain.

Do all museums allow these types of inserts?

No, not all museums allow for this, so check to see if works are in the public domain or are operating under an open access policy.

22. "Romeo & Juliet's Romantic Rendezvous | Romeo and Juliet | Great Performances on PBS." YouTube, uploaded by PBS Great Performances, 2 Sept. 2020. <https://www.youtube.com/watch?v=6Med4voEc0k>.

23. *Laila and Majnun*. mid-18th century. The Metropolitan Museum of Art, <https://www.metmuseum.org/art/collection/search/453283>.

After Reading and Viewing the Entire Text Set:

Write a claim answering the following question; provide evidence from at least two of the texts in this set to support your claim:

Which of the five representations best captures the experience of falling in love today? What artistic elements were included in the interpretation that allow audiences to connect to the story?

Text Set 4

Directions: Read or view the four selected texts, videos, and images below that depict the balcony scene from *Romeo and Juliet*. Use the questions to guide your analysis of how author or artist choices shape the meaning or ideas communicated within each one.

BOOK EXCERPTS: [These Violent Delights](#) by Chloe Gong²⁴

1. This reimagining of *Romeo and Juliet* finds Roma Montagov and Juliette Cai in Shanghai four years after their ill-fated love affair but alludes to a lot of the same scenes and sequences throughout the story line. What is the *tone* of this exchange between our two protagonists? What words and phrases does Gong use to convey this tone?
2. What elements of Juliette's character do you notice that are different from Shakespeare's original creation? Where do you find similarities? Why do you think Gong made these changes?

Note that all works created by federal employees may be used with some restrictions. NASA videos, White House webpages, Congressional Research Service reports, WPA photographs, opinions by federal judges, and many more are in the public domain; however, see *Code of Best Practices in Fair Use for OER* (p. 40) for more details about how federal works (including some in the Smithsonian Institutions) may be restricted.

See our notes on the inclusion of a production photograph from *Rebellion & Johannesburg* for an example of an inserted contemporary photograph.

Similarly to *Ramón and Julieta*, this is a modern text, not a translation or interpretation. How is it protected under fair use?

The purpose of this lesson is to evaluate ways authors and artists interpret Shakespeare and connect his themes in modern works. As such, comparing balcony scenes (or their modern equivalent) covers use of these excerpts under the fair use principles A and B.

Principle B advises, “*In relying on fair use for illustrative inserts, it is important to (i) select illustrations to avoid repetition or redundancy.*” Aren’t we starting to get repetitive and redundant with the number of balcony scenes we’re inserting?

We would argue no, because each novel excerpt being examined has critical differences that contribute to the learner’s breadth of understanding necessary to thoughtfully respond to the overarching argument of whether or not Shakespeare’s original tale of love and rivalry is still relevant today. Each text tells the story of a different cultural group in a similar situation, allowing readers to compare elements authors choose to leave in and those they decided to revise or reimagine.

24. Gong, Chloe. *These Violent Delights*. Margaret K. McElderry Books, 2020.

VIDEO: *West Side Story*—“Tonight” (1961); directed by Robert Wise²⁵



This representation of the balcony scene comes from *West Side Story*, winner of the 1962 Academy Award for Best Picture. This musical tells the story of Maria, a woman of Puerto Rican descent, and Tony, a man of European descent, whose love is complicated by class and racial division in New York City and their loyalties to their family and friends.

1. The original text positions Romeo listening to Juliet as she stands on her balcony contemplating the barriers to their potential relationship. How does this representation differ?
2. How does that small shift change the scene and our interpretation of their relationship?
3. Instead of reciting lines, these characters are singing to proclaim their love. How does this change our interpretation of their feelings and attitudes toward one another, if at all? Feel free to use your opinion to defend your response.

Like the insert from *Family Guy* in Text Set 1, this video was uploaded to YouTube by a random user rather than the director or production company.

Is this video protected by copyright?

Yes, this clip is original, creative, and fixed in a medium where others can see it, so it qualifies for copyright protection and has not yet passed into the public domain.

Can I still use this video under fair use?

Yes! See our commentary on *Family Guy* insert in Text Set 1.

²⁵ “West Side Story (5/10) Movie CLIP - Tonight (1961) HD.” *YouTube*, uploaded by Movieclips, 30 July 2013, <https://www.youtube.com/watch?v=m7xTvb-FAhQ>.

VIDEO: *West Side Story*—"Tonight" (2021); directed by Steven Spielberg²⁶



West Side Story was remade in 2021.

1. List all of the physical barriers (things between Romeo and Juliet) we see in this clip.
2. Why do you think the 2021 version chose to include these physical barriers during this song instead of immediately reuniting the couple as we saw in the 1961 version?

Unlike many videos used in this OER, this video was uploaded to YouTube by DisneyMusicVEVO, the production company that owns the rights to the clip.

Is this video protected by copyright?

Yes, this clip is original, creative, and fixed in a medium where others can see it, so it qualifies for copyright protection and has not yet passed into the public domain.

How do I know I can use this clip?

In short, this video is used for **critique**, or for students to directly examine this material in comparison to other resource material. See our notes on establishing a narrow pedagogical purpose for critique with questions in our commentary on *Rebellion & Johannesburg* in text set 1.

26. "Rachel Zegler, Ansel Elgort - Balcony Scene (Tonight) (From West Side Story)." *YouTube*, uploaded by DisneyMusicVEVO, 11 Mar. 2022, <https://www.youtube.com/watch?v=o72zn8G-UYc>.

PAINTING: *Romeo and Juliet* by Ford Madox Brown (1870)²⁷



1. How does the artist's use of color (Romeo in all red and Juliet's pale skin) communicate a message or idea?
2. How does the artist create movement or the appearance of action?
What kind of message or idea does this communicate about the couple's relationship?

After Reading and Viewing the Entire Text Set:

Write a claim answering the following question; provide evidence from at least two of the texts in this set to support your claim:

Which of the four representations best captures the experience of falling in love today? What artistic elements were included in the interpretation that allow audiences to connect to the story?

Here's another painting! Is this one protected by copyright?

No, this image is in the public domain because it was painted before 1923.

However, unlike our example from the Metropolitan Museum of Art, the Delaware Art Museum, where this painting is currently housed, does not have an open access policy. In fact, their Rights and Reproductions page states that the user has "responsibility of compliance with the pertinent copyright restrictions."

This painting is still in the public domain, but other images in the collection may be subject to copyright restrictions.

How do I ensure I'm complying with copyright restrictions if a painting is NOT in the public domain?

