



# DISCUSSION GUIDE AND LESSON PLAN

## Native Appropriations: Why Representations Matter A 2015 Bioneers Indigenous Forum Presentation

The purpose of this discussion guide is to facilitate thoughtful discussion around the topics introduced in this Indigenous Forum presentation video. The discussion guide can be adapted for use in the classroom as well as salon-style gatherings.

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This video is a presentation of the 2015 Indigenous Forum, organized by the Bioneers Indigeneity Program and featured annually at the Bioneers Conference. Indigeneity is a Native-led Program within Bioneers/Collective Heritage Institute that promotes indigenous knowledge and approaches to solve the earth's most pressing environmental and social issues through respectful dialogue. Since 1990, Bioneers has acted as a fertile hub of social and scientific innovators with practical and visionary solutions for the world's most pressing environmental and social challenges.



## INFORMATION PAGE

### VIDEO DESCRIPTION



Jessica Metcalfe, PhD.

**JESSICA METCALFE, PHD.**, (Turtle Mountain Anishinaabe) presents an overview of her blog and Native American fashion boutique, Beyond Buckskin. This video presents an overview of Native American appropriation, why it is harmful, and how to responsibly support Native American traditions through purchasing and wearing Native American-made fashion.

Native American designers featured in Dr. Metcalfe's presentation include: **Alano Ederza**, (Tajltan First Nation); **Jared Yazzie**, (Navajo); **Jamie Okuma**, (Luieño/Shoshone Bannock); and **Christi Belcourt**, (Metís).

### KEYWORDS

**CULTURAL APPRECIATION** - Learning about another culture with respect and courtesy by taking the time to learn about it, interact with people among the culture, and actually understand it.

**CULTURAL APPROPRIATION** - The unauthorized taking of another culture's dance, dress, music, language, folklore, cuisine, traditional medicine, religious symbols, etc. especially by those who represent a group in a more powerful political position.

**CULTURAL HERITAGE** - Elements of a collective past that remain relevant to a cultural group today. A ceremonial song, a type of weaving or carving that has been practiced for generations are all examples of heritage.

**TRADEMARK** - A letter, words, slogans, symbols, designs, colors, packaging, sounds or scents that help customers to identify specific goods and services.

**THE 3 S'S** - Together, the 3 S's, source, sacredness, and similarity, make up a heuristic device to help potential buyers to responsibly select and purchase authentic art.

### LINKS

[www.bioneers.org/nativeappropriations](http://www.bioneers.org/nativeappropriations)

[Beyondbucksin.com](http://Beyondbucksin.com)

[Nativeappropriations.com](http://Nativeappropriations.com)

<https://www.youtube.com/watch?v=KXejDhRGouI>



## INTRODUCTION AND DISCUSSION QUESTIONS

Cultural appropriation of Native American heritage, intellectual property, and contemporary images is commonplace across North America. Cultural appropriation is damaging to Native Americans because it perpetuates negative stereotypes, robs artists of credit and compensation for their creative work, and belittles Native Americans by turning their heritage and sacred beliefs into commodities and trends. Recently, more people are learning what cultural appropriation is, and how to honor and respect Native American cultures through the responsible purchase and display of Native arts and fashion.

### WHAT IS CULTURAL APPROPRIATION?

Cultural appropriation can be defined as the unauthorized taking of another culture's dance, dress, music, language, folklore, cuisine, traditional medicine, religious symbols, etc. especially by those who represent a group in a more powerful political position. Examples of inappropriate cultural appropriation include using Native Americans as mascots, as in the Washington Redskins football team, dressing up as a Native American for Halloween, and wearing a Native American headdress at a festival.

### HOW TO AVOID CULTURAL APPROPRIATION

#### Ask yourself "The 3 S's"

**SOURCE:** Who are you buying from? The closer to the original source, the less likely you are appropriating.

**SIGNIFICANCE:** Is the thing for sale of greater significance in its source community, such as a Native American Headdress, or is it something meant to be used on a daily basis?