As with the more modern images in this OER, ensure your pedagogical purpose falls under one of the broad categories in *Code of Best Practices in Fair Use for OER*.

See our notes on the inclusion of a production photograph from *Rebellion & Johannesburg* for an example of an inserted contemporary photograph.

27. Brown, Ford Madox. *Romeo and Juliet*. 1870. Delaware Art Museum, <https://delart.org/collection/british-pre-raphaelites/>.

COMPARATIVE LITERATURE

JAYNA ASHLOCK, JACKIE HOERMANN-ELLIOTT,
CARMEN MARROQUIN, AND HOLLY SPINELLI

COMPARATIVE LITERATURE OER

OPEN EDUCATIONAL RESOURCE FOR COMPARATIVE LITERATURE: ANALYZING SETTING AND USING IT AS A SPRINGBOARD FOR STUDENTS TO CREATE THEIR OWN SHORT STORIES WITH SETTING AS A CHARACTER

[Teacher-Facing Intro]:

This lesson is designed for a high school English class, during which students can review the three texts provided and analyze and discuss the various ways in which the authors/narrators' *craft* (use of *personification*, *metaphor*, *power verbs*, and *specific diction to craft images*) and *tone* transform a setting from a place where things happen to a character in and of itself that experiences and influences the story's message and impact.

The goal is for students to study these works and excerpts so they can create their own stories with settings that become characters in and of themselves that influence their stories' message and impact.

----- CUT ON THE DOTTED LINE -----

[Student Facing Intro]

- When you read the excerpt assigned to your group, what did you notice about the author's **craft** in creating the story's setting?
- What do you notice about the author's **tone**? **Use of personification**? **Power verbs**? **Metaphors**? **Specific diction**?
- What aspects of the setting went from being a place where things happen or a place that sits in the background to becoming a space that is living?
- In what way(s) does this author create a setting that becomes a character or something that moves the story's plot forward?
- How does the author's selected techniques add to this transformation?

Title of your chosen text:

Setting: Note the figurative language in your chosen text that represents the setting.

| Techniques | Example(s) from the text with page no. and/or paragraph no. | What does it mean literally in your own words? | What tone does the technique convey? | How does the author's choice transform the setting into a character in the text? |
|------------------|---|--|--------------------------------------|--|
| Personification | | | | |
| Power Verbs | | | | |
| Metaphor | | | | |
| Specific Diction | | | | |

INSTRUCTOR-FACING ANALYSIS

Taking classroom materials and making them into public-facing OER sometimes requires making the teacher-facing and student-facing framing and instructions explicit. So here, we're adding a teacher-facing context and expanding the student-facing introduction to the materials.

[Excerpts from Hanif Abdurraqib's *They Can't Kill Us Until They Kill Us*, Octavia Butler's *Parable of the Sower*, and Colson Whitehead's *The Colossus of New York*.] Here, we're using specific excerpts from texts published in the 1990s–2017. It has a terms of use that allows educational and training uses intact but limits any alterations. If we want to include this in an OER what are our options?

- Is this protected by copyright? What parts are protected? It's normal narrative text published in the past thirty years, so it is protected by copyright. For these works, the words and sentences themselves are protected, but the ideas, such as that the setting is not a fixed space or place, but rather something that is sentient or alive, and that small details of the setting help move forward the larger plot are not protected.

[Parable of the Sower](#) Excerpt:

Is this protected by copyright? Yes, it was published after 1928, so it's protected by copyright. It is not in the public domain.

Does it matter if it's a fictional text?

No, it does not.

I found the PDF online. Does it qualify for fair use because it's publicly available?

No, where you found the PDF doesn't matter, but using a few paragraphs from Butler's work is allowable under fair use because the use is transformative, the original fictional essay tells a story about post-apocalyptic Earth, and the use here is for illustration and critique as described in the *Code of Best Practices for Fair Use in OER*. The appropriate amount of the work has also been selected.

So, I can just include all of the scanned PDF?

Yes, this is only a small part of a larger copyrighted whole, but you might also consider how accessible the scan may be for current and future students.

SETTING - PLANNING GRAPHIC ORGANIZER

[Student-Facing Introduction to Stories — Why Are Students Reading These?] For each excerpt, pay close attention to the way in which the author crafts the setting. Take note of their **tone**, as well as the **literary devices** and elements that you notice.

Ask yourself:

- How is this setting more than just a place where things happen within it?
- In what way is the story's setting becoming a character within the story, too?
- How does this setting help move the plot forward?
- Also note two to three of your favorite quotations or qualities in each story, any questions you have about the story, and other moments that enticed or disturbed you.
- What is the setting's influence on your reading experience?

EXCERPTS FROM EACH TEXT

- Hanif Abdurraqib's essay, "**A Night in Bruce Springsteen's America**," from his essay collection *They Can't Kill Us Until They Kill Us* (2017)²⁸

As the final saxophone solo in "Drive All Night" kissed every corner of the Prudential Center and hundreds of cell phone flashlights cut through the dark of the arena, I realized that I am now the age Bruce Springsteen was when *The River* was released in 1980. I once thought that I saw the same version of adulthood that *The River* speaks of. One with conflict and celebration, but always living. It is 2016, and not watching the videos of Black people murdered doesn't mean that Black people aren't still being murdered. I try not to think about death—my own, or that of anyone I love—but I don't consider the future in the way that *The River* seems to consider the future. I don't fear what the future holds as much as I fear not being alive long enough to see it. It could have been the ghosts of Ferguson that I carried with me to New Jersey, or the sheer emotional exhaustion I felt as the last notes of "Wreck on the Highway" died out, but I felt like I fell in a different type of love with *The River* after seeing it in this way. What it must feel like to write an album like this. To listen to an album like this with different eyes on the world. What it must feel like to imagine that no one in America will be killed while a man sings a song about the promise of living.

- The "Morning" chapter (pgs. 25–34) from Colson Whitehead's essay collection *The Colossus of New York* (2003)³⁰

In the morning, the streets are owned by bread and garbage trucks. Sanitation engineers swashbuckle to sidewalks after scraps, obscure treasure, hoist up chewed up bread and crusts the bread trucks left days before. Deliver and pick up. Twelve-ton gluttons chew the curb and burp up to windows in mechanical gusts. Where's a rooster when you need one? Instead hydraulics crow. Tabloid haystacks squat. Emptied trash cans skid to anchor corners. Shopkeepers retract metal grates that repel burglars from merchandise unworthy of theft. All this metal grinding, this is the machine of

The Colossus of New York Excerpt:

Is this protected by copyright?

Yes, the essay was published in 2004 and includes mostly elements that are original, creatively and fixed in a medium where others can see them, so it qualifies for copyright protection and has not yet passed into the public domain.

Is what I'm doing regulated by copyright?

Yes, reproducing an entire essay is clearly regulated by copyright law. You are making a copy of the expressive elements and sharing it widely.

What is my pedagogical purpose for using this material?

To teach students about the author's craft and setting, as well as for students to apply these writing techniques in their own original creative written works.

What specifically is the narrow pedagogical purpose of this story?

This story has a modern structure and introduces students to the idea that seemingly minor and inconsequential aspects of setting can actually serve as an unlisted character in a text to move the plot forward.

What broad category from the *Code of Best Practices* do you think this falls into?

These stories fall under critique and are a learning resource.

In terms of critique, we look at those questions from the best practices.

"Fair use inserts for this purpose should generally be restricted to objects or source materials being directly examined. Where inserts are presented so that students can practice critical skills, the OER should also include appropriate guidance such as annotations or reflection questions."²⁹

– *Code of Best Practices in Fair Use for Open Educational Resources*

Are the students directly examining these stories? Is there framing, guidance, or reflection questions?

The students are directly examining the stories to evaluate the way that the setting's details build to create the setting as a character itself, or as something that moves the plot forward in a similar way that a character would. There are specific guiding questions for each story.

If you wanted to strengthen the context, what could you add?

You could add glossing or embed close reading notes alongside the text.

28. Abdurraqib, Hanif. *They Can't Kill Us Until They Kill Us*. Two Dollar Radio, 2017.

29. *Code of Best Practices*

30. Whitehead, Colson. *The Colossus of New York*. Penguin Random House, 2003.

morning reaching out through cogs and gears to claim and wake us. Check the clock to see how more sleep. Still time. Down there, they deliver and pick up. We each have routes we keep this place going.

Gods, here's a tip. To gain converts, recruit atheists, change your name to Snooze Button. A readily accessible divinity, a reach away, a prayer quick to fingertips if not lips. Like the truest gods it gives them what they already had and wins them through alarm. Exquisite torture of the Snooze Button. Wring a pillow to squeeze out minutes, the stuffing it contains. These life rafts from linen closets.

- Chapter 3 excerpt from Octavia E. Butler's sci-fi novel *Parable of the Sower* (1993)³²

Dad just looks at me and shakes his head. "You don't understand," he says. "You don't have any idea what a criminal waste of time and money that so-called space program is." He's going to vote for Donner. He's the only person I know who's going to vote at all. Most people have given up on politicians. After all, politicians have been promising to return us to the glory, wealth, and order of the twentieth century ever since I can remember. That's what the space program is about these days, at least for politicians. Hey, we can run a space station, a station on the moon, and soon, a colony on Mars. That proves we're still a great, forward-looking, powerful nation, right?

Yeah.

Well, we're barely a nation at all anymore, but I'm glad we're still in space. We have to be going someplace other than down the toilet.

And I'm sorry that astronaut will be brought back from her chosen heaven. Her name was Alicia Catalina Godinez Leal. She was a chemist. I intend to remember her. I think she can be a kind of model for me. She spent her life heading for Mars—preparing herself, becoming an astronaut, getting on a Mars crew, going to Mars, beginning to figure out how to terraform Mars, beginning to create sheltered places where people can live and work now. . . .

[Student-facing discussion directions:]

Break into groups to read and analyze ONE of the texts listed above. Groups will be responsible for:

- Identifying the ways in which the **author's craft** and the excerpt's overall **tone** demonstrate how a text's **setting** becomes personified and/or characters within a text.
- Explaining how time and physical space impact the narrator's/characters' experiences and viewpoints of themselves, the world, and others around them.

In your group, try to answer the following questions:

- How does the setting influence the narrator's/character's/speakers' **tone** and, subsequently, the **mood** of the piece?
- What literary techniques does the author/speaker/narrator include that transform the setting from a place where things happen to a place that completes actions? Explain. Please provide specific quotations to support your ideas.

"The extent to which any insert is included on the basis of fair use should be quantitatively and qualitatively appropriate; thus, depending on the scope of the commentary or analysis, fair use might justify including a whole popular song but not an entire feature-length film if only a portion were being examined."³¹

- *Code of Best Practices in Fair Use for Open Educational Resources*

Is the amount appropriate to the pedagogical purpose? Would less than the whole story be as useful for the purpose of this lesson?

If you're looking at the setting, only portions of the story are necessary. If we look at the setting as a character to move the plot forward, you need the whole story. Part of the pedagogy is evaluating the part in comparison to the whole to see how the setting's details come together to create the setting as a character that helps move the plot forward, and to identify the writers' craft for close examination to see their purpose.

"Where the use of multiple inserts in an OER (or a section of one) is pedagogically justified, the author should draw, where possible and appropriate, on a range of source works."³³

- *Code of Best Practices in Fair Use for Open Educational Resources*

Does this range of sources make sense for the pedagogy of this lesson?

Yes. This example brings together several different sources that illustrate key concepts about the author's craft and setting. Sources are not duplicative, and no particular author or work is overrepresented. The range of sources is pedagogically appropriate for the lessons presented in these materials.

"Attribution should be provided for fair use inserts, consistent with generally prevailing standards in the discipline; ethical practice also provides students with a good model for their own use."³⁴

- *Code of Best Practices in Fair Use for Open Educational Resources*

Have we attributed appropriately?

Yes, we have included a citation that is clear and complete, and provides a good model for students.

"A Night in Bruce Springsteen's America", Excerpt:

Is this protected by copyright?

Yes, it was published after 1928, so it's protected by copyright. It is not in the public domain.

Does it matter if it's a nonfiction text?

No, it does not.

31. *Code of Best Practices*

32. Butler, Octavia E. *Parable of the Sower*. Four Walls Eight Windows, 1993.

33. *Code of Best Practices*

34. *Code of Best Practices*

3. In what way(s) does the setting become an iteration of a living entity?
4. What role does the setting's function as a character influence the story's/ excerpt's message and/or impact on the readers?

I found the PDF online. Does it qualify for fair use because it's publicly available?

No, where you found the PDF doesn't matter, but using a few paragraphs from Abdurraqib's work is allowable under fair use because the use is transformative. The original essay was written to tell a story and express the author's feelings about Springsteen's performance, while the use here is for illustration and critique as described in the *Code of Best Practices for Fair Use in OER*. The appropriate amount of the work has also been selected.

So I can just include all of the scanned PDF?