**SIMILARITY:** Is the thing for sale a direct copy of an object of cultural heritage, or is it inspired by it, only including a slight resemblance?

## DISCUSSION QUESTIONS

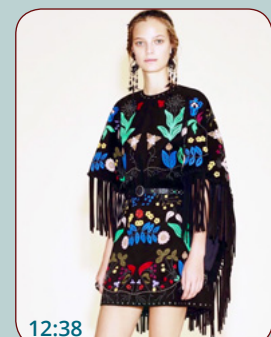
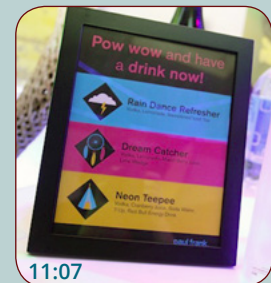
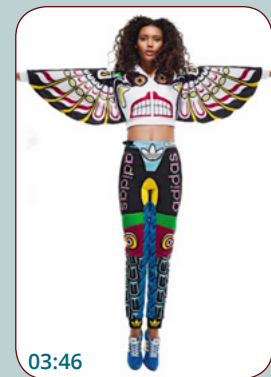
1. What are your reactions to what you saw?
2. What was the most interesting thing you learned by watching this video?
3. What are some examples of cultural appropriation? How do these examples make you feel?
4. Why is cultural appropriation harmful? To Native American tribes? To all peoples?
5. What is the difference between cultural appreciation, cultural sharing, and cultural appropriation?
6. How might a non-Native company go about incorporating Indigenous designs without appropriating culture?



# VIDEO GUIDE

This guide provides a roadmap to various ideas, keywords and concepts presented by Dr. Metcalfe to support video navigation.

Idea, Keyword or Concept	Time Stamp
On why and how the blog, <a href="http://www.beyondbuckskin.com">www.beyondbuckskin.com</a> , got started	00:50
Alano Ederza Streetwear	1:50
Jared Yazzie T-Shirt, "Native Americans Discovered Columbus"	1:55
Jamie Okuma beadwork-inspired contemporary fashion designs	2:10
Native American headdress	3:00
Jeremy Scott's misappropriation of a totem pole for Adidas	3:45
Urban Outfitters misappropriation of the Navajo trademark	4:05
Do corporations have ethical obligations?	4:35
About the Beyond Buckskin Boutique	5:10
Media coverage of Beyond Buckskin	5:50
Martin Sensmeier in porcupine quillwork	6:15
Significance of quillwork as an ancient traditional practice	6:30
Educating people about Native cultures, histories, and perspectives	7:00
The difference between cultural appreciation and sharing and appropriation	8:00
Definition of cultural appropriation	8:15
Why Urban Outfitters Navajo appropriation was harmful	9:10
Paul Frank Industries' "racist powwow"	11:00
Design house, Valentino, collaborated with Christie Belcourt	12:30
Missing and murdered Indigenous women	12:55
Who owns culture? and "The 3 S's"	15:20





# TRANSCRIPT

## Native Appropriations: Why Representations Matter

### A 2015 Bioneers Indigenous Forum Presentation

**JESSICA** – I started Beyond Buckskin back in 2009 as a blog. Okay? This is a space where I could share artist's profiles, showcase different designers, just to really get information out there, because people I think don't know that Native American fashion exists, and I was researching this topic for my doctoral dissertation when I was a student at the University of Arizona in Tucson, and I was interviewing these fashion designers, and they were sharing these really cool stories with me of their struggles, their successes, and I wanted to share that with more people. And the fastest, quickest, cheapest way to get your words out to a broader audience is by launching a blog. So that's what I did. And I showcase various designers, very high-end couture dresses, but also street wear such as this by Alano Edzerza, with the bold graphic leggings.