Yes. This is only a small part of a larger copyrighted whole, but you might also consider how accessible the scan may be for current and future students. For example, you may want to enlarge the text size and print it out for students. It may also be difficult to get access to an audio reader for a PDF document.

EXAMPLES OF ADVERTISEMENTS THAT CAN BE ANALYZED AS EXAMPLES OF ARGUMENTATION

SARAH LEMIRE

INSTRUCTOR NOTES

This handout is intended to give students a brief introduction to rhetorical appeals. It is designed for a college-level introduction to composition course. The handout could be provided to students in its entirety, or the ads could be projected in front of the class and discussed separately.

INSTRUCTOR-FACING ANALYSIS

This worksheet was written by the author and licensed with a CC BY-NC license. The advertisements used in the worksheet are used in their entirety under the fair use exception to copyright law. The original advertisements were created to encourage consumers to purchase the advertised products and services. The ads, found using a Google Image search, are reproduced in their entirety for a new purpose: to teach students about persuasive arguments. The entire advertisement is necessary to examine the argument and the rhetorical strategies used to convey this argument.

ETHOS, PATHOS, AND LOGOS

When making a persuasive argument, speakers can use several different strategies depending on their audience and how they want to persuade them. These strategies are called *rhetorical appeals* and are listed in the table below.

| RHETORICAL APPEALS | |
|--------------------|---------------------------------------|
| Logos | Appeal to logic, reason, and evidence |
| Ethos | Appeal to authority and credibility |
| Pathos | Appeal to emotion |

For example, look at the advertisement below.³⁵



35. Volkswagen, advertisement.

This advertisement, as evidenced by the clear branding in the bottom corner, is from Volkswagen to market its park assist feature. What appeal(s) do you see used in this ad? Is it providing you with statistics or evidence about the efficacy of the park assist feature? Does it feature a trusted expert vouching for the feature? Does it evoke emotions from the viewer?

If you're thinking that none of these seem to fit, you're not alone. This advertisement is a good example of pathos, or emotional appeal, but not because it tugs on your heartstrings or makes you sad. Instead, the ad is intended to be funny, evoking an emotion like mirth. The creators get their point across about the effectiveness of the park assist feature using cute animals in an unrealistic scenario. They could have used a more true-to-life scenario, perhaps showing how the park assist feature could help a driver avoid scraping against the corner of a building. Instead, they chose to use a light-hearted, humorous setup to convey the same message.

Reflect:

Do you find this ad effective? Why or why not?

In contrast, the ad below from Pop Chips takes a different approach. In this ad, the creators choose to make an appeal using logos. Rather than appealing to emotions, they choose to appeal to the viewer's logic or reason. To do this, the creators designed the ad to include a specific comparison of nutrition statistics for three common types of chips. By setting up a head-to-head comparison, the creators are giving the viewers specific information to back up their assertion of lower nutritional guilt.³⁶



Reflect:

Do you find this ad effective? Why or why not?

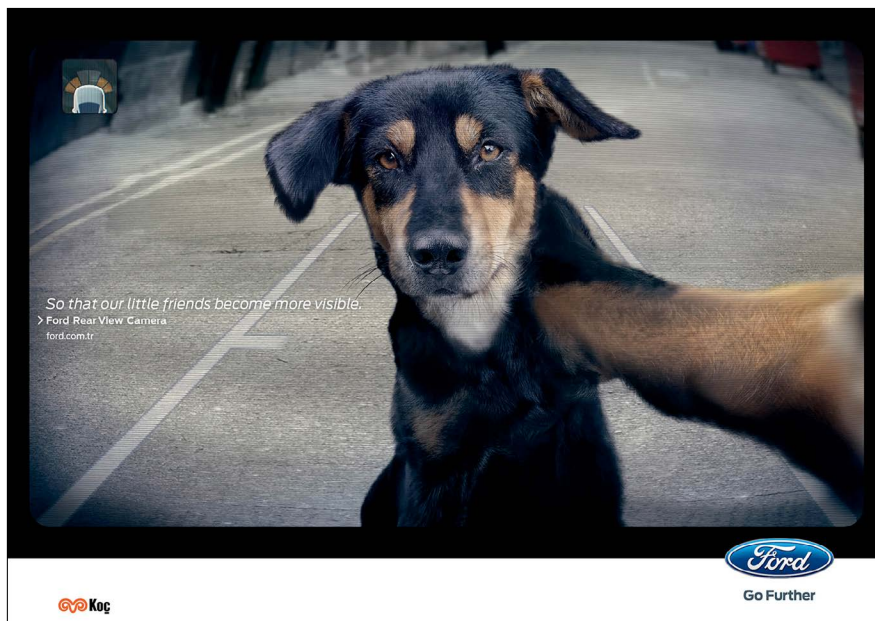
In a third approach, this Diet Coke ad makes an appeal to ethos by employing a recognizable face to endorse the product. The brand associates itself with Taylor Swift's name and image to capitalize on Swift's authority with her fans. It is important to note that Swift's authority is not as a soda expert; the appeal to authority here is a type of false authority, because it is based upon Swift's expertise in a completely different arena (music).³⁷



Reflect:
Do you find this ad effective? Why or why not?

Activity:

When making an argument, a speaker will draw on one, two, or even all three appeals. Look at the ad below. What appeal(s) do you see?³⁸



Explain:

1. What part of the ad makes you think that appeal(s) is/are present? What evidence of that/those appeal(s) can you point to?
2. What could have made this advertisement more persuasive?

37. Diet Coke, advertisement.

38. Ford, advertisement.

EKPHRASTIC POETRY OER INSERT

JEANNETTE LEE-PARIKH AND ASHLEIGH A. ALLEN

STUDENT FACING

GRADE 9 - ENGLISH LANGUAGE ARTS

Why use ekphrasis as a starting place for students learning how to write poetry? Students sometimes claim they do not know what to write about when they are given a creative writing assignment, especially when they are assigned poetry writing. One way to help them start writing is to have them choose a visual artwork they like to inspire their poetry writing. Ekphrasis is an established technique that poets have used for centuries.

EKPHRASIS: A DEFINITION

Ekphrasis (also spelled “ecphrasis”) is a direct transcription from the Greek *ek*, “out of,” and *phrasis*, “speech” or “expression.” It has often been translated simply as “description,” and seems originally to have been used as a rhetorical term designating a passage in prose or poetry that describes something. Borrowed from the Greek term *ékphrasis*, or “description,” early ekphrasis was used as a vivid description of a thing. One of the earliest and best-known examples of ekphrasis was Homer’s description of the forging of the Shield of Achilles in the 18th chapter of *The Iliad*. The purpose of ekphrasis was to describe a thing with such detail that the reader could envision it as if it were present. Homer’s description of Achilles’s Shield brings the shield to life in the reader’s imagination.