And then this is a photoshoot that we did in Los Angeles featuring a T-shirt by Jared Yazzie of his brand ODX. And the T-shirt says, Native Americans discover Columbus.

But also I love this. This is by Jamie Okuma, and she's doing really cool stuff. Jamie is a beadwork artist, inspired by traditional beadwork of her people. And now what she's doing is she's taking that traditional beadwork, creating her own contemporary spin on it, but then transferring that pattern to fabric, and then turning it into awesome dresses. So she's making this direct line between the traditions of her people, and then putting that into contemporary wearable clothing, because in the society that we live in, we can't really wear our buckskin dresses without standing out quite significantly, so she's finding a way of taking those traditional decorative elements and making it into something we can wear right now.

I also highlight the traditional stuff because the traditional stuff is amazing, and it really highlights how we continue these artistic practices.

Raise your hand if you have ever seen or know of a Native American headdress. Raise your hand if you vaguely know something. Okay. So, like the majority of you guys are vaguely familiar with the Native headdress. It's one of our most iconic symbols, but it's also culturally relevant, and there's a value system behind it. And I hope to share some of that with you guys today.

And I would love to talk about just the really cool contemporary designers and the really cool traditional stuff, but I can't because stuff like this keeps popping up. And this is misappropriations of Native American iconography and symbols and names in the fashion industry.

And one example would be on the left. This is Jeremy Scott's collection for Adidas in which he essentially ripped off a well-known totem pole by a well-respected totem pole carver and gave him no credit at all.

So this stuff keeps happening, and this is kind of our big—This was a big turning point in 2011 when Urban Outfitters got caught. They had labeled over two dozen of their products as Navajo, and there's a lot of problems with this, but the big one is from a legal perspective, and that is that the Navajo nation has actually trademarked their name. And any unauthorized use—[APPLAUSE] And any unauthorized use of the word Navajo is just violation of trademark law. That's it.

Do these major companies have any kind of ethical obligations to the original peoples of this continent? Do they have any? Do they have to run their business ethically when it comes to representing other people's cultures?

So, I started asking my readers from my blog, right. It was just a blog at the beginning, and I was saying, Hey, instead of buying the native knock-offs, why not buy the real thing? Native artists exist. Native designers exist. They're out there. They're producing really cool stuff. Let's support them.



And my readers were saying, "Okay, that's a cool idea. But where? How? I want to support these artists but how can I do it?" And at that time in 2011, there wasn't a space for you to easily access Native American made fashion. You kind of had to know somebody or go to an event, or go to Santa Fe. There was only the stuff in certain places.

So I decided to launch the Beyond Buckskin Boutique. And through this space I work with 40 to 50 Native American artists from the US and Canada to get their work out to a broader international audience. So we have customers in the US, Canada, but also abroad – Australia, the UK, Sweden, Switzerland, and so forth. And we've been covered by CNN, ABC, NBC, CTV, most recently Martha Stewart. So people are really interested in what we're doing, and they like that it is something that is solution based. And then just providing an alternative path, a different opportunity.

And I really like this image. This is Martin Sensmeier who's wearing porcupine quillwork. So he's got the porcupine quillwork medallion necklace and hair ties. But we also sell porcupine quillwork earrings and bracelets. So stuff that anybody from any background can wear this stuff and support this movement.

What's cool about quillwork is it is an artistic practice that predates contact. It predates the introduction of glass seed beads, and it continues to this day. That's really powerful. We have a large collective of artists who continue these ancient practices, and when you buy a pair of porcupine quill earrings, you are actively supporting the continuance of ancient traditional practices, which I think is really cool.

And that's what we try to push forward with the Beyond Buckskin boutique and blog. It's about education. Right? Because we have a huge problem with education and lack of education. Native cultures, histories, perspectives aren't represented in mainstream culture, not in the educational setting, not in the legal world, not in the business world. And so we depend greatly on forums such as this to have these opportunities to educate and to learn.

**TAILINH - Can we just take a step back and talk about why you think that cultural misappropriation in fashion is harmful and dangerous, even on a smaller scale?**

**JESSICA** – Right. And I think we kind of have to get into a definition of what is appropriation. Right? What is cultural appropriation? I think there's a distinct difference between cultural appreciation and cultural sharing, and then there's cultural appropriation.

The important difference between cultural appreciation and sharing, and then cultural appropriation has to do with: Is it an authorized or unauthorized taking? Right? When we're talking about appropriation, it's in general an unauthorized taking of another culture's practices, symbols, even names, like when it comes to the word Navajo, the unauthorized taking of those things.

And it's typically also having to do with power dynamics, right? The extraction is coming from a more dominant culture from a minority group or a group that has been oppressed in the past. And so we have to talk about those dynamics as well when we're talking about appropriation.

Now, as for what is so harmful about somebody else taking these cultural valuable things, like our names, our symbols, our belief systems, and then taking them and then misusing them and misrepresenting. So those are kind of the key examples of what we're talking about.

When it comes down to, like I showed you guys the Urban Outfitters things, that was the Navajo flask, the Navajo panty, the Navajo sock. The thing about Navajo people is that they were at that time a dry reservation. They did not sell alcohol. So to have a flask tied to their name is like a huge misrepresentation of their people. They also have beliefs connected to modesty and humility, so to call something the Navajo panty was also in direct contradiction to their cultural value systems.

So there's all these things going on where there's this major company misrepresenting those people. But



what they were really doing is turning them into a pattern. Right? They're saying, We're calling it the Navajo sock because it's got a pattern that references Navajo rugs. But there's a lot of mis-education that goes on, and they're perpetuating those misrepresentations.

**TAILINH** – Jessica, can you give a few examples of where major designers have stolen designs from native designers?

**JESSICA** – Oh, I've got lots of examples. Of course, the Urban Outfitters was such a key critical turning point. Because it was trademark violation, we actually had some teeth on it, that we could talk about that. But then it was kind of a launch pad to talk about like what are these ethical obligations that companies have. Do they have any?

So after that, there was also the Paul Frank. Is anybody here familiar with Paul Frank Industries? Raise your hand. Julius the monkey? You've seen Julius the monkey. I'd never heard of Paul Frank Industries either until they had their, what I called, their racist powwow.

So they had an event, and it was a neon Native American themed event, and they had prop tomahawks, prop bow and arrows, feathered headdresses, neon war paint, and they encouraged their guests to stand up on this stage, kind of like a runway, and pose with these props. And the poses that people picked were really disturbing. So they were kind of mock scalping one another, mock beheading one another, pointing their bow and arrows at people, and it was shocking because it was like: Is this what people think? Is this what people think about Native people? It was shocking.

So, we actually reached out to Paul Frank Industries and actually built a bridge with them, which was extraordinary. The president of Paul Frank Industries read our critiques, again, on the blog, and we had a great response from that brand, where they reached out and collaborated with four Native American designers, and we launched a capsule collection out of that. So what started off as a really bad event and bad representation and misuse of native cultures and symbols, we morphed it into a really powerful collaboration and a positive route out of that.

So, in August, Valentino, which is a major designer, collaborated with Christi Belcourt, who is a Métis painter and artist from Canada. And Christi Belcourt is also not only a phenomenal artist, beadwork artist, painter, but also she was the one who put together the project for the missing murdered Native women of Canada.

And for those of you who do not know, we kind of refer to it as our stolen sisters. Which there is like 600 that are documented, that we know of, of our Native sisters who have gone missing. No trace. We have no idea what happened to them. And there's no investigation into looking into where these women went. The police say, oh, those kind of women don't want to be found.

So there are these very deep-seated racist perspectives going on. And Christi has been at the forefront of bringing recognition to these women and calling for justice for them, for either finding them or taking an active stance against their perpetrators, and through her various projects.