Ekphrastic writing became important in the second half of the 18th century, when a public demand for descriptions of art arose. There were no accurate reproductions of works of visual art to distribute to the public, so the art had to be shared through language. The goal for these ekphrastic writers was to impart a visual experience to their readers.

In the 19th and 20th centuries, ekphrasis continued to change, exchanging the tradition of elaborate description for interpretation or interrogation. The poet John Hollander wrote that poets’ new ways of writing about art included “addressing the image, making it speak, speaking of it interpretively, meditating upon the moment of viewing it, and so forth.”³⁹

The definition above is modified from: Ekphrasis from Academy of American Poets⁴⁰ (<https://poets.org/glossary/ekphrasis>) and Notes on Ekphrasis from Academy of American Poets (<https://poets.org/text/notes-ekphrasis>).

INSTRUCTOR-FACING ANALYSIS

Poetry OER Learning Objective: In this lesson, we “incorporate and reference existing copyrighted content, both historical and contemporary,” that is freely available online as guides and models for writing a type of poem called “ekphrastic.”

This section offers a definition of what ekphrasis is and brief examples.

IS THIS CONTENT FAIR USE?

The definition of ekphrasis comes from two pages from the Academy of American Poets website.

This content is fair use under practices that overlap principle C: “incorporating content as learning resource materials”; and principle D: “repurposing pedagogical content from existing educational materials.”

This definition, from the webpage of the Academy of American Poets, is for a general public education purpose in a full glossary of poetry terms. Here, it’s used to teach students close reading and to orient them in the poems they are about to write.

39. Academy of American Poets. “Ekphrasis.” <https://poets.org/glossary/ekphrasis>

40. Academy of American Poets. “Notes on Ekphrasis.” <https://poets.org/text/notes-ekphrasis>

HOW TO TEACH STUDENTS TO READ A POEM⁴¹

Poetry demands the reader's full attention. Poems are compact, and they possess less of a conventional plot than novels and plays, and sometimes express just a single idea. Students need to learn to read poems slowly and multiple times to comprehend the meaning and how figurative language can be used.

READING THE POEM

1. Read the poem at least three times: once silently, once aloud, once with a pencil to make notes.

Read silently:

- Don't stop at the end of a line. Follow the thought and pause where there is punctuation. This is called *enjambment*.

Read aloud:

- Read in a normal, relaxed tone of voice. It is not necessary to give any poem a dramatic reading.
- Listen to your ears. Does the poem move quickly or slowly? Does it flow or sound awkward? Do any words stick out? Trust your ear when reading the poem aloud.
- Don't stop at the end of a line. Follow the thought and pause where there is punctuation.

Read silently with a pencil:

- Don't stop at the end of a line. Follow the thought and pause where there is punctuation.
- Use a dictionary to look up any unknown words.
- Use *The Elements of Poetry* and *The Glossary of Literary Terms* to help you identify what is going on and how the action is portrayed.

This section is an amalgamation of two sources: "Poetry 180: How to Read a Poem Out Loud"⁴¹ (<https://www.loc.gov/programs/poetry-and-literature/poet-laureate/poet-laureate-projects/poetry-180/how-to-read-a-poem-out-loud/>) and "How to Read a Poem"⁴² from UW-Madison Writing Center (<https://writing.wisc.edu/handbook/assignments/readingpoetry/>)

This section on "how to read a poem" is an amalgamation of two sources. The intent is for students to practice engaging and focusing attention on the language and expression in a poem.

IS THIS CONTENT FAIR USE?

This is a harder case—it's content that has originally been created for an educational purpose, and also being reused here for an educational purpose. We need to dig deep in principle D, "repurposing educational content for a new pedagogical purpose." The excerpt from the Library of Congress might be in the public domain, but it's difficult to tell because it was created by an outside author, the Poet Laureate.

In this example, there are large intact pieces of each source, but they are used here to teach students how to read poems. As an edge case, you could choose to re-write this more in your own words. The ideas in the sources may need to be attributed, but ideas are never protected by copyright.

41. Library of Congress. "How To Read a Poem Out Loud." <https://writing.wisc.edu/handbook/assignments/readingpoetry/>

42. UW-Madison Writing Center. "How to Read a Poem." <https://www.loc.gov/programs/poetry-and-literature/poet-laureate/poet-laureate-projects/poetry-180/how-to-read-a-poem-out-loud/>

HOW TO TEACH STUDENTS TO WRITE EKPHRASTIC POETRY⁴³

There are different entry points students can use to help them compose a poem based on a visual artwork. Showing students a range of perspectives helps them think about how to start composing a poem about their chosen artwork.

PERSPECTIVES IN EKPHRASTIC POETRY

Consider the following perspectives an ekphrastic poem can be written from:

- Write about the scene or subject being depicted in the artwork.
- Write in the voice of a person or object shown in the work of art.
- Write about your experience of looking at the artwork.
- Relate the work of art to something else it reminds you of.
- Imagine what was happening while the artist was creating the piece.
- Write in the voice of the artist.
- Write a dialogue among characters in a work of art.
- Speak directly to the artist or the subject(s) of the piece.
- Write in the voice of an object or person portrayed in the artwork.
- Imagine a story behind what you see depicted in the piece.
- Speculate about why the artist created this work.

Adapted from: [Perspectives in Writing Ekphrastic Poetry from ReadWriteThink](#)

WHY INTRODUCE MODEL TEXTS

Students can see how modern/contemporary published poets are using ekphrasis so they can use these examples as inspiration and guides as they compose their poems.

MODEL TEXTS

1. Poem: "Hagar in the Wilderness."⁴⁴

Artwork: "Hagar"⁴⁵

2. Poem: "Landscape with the Fall of Icarus."⁴⁶

Artwork: "Landscape with the Fall of Icarus."⁴⁷

This section on "Perspectives in Ekphrastic Poetry" is taken from a ReadWriteThink online lesson on Ekphrasis: Using Art to Inspire Poetry (<https://www.readwritethink.org/classroom-resources/lesson-plans/ekphrasis-using-inspire-poetry>). The intent is for students to be exposed to different approaches to writing ekphrastic poetry.

INSTRUCTOR-FACING ANALYSIS

IS THIS CONTENT FAIR USE?

Here we don't need to rely on fair use because the terms of service give us permission. If we were openly licensing our final resource under a CC license, we would need to note that this section was used under the ReadWriteThink terms of service, and not covered under the terms of service of the new open educational resource.

ReadWriteThink's [Legal Notice for Copyright](#) states: "All images, text, programs, and other materials found in the ReadWriteThink Website ("Website") are protected by the United States copyright laws and are owned or licensed by the National Council of Teachers of English ("NCTE"). Educators may use and make a limited number of copies of the Website images, text, programs, and other materials for non-commercial, classroom and instructional use."

This section introduces two model ekphrastic poems and the artworks that inspired the poems.

IS THIS FAIR USE?

Yes, these poems are used for a transformative purpose as described in Principle Two of the Code. The original poems were created and shared to express artistic and aesthetic ideas about their subjects. They are used here to illustrate and help students analyze the form and qualities of ekphrastic poems. The amount used is appropriate in light of this purpose.

The images "Hagar" from the Smithsonian American Art Museum and "Landscape with the Fall of Icarus" by Pieter Bruegel are in the public domain.

43. "Perspectives in Writing Ekphrastic Poetry." ReadWriteThink. <https://www.readwritethink.org/classroom-resources/lesson-plans/ekphrasis-using-inspire-poetry>

44. Jess, Tyehimba. "Hagar in the Wilderness." Academy of American Poets, 2013. <https://poets.org/poem/hagar-wilderness/print>.

45. Edmonia Lewis. "Hagar." Smithsonian American Art Museum, 1875. <https://americanart.si.edu/artwork/hagar-14627>.

46. Williams, William Carlos. "Landscape with the Fall of Icarus." Academy of American Poets, 1962. <https://poets.org/poem/landscape-fall-icarus>.

47. Bruegel, Pieter. "Landscape with the Fall of Icarus." 1558. <https://www.bl.uk/collection-items/landscape-with-the-fall-of-icarus>.

HOW TO TEACH STUDENTS TO NOTICE THE DETAILS OF THE ARTWORK USING SLOW LOOKING

Slow looking demands that students focus on seeing the artwork as it is and noticing as many of its details as possible, so they can intentionally reference the artwork and these details when they transition from slow looking to composing their poem (and referencing these details therein).

PREWORK: SLOW LOOKING⁴⁸

Slow looking is the practice of observing detail over time to move beyond a first impression and create a more immersive experience with a text, an idea, a piece of art, or any other kind of object. Slow looking helps students navigate complex systems and build connections, learn to describe in detail, build on each other's ideas and think together, and develop empathy and self-awareness.

Questions to Consider:

- What are the different components and how do they function together?
- How do you see similar to and different than others in the classroom?

WHOLE CLASS ACTIVITY

Everyone close their laptops and put your phones in your bag. Turn off the light. I will project [Hagar \(1875\) by Edmonia Lewis](#). You will look at this sculpture for 10 minutes. After looking, we will go around the classroom. Each student must share one thing they have noticed. This observation can't be repeated, but students can add on to what a classmate said. I take notes on the board. After this sharing, we then share any questions students have about the artwork.

PAIRED ACTIVITY

In pairs, students will then return to the poem to consider:

1. How does [Tyehimba Jess](#) include details from [Hagar \(1875\) by Edmonia Lewis](#)?
2. What perspective does [Tyehimba Jess](#) use in his poem?

This section introduces students to slow looking at and mindful engaging of a visual text (such as a painting, photograph, etc.); this practice can influence student thinking, communicating, and poetry writing.

IS THIS CONTENT FAIR USE?

"The Art of Slow Looking in the Classroom" (<https://www.gse.harvard.edu/news/uk/20/01/art-slow-looking-classroom>) is an article from *Usable Knowledge: Relevant Research for Today's Educators*, which is published by the Harvard Graduate School of Education (HGSE).

Here, this excerpt on "slow looking" was re-used with paraphrasing from a teacher-facing professional learning article to a student-facing exercise. The level of transformation is small, but it's also a short, factual excerpt. If you wanted to strengthen your fair use claim, you could also re-write the material more to a student-facing view. The original authors don't own the ideas in their work, just the expression.

This content from HGSE falls under "D: Repurposing pedagogical content from existing educational materials," which states: "Authors of new OER sometimes want to draw on existing educational materials, and there are a set of considerations in copyright law that allow them to do so in certain cases" and "If relying on fair use for more extensive borrowings, OER authors should be prepared to explain the specific teaching or learning value of each incorporated item and why it represents the best choice for the intended purpose; justify the extent of the material incorporated in pedagogical terms; and specify in what ways, if any, the material was updated."

This section introduces students to the kinds of questions one asks of a poem one analyzes.

48. Boudreau, Emily. "The Art of Slow Looking in the Classroom." Harvard Graduate School of Education, 2020. <https://www.gse.harvard.edu/ideas/usable-knowledge/20/01/art-slow-looking-classroom>.

HOW TO TEACH STUDENTS TO USE THE ARTWORK WHEN COMPOSING THEIR POEMS

This series of questions helps students understand the different parts of a poem and how a poet uses an artwork to write their ekphrastic poem, so it can act as a model for how they will build a poem from observations of chosen artwork. These questions are exploratory and expose students to the breadth and depth of what a poet takes into account when they compose an ekphrastic poem.

PREWORK: ANALYZING PAIRED ACTIVITY: THE ELEMENTS OF POETRY

Review *The Elements of Poetry*. In pairs, use these questions to analyze “[Hagar in the Wilderness](#)” or “[Landscape with the Fall of Icarus](#).” You will have 15–20 minutes. We will use your responses to discuss the poem.

MEANING

- What event, situation, or experience does the poem describe?
- Who is the speaker? To whom is the persona speaking? Who is the listener/audience?
- What is the time setting—hour of day, season, era, etc?
- What is the place setting?
- What is the poet’s tone?
- What is the mood of the poem?
- Does the mood and/or tone change during the poem?
- What themes are explored in the poem?
- What do you think is the meaning of the poem?

STRUCTURE

- What is the form of the poem?
- Does it have stanzas?
- How many lines are in each stanza?
- How long are the lines?
- Do line breaks and the end of clauses as shown by periods (.), semi-colons (;), and commas (,) match?
- Does it have stanzas with a regular number of lines or any other interesting features of structural design?
- What are their effects?

LANGUAGE

- How would you describe the poet’s use of words: vivid, striking, effective, surprising, or colorless and predictable, etc?
- What sensations does the poem evoke: sight, sound, touch, smell, taste, movement, etc?
- Are there any inverted word orders or sentences? What would be the usual order? What purpose is served by the inversion?
- Are there any striking examples of figurative language used?
- What things are compared (similes, metaphors, personifications or symbols) in the poem?