So she collaborated with Valentino. They used one of her large-scale paintings called Water Song and transferred it to fabric that they put into their recent resort collection. And what's great is that they give her credit. They don't just say, Oh, we collaborated with somebody. They say who she is, and they point it out, and they let everybody know exactly how that collaboration was to be. So that's just extraordinary of where we're seeing this turning point of designers actually looking at Native people as Native individuals.

**TAILINH** – I'm wondering, you sell a lot of art and fashion on your website, made by Native designers and Jared. Who are your customers mostly? And how do people get educated or recognize when they're in a store, what are the guidelines? I think when the Urban Outfitters thing came out, a lot of people



who are sensitive and caring and really want to pay attention to what's going on and be respectful didn't know what to do. And I know I had friends myself who were at the art shows and saying, Well, I'm afraid to buy that bracelet and wear it down the street. I'm afraid somebody's going to say I'm doing something wrong. So, do you have kind of a set of guidelines as to people who appreciate Native art and fashion, how they can approach purchasing items for them to wear?

**JESSICA** – Oh yes. Definitely. So, there's this great scholar. Her name is Susan Scafidi, and she writes about this topic specifically, and also from a legal perspective. Who owns culture? Who has a say in what is something that's culturally appropriate to share, etc.?

So what she does is she gives this really great guideline called the Three S's. I hope that this will be a key takeaway for you guys today. And you can apply this to any situation, not just with Native American appropriations. But those Three S's are first Source; second is Sacredness or significance; and then the last one is Similarity.

So, the Source. Who are you buying this thing from? Are you buying it from Urban Outfitters who has nothing to do with Native people? I really discourage Urban Outfitters. They're a terrible company. That's my opinion. Or are you buying it from an actual Native American artist? So, think about source.

And the next one is Sacredness or significance. Is what you're buying or wearing, is it something that has greater significance within the community, such as the Native American headdress, or is it something that is meant to be worn on a daily basis like moccasins, for example?

That gets you back to Source. Okay, are you buying these moccasins from a big company, again that are extracting native technologies for their own profit, or are you giving money to a Native American moccasin maker? So think about that.

And then the third one is Similarity. So is what you're buying a direct knock-off? Is it a knock-off of a headdress? Is it a knock-off of a Native American designer stuff? Or is it something that is simply inspired by it?

I love the world that we live in today. We can learn so much about different cultures. We can be inspired by different cultures and different people. I think inspiration is great. But inspiration requires some creativity of your own. So please don't make a direct copy of somebody else's cultural property.

So those are the three S's – Source, Significance, and Similarity. And I think those are keys that we can apply to our everyday lives. I think so.





# LESSON PLAN

## Goals

The goals of this lesson are for students to understand cultural appropriation, why it is harmful to members of minority cultures, and what can be done to address this issue.

## Courses and Grade Level

This lesson is designed for use in upper division, high school classes, but it can be used for earlier grade levels, as well as college-level curriculum use.

## Lesson Length

- 🕒 This lesson plan requires approximately a week of instruction time
- 🕒 3.45 hours in-classroom time, broken up into five 45 minute segments
- 🕒 1-2 hours homework time
- 🕒 1-2 hours take home exam time

## Required Materials

- 🌐 Internet access to play videos
- 📄 Cultural appropriation slide deck
- 📄 Access to PDF or hard copy of brochure, "Introduction to Intellectual Property (trademarks, copyrights, patents and trade secrets) for American Indian and Alaska Native Artists"

## Objectives and Assessment

Students will be able to:	Evidenced by:
1. Define Key Terms	Exam
2. Come up with their own examples of appropriation	Cultural Appropriation Worksheet
3. Understand why cultural appropriation is harmful	Class Discussion/Group Activity
4. Distinguish between cultural appropriation and cultural appreciation	Class Discussion/Group Activity
5. Explain how cultural appropriation can be addressed with legal and other mechanisms	IP Law Chart, Group Project and Exam