IS THIS CONTENT FAIR USE?

This content from Melbourne High School falls under “D: Repurposing pedagogical content from existing educational materials,” which states: “Authors of new OER sometimes want to draw on existing educational materials, and there are a set of considerations in copyright law that allow them to do so in certain cases” and “If relying on fair use for more extensive borrowings, OER authors should be prepared to explain the specific teaching or learning value of each incorporated item and why it represents the best choice for the intended purpose; justify the extent of the material incorporated in pedagogical terms; and specify in what ways, if any, the material was updated.”

Lists of short, directive questions are often not sufficiently creative to qualify for copyright protection. As a general rule, if you are able to rewrite the questions in your own words, it may be reasonable to update the resource to match your own voice. If the list of questions is so direct that there is not another reasonable way to ask the question, then you may be free to use these unprotected materials.

- Are there analogies or conceits? What are their effects?
- Is the language appropriate to the subject and/or theme? What effect does the language have?

RHYTHM

- Does the poem have a regular (slow or fast) rhythm? What is the effect of any rhythmic qualities?

SOUND

- Does the poem have any significant sound features?
- Is it musical?
- Does the poet use onomatopoeia, alliteration, or assonance?
- Does the poem rhyme? What are their effects?

Adapted from: G. Marotous's Guidelines for Poetry Analysis

WHERE CAN STUDENTS FIND IMAGES ONLINE THAT ARE IN THE PUBLIC DOMAIN OR THAT GRANT ENOUGH PERMISSION OR IMPLIED LICENSE FOR EDUCATIONAL USE?

These websites give students a starting place and allow them to travel around the world and across thousands of years to find a visual work of art that inspires them.

ASSIGNMENT GUIDELINES

- View any of these online visual art resources to find artwork that inspires you:
 - [Smithsonian American Art Museum](#)
 - [Collections in Google Arts & Culture](#)
 - [Thomas J. Watson Library Digital Collections](#)
 - [Europeana](#)
- Remember that this artwork is the inspiration for your poem.
- Include the title of and link to the artwork, as well as the name of the artist and the date of the artwork, at the bottom of your poem.
- Questions to consider in developing your ekphrastic poem:
 - Is your poem told from a [perspective](#) that is clear and easy to understand? It might be easier to choose one perspective:
 - Are you addressing the artwork?
 - Making the artwork speak?
 - Meditating upon the moment of viewing the artwork?
 - Interpreting the artwork?
 - Inhabiting the artwork?
 - Confronting the artwork?
 - What is the larger meaning you would like to convey?
 - Have you chosen precise and descriptive language for your poem that supports the meaning you would like to convey?
 - Have you used punctuation intentionally to support the meaning you would like to convey?
 - What is the tone and mood of your poem?
 - Have you used multiple types of figurative language and included sound elements?

This section introduces students to different online art collections. The intent is for students to view these to find artwork that they find inspiring for writing a poem.

IS THIS CONTENT FAIR USE?

1. The Met and Europeana have digitized work that is in the public domain.
2. The Smithsonian American Art Museum has digitized work in the public domain and work "is subject to usage conditions due to copyright and/or other restrictions and may only be used for personal, educational, and other non-commercial uses consistent with the principles of fair use under Section 108 of the U.S. Copyright Act." To use content with usage conditions: Cite the author and source of the content as you would material from any printed work. Cite and link to, when possible, the website as the source of the content. Do not remove any copyright, trademark, or other proprietary notices, including attribution information, credits, and notices, that are placed in or near the text, images, or data. Comply with all terms or restrictions (such as copyright, trademark, publicity and privacy rights, or contractual restrictions) as may be specified in the metadata or as may otherwise apply to the [content](#). (<https://www.si.edu/termsofuse>).
3. Google Arts & Culture works: "Finally, some of our services give you access to content that belongs to other people or organizations... You may not use this content without that person or organization's permission, or as otherwise allowed by [law](#)." (<https://policies.google.com/terms#toc-content>)

Here, the older images are in the public domain and newer images may be protected by copyright. Either way, the students' use as inspiration for their poem in this unit is fair use, functioning analogously to Principle A—critique, because their work is a direct response to the image.

USING ARTICLES FROM MAJOR NEWS OUTLETS AS STUDENT MODELS

STEPHANIE KING AND JEANNETTE LEE-PARIKH

STUDENT FACING GRADE 11/12

INVESTIGATIVE JOURNALISM LEARNING OBJECTIVE:

To write an essay on a topic of contemporary importance that students find interesting, requires research, and includes a social justice angle.

WHAT IS INVESTIGATIVE JOURNALISM AND SOCIAL JUSTICE?

Beginning with a definition of investigative journalism ensures that we all understand the terms being used and will use the terms in the same way.

INVESTIGATIVE JOURNALISM: DEFINITION⁴⁹

According to the Global Investigative Journalism Network (GIJN), investigative journalism is systematic, in-depth, and original research and reporting, often involving the unearthing of secrets. Others note that its practice typically involves great use of public records and data, with a focus on social justice and accountability. GIJN quotes *Story-Based Inquiry*⁵⁰, an investigative journalism handbook published by UNESCO, which defines investigative journalism as “Exposing to the public matters that are concealed—either deliberately by someone in a position of power, or accidentally, behind a chaotic mass of facts and circumstances that obscure understanding. It requires using both secret and open sources and documents.”⁵¹

SOCIAL JUSTICE: DEFINITION

The objective of creating a fair and equal society in which each individual matters, their rights are recognized and protected, and decisions are made in ways that are fair and honest.⁵²

INSTRUCTOR-FACING ANALYSIS

Nonfiction OER Learning Objective: To incorporate and repurpose longform journalism to teach students to write like journalists. Using high-quality published articles by living journalists as writing models promotes mastery because it exposes students to well-written diverse content, which includes captivating images that inspires and informs students.

This section offers a definition of investigative journalism and social justice so students understand the key terms. It includes two sources for investigative journalism and one source for social justice.

IS THIS INSERT FAIR USE?

1. GIJN is for noncommercial purposes, and articles and guides are generally available under a Creative Commons Noncommercial license (CC BY-NC) 4.0 license that allows you to share and adapt the material in any format and for any purpose as long as it is noncommercial, appropriate credit is provided, and you provide a link to the license and indicate if changes were made.
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This content from poets.org falls under “C: Incorporating content as learning resource materials,” which states: “By their nature, inserts of this kind are likely to be protected by copyright. When they are included in primary or secondary learning materials (including textbooks and workbooks), the intended purpose is neither enabling critique nor providing illustration, strictly speaking, but promoting mastery—by supplying students with essential opportunities to practice their skills and deepen their insights.”

49. “What Is Investigative Journalism?” Global Investigative Journalism Network. <https://gijn.org/investigative-journalism-defining-the-craft/>.

50. Hunter, Mark Lee. *Story-based inquiry: a manual for investigative journalists*. UNESDOC Digital Library, 2011. <https://unesdoc.unesco.org/ark:/48223/pf0000193078.nameddest=193103>.

51. Global Investigative Journalism Network (<https://gijn.org/investigative-journalism-defining-the-craft/>) and *Story-Based Inquiry* (<https://unesdoc.unesco.org/ark:/48223/pf0000193078.nameddest=193103>)

52. “Social Justice.” Oxford University Press. <https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100515279>

WHY INTRODUCE MODEL TEXTS?

Students can see how professional journalists frame and construct investigative articles and use these models as guides to write their investigative pieces.

[In the actual assignment, fair use permits the use of the full articles, and we would include the text, but are linking here for space purposes.]

Model Texts

1. "Why Is Everyone Always Stealing Black Music?"⁵³
2. "In Nevada, a monument to violence built on stolen land."⁵⁴

Assignment

Research a topic that explores "the unearthing of secrets." It can be any topic, and you must explain why you understand it as a secret and how it is unearthed. It must have a focus on social justice and accountability. You must figure out who is being held accountable and why. Write a five-page essay that includes substantive engagement with at least three sources on your chosen topic:

1. Multimedia (video/documentary/podcast)
2. A reputable news source
3. A reputable website

Framing

Consider how each journalist addresses their topic as a guide to determine how to address your chosen topic.

Language and Voice

Pay attention to what kind of language and the point of view that Morris and Ahtone use. Consider how they position themselves in their work in relation to their topic and sources and the level of formality employed, so you can determine how to negotiate use of evidence while centering your voice.

There are two categories here:

1. GIJN and UNESCO Digital Library use Creative Commons licenses that allow redistribution of the material. As such, fair use is not required.
2. The Oxford Reference definition comes from the online version of the *Dictionary of Environment and Conservation*, which presumably aims to provide a broad consolidated reference dictionary for the field of environment and conservation. Here, the definition is being used in comparison with the two other definitions to get students to think about what relationships there might be between social justice and investigative journalism.

This section introduces two model investigative articles.

IS THIS CONTENT FAIR USE?

This content from both the *New York Times* and *Grist* falls under "C: Incorporating Content as Learning Resource Materials," which states: "By their nature, inserts of this kind are likely to be protected by copyright. When they are included in primary or secondary learning materials (including textbooks and workbooks), the intended purpose is neither enabling critique nor providing illustration, strictly speaking, but promoting mastery—by supplying students with essential opportunities to practice their skills and deepen their insights."

It is considered fair use because it is a transformative use of copyrighted material for a new and different purposes. The original articles are investigative, presenting findings and impressions of specific topics. The use here is for illustration and as learning resources as described in the *Code of Best Practices in Fair Use for OER*. The amount used is appropriate for the transformative purpose.

53. Morris, Wesley. "Why Is Everyone Always Stealing Black Music?" *The New York Times*, 2019. <https://www.nytimes.com/interactive/2019/08/14/magazine/music-black-culture-appropriation.html?searchResultPosition=1>.

54. Ahtone, Tristan. "'In Nevada, a monument to violence built on stolen land.'" *Grist*. <https://grist.org/culture/land-art-megasculpture-built-stolen-indigenous-land-nevada-city-heizer/>.

Photos

Your investigative journalism must contain multiple images. Consider the types of photos used in Morris's and Ahtone's articles, as well as their placement. How do those photos contribute to and/or illustrate the secret being unearthed?

NONFICTION BOOK CHAPTER OER INSERT

STUDENT FACING

Read and discuss Chapter 1 of *Fresh Fruit, Broken Bodies*⁵⁵ to understand narrative writing. This will help prepare students to write their own narrative pieces on how they came to live where they live today.

Fresh Fruit, Broken Bodies examines the everyday lives of Mexican migrant farm workers. It evaluates the various levels of suffering and how transnational policies and markets impact their health and well-being.

The first chapter of *FFBB* follows Dr. Seth Holmes as he begins the journey in Oaxaca, Mexico, to cross the border with migrant field workers. The chapter is written in a narrative format and shares the struggles that the group encounters as they cross the desert and are apprehended by border patrol agents. Evaluate and discuss the treatment of Holmes as compared to his Mexican counterparts. Include analysis and annotation of rhetorical writing strategies used by the author to convey a specific purpose. You and your peers will determine that purpose.

[In the assignment, we would then insert the full text of the first chapter of *Fresh Fruit, Broken Bodies*.]

Assignment

Summative Prompt: Write a two-page, double-spaced paper in which you explain how your family came to live in this area of the state, and the journey they faced. Create interview questions and then meet with a parent/guardian/family member to discuss the family tree as far back as possible.

In small groups, read and discuss Chapter 1 of *FFBB*. Identify ethos, pathos, and logos by highlighting and marking it in the margins.

- How does the structure impact how the text is read?
- What effect on readers does the organization have? Is it confusing? Does it make readers more engaged? What is the purpose of organizing the chapter this way?
- Which rhetorical appeal does the author use the most? Why do you think that strategy is used more than the others?

Framing

Consider how Holmes addresses his purpose to determine the purpose of your research and content. Think about your target audience (our local historical society and community members). What might they want to learn about your background?

INSTRUCTOR-FACING ANALYSIS

Nonfiction Book OER Learning Objective: Summarize themes and analyze text using relevant details; evaluate word choice and meanings of words and phrases used in the texts; and discuss readings and question peers.

NCTE's Position Statement on the Role of Nonfiction Literature (K-12) (<https://ncte.org/statement/role-of-nonfiction-literature-k-12/>)

Is this content considered fair use? Yes, it falls under the fair use doctrine. It was originally created as a scholarly research work to evaluate the harms caused by transnational policies and market forces on migrant field workers, but it is being used here to help students identify research and writing techniques in the excerpt and make their own research and writing plan.

55. Holmes, Seth M., and Jorge Ramirez-Lopez. *Fresh Fruit, Broken Bodies: Migrant Farmworkers in the United States*. University of California Press, 2023.

UNIT OR LESSON TEMPLATE

| Resources, educator-facing intro, student-facing materials and prompts | Instructor-Facing Analysis |
|--|----------------------------|
|--|----------------------------|