## Readings

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- Introduction to Intellectual Property (trademarks, copyrights, patents & trade secrets) for American Indian and Alaska Native Artists,  
Brochure: [https://www.doi.gov/sites/doi.gov/files/uploads/iacb\\_intellectual\\_property\\_brochure\\_2010.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/iacb_intellectual_property_brochure_2010.pdf)
- Think before you appropriate: Things to know and questions to ask in order to avoid misappropriating Indigenous cultures, a guide for creators and designers,  
Article: <http://jezebel.com/5959698/a-much-needed-primer-on-cultural-appropriation>  
Guide: [https://www.sfu.ca/ipinch/sites/default/files/resources/teaching\\_resources/think\\_before\\_you\\_appropriate\\_jan\\_2016.pdf](https://www.sfu.ca/ipinch/sites/default/files/resources/teaching_resources/think_before_you_appropriate_jan_2016.pdf)
- Appropriation and Commodification of Cultural Heritage: Ethical and IP Issues to Consider,  
Fact sheet: [https://www.sfu.ca/ipinch/sites/default/files/resources/fact\\_sheets/ipinch\\_commodificationfactsheet\\_final.pdf](https://www.sfu.ca/ipinch/sites/default/files/resources/fact_sheets/ipinch_commodificationfactsheet_final.pdf)

## Additional Resources

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- Addressing Cultural Appropriation within the Classroom: Tools and Resources, Ed Week  
Blog: [http://blogs.edweek.org/edweek/global\\_learning/2016/12/addressing\\_cultural\\_appropriation\\_in\\_the\\_classroom\\_tools\\_and\\_resources.htm](http://blogs.edweek.org/edweek/global_learning/2016/12/addressing_cultural_appropriation_in_the_classroom_tools_and_resources.htm)
- 2010 Safeguarding Cultural Heritage and Protecting Traditional Cultural Expressions: The Management of Intellectual Property Issues and Options – A Compendium for Museums, Archives and Libraries (with Molly Torsen) World Intellectual Property Organization: Geneva, Switzerland, pp 1-122.,  
Report: [https://static1.squarespace.com/static/55cfbe2de4b02774e51fac68/t/55d10b91e4b08e7531fdf9a0/1439763345608/AndersonTorsen\\_WIPO.pdf](https://static1.squarespace.com/static/55cfbe2de4b02774e51fac68/t/55d10b91e4b08e7531fdf9a0/1439763345608/AndersonTorsen_WIPO.pdf)



## INSTRUCTIONAL PROCEDURE

### DAY 1 What is Cultural Appropriation?

Duration	Activity	Steps and Instructions
5 minutes	Introduce the Topic of Cultural Appropriation	<ul style="list-style-type: none"> <li>Ask students if they have ever heard of the concept of cultural appropriation. If they have, probe for examples.</li> <li>Read the description of cultural appropriation to class: "Cultural Appropriation can be defined as the unauthorized taking of another culture's dance, dress, music, language, folklore, cuisine, traditional medicine, religious symbols, etc. especially by those who represent a group in a more powerful political position. Examples of inappropriate cultural appropriation include using Native Americans as mascots, as in the Washington Redskins football team, dressing up as a Native American for Halloween, and wearing a Native American headdress at a festival."</li> <li>Distribute the INFORMATION PAGE.</li> </ul>
20 minutes	Show the Video	<p>Native Appropriations: Why Representations Matter  <a href="http://www.bioneers.org/nativeappropriations">www.bioneers.org/nativeappropriations</a></p>
5 minutes	Reflections Writing Exercise	<p>Ask students to write down their reactions to what they saw in the video.</p> <ul style="list-style-type: none"> <li>The purpose is to provide a quiet space for critical reflecting</li> <li>Inform them there are no right or wrong answers</li> <li>No need to put names on pages</li> <li>Don't worry about spelling and grammar. Your thoughts are what's most important.</li> <li>But, (you) teacher will be picking up everyone's responses at the end of class</li> </ul>
10 minutes	Class Discussion	<p>Lead discussion around the following questions:</p> <ul style="list-style-type: none"> <li>What was the most interesting thing you learned by watching this video?</li> <li>Why is cultural appropriation harmful? To Native American tribes? To all peoples?</li> </ul>
5 minutes	Distribute Homework Assignment	<p>Review What is Cultural Appropriation Homework Instructions:</p> <ul style="list-style-type: none"> <li>Tell someone you know (a friend, parent, sibling, for example) about cultural appropriation.</li> <li>With that person, or on your own, come up with two examples of cultural appropriation not discussed in class today.</li> <li>Fill in the "Cultural Appropriation Worksheet" and bring it to class tomorrow.</li> </ul>



## DAY 2 The Difference Between Cultural Appropriation and Cultural Appreciation

Duration	Activity	Steps and Instructions
10 minutes	Present Part 1 of the Cultural Appropriation Slide Deck	<p><b>Review cultural appropriation:</b></p> <ul style="list-style-type: none"> <li>Slide deck notes provide teacher with supports for definitions, and answers to tough questions.</li> <li>Explain why cultural appropriation is harmful to Native Americans</li> </ul>
15 minutes	Class Discussion	<p><b>Ask students to volunteer to share examples they found in their homework assignment.</b></p> <ul style="list-style-type: none"> <li>Encourage students to explain how they found a particular example and what is interesting about it or provocative to them</li> </ul>
20 minutes	Present Part 2 of the Slide Deck	<p><b>Facilitate popcorn discussion: cultural appropriation or appreciation?</b></p> <ul style="list-style-type: none"> <li>A popcorn discussion is designed to go quickly and “pop” like popcorn, hence the name, popcorn discussion.</li> <li>The purpose of the popcorn discussion is to encourage critical thinking about the issue.</li> <li>Encourage students to yell out the answer or hold up cards in rapid response to images</li> <li>When they share their response, ask them to expand upon the idea, using the discussion prompts in the notes section of the slide deck.</li> <li>Be aware that several of the examples shared are “fuzzy” meaning there is not necessarily a “right” or “wrong” answer</li> <li>Take home message: Whether something is cultural appropriation or appreciation takes some thought, but with practice, and knowing the right questions to ask about the context in which a cultural representation is used, you can build your confidence and ability to distinguish between the two.</li> </ul>



## DAY 3 How to Address Cultural Appropriation, Part 1

Duration	Activity	Steps and Instructions
<b>25</b> minutes	Present Part 3 of the Slide Deck	<p>Introduce the relationship between cultural appropriation and basic legal protections: copyright, patent, trademark, design patents and trade secrets.</p> <ul style="list-style-type: none"> <li>◦ Show examples from IP law case studies</li> <li>◦ Explain why intellectual property law does not protect tribally owned traditional knowledge</li> </ul>
<b>15</b> minutes	Class Discussion	<p>Introduce other ways to address cultural appropriation using the slide deck notes provided.</p> <ul style="list-style-type: none"> <li>◦ Break students into small groups to brainstorm extra-legal ways to address cultural appropriation.</li> </ul>
<b>5</b> minutes	Distribute Homework Assignment	<p><b>Review Intellectual Property Law Homework Instructions</b></p> <ul style="list-style-type: none"> <li>◦ Read the brochure "Introduction to Intellectual Property (trademarks, copyrights, patents &amp; trade secrets) for American Indian and Alaska Native Artists."</li> <li>◦ Using the information provided, fill out the following chart.</li> <li>◦ Answer the question posed below and jot down any notes or questions you have in the space provided.</li> </ul> <p><b>Optional:</b></p> <ul style="list-style-type: none"> <li>◦ Read "Think before you appropriate: Things to know and questions to ask in order to avoid misappropriating Indigenous cultures, a guide for creators and designers"</li> </ul>



## DAY 4 How to Address Cultural Appropriation, Part 2

Duration	Activity	Steps and Instructions
<p><b>25</b> minutes</p>	<p>Small Groups Activity</p>	<p><b>Introduce the group assignment: Cultural Appropriation on Trial</b></p> <ul style="list-style-type: none"> <li>◦ Explain that today, we will be watching all the videos together, and that the groups will have time to prepare their arguments for tomorrow's mock trial.</li> </ul> <p><b>Instructions:</b> The celebrity (or celebrities) in the video are on trial for cultural appropriation. Within your small groups, assign one person as the defending attorney and another person as the prosecuting attorney. The defending attorney's job is to prove that the celebrity on trial "appreciated" the culture on display. The prosecuting attorney's job is to prove that the celebrity committed an act of cultural appropriation. Split your group in half. One half works for the defense attorney, and the other half works for the prosecuting attorney. Each side's assignment is to prepare a two-minute speech to prove your case. Tomorrow, your group will be randomly assigned the prosecuting or defense role, and your job is to convince a jury of your peers that your side is right.</p> <ul style="list-style-type: none"> <li>◦ Show videos to the class for 10 minutes and take questions.</li> <li>◦ <b>ONLY SHOW THE 1st MINUTE OR 2 AT MOST OF EACH VIDEO.</b></li> <li>◦ The cultural appropriation elements in question all come up within the first minute of each video.</li> <li>◦ Clarify to students that they are only responsible for arguing the first minute of their videos, because that's all that will be shown in class during the mock trial.</li> <li>◦ <b>Video Playlist</b> (pick 5 of the 6 choices): <ul style="list-style-type: none"> <li><b>Macklemore – Thrift Shop</b> (<i>adult language warning</i>) <a href="https://www.youtube.com/watch?v=QK8mJJJvaeS">https://www.youtube.com/watch?v=QK8mJJJvaeS</a></li> <li><b>Coldplay video - Hymn for the Weekend</b> <a href="https://www.youtube.com/watch?v=YykjpeuMNEk">https://www.youtube.com/watch?v=YykjpeuMNEk</a></li> <li><b>The Lone Ranger Music Video</b> <a href="https://www.youtube.com/watch?v=Sv8mczi-w50">https://www.youtube.com/watch?v=Sv8mczi-w50</a></li> <li><b>Taylor Swift video – Shake it Off</b> <a href="https://www.youtube.com/watch?v=nfWlot6h_JM">https://www.youtube.com/watch?v=nfWlot6h_JM</a></li> <li><b>Avril Lavigne video- Hello Kitty</b> <a href="https://www.youtube.com/watch?v=LiaYDPRedWQ">https://www.youtube.com/watch?v=LiaYDPRedWQ</a></li> <li><b>Ke\$ha – Your Love is My Drug</b> <a href="https://www.youtube.com/watch?v=QR_qa3Ohwls">https://www.youtube.com/watch?v=QR_qa3Ohwls</a></li> </ul> </li> </ul>



## DAY 4 How to Address Cultural Appropriation, Part 2 *(continued)*

Duration	Activity	Steps and Instructions
10 minutes	Small Groups Activity	<p><b>Break students up into small groups of 3</b></p> <ul style="list-style-type: none"> <li>Assign each group a video.</li> <li>There should be two groups assigned to each video.</li> <li>Students prepare their two minute statements.</li> <li>Each group will prepare two 2-minute statements about their video. One statement will argue that the video represents cultural appropriation, and another statement will argue that the video represents cultural appreciation.</li> <li>When you break up the group work time, remind them that they can think about their arguments overnight, and there will be 10 minutes at the start of class tomorrow to refine their final arguments.</li> </ul>
10 minutes	Group Discussion	<p><b>Bring the class back together. Pose the question: “How is the media affecting our attitudes towards cultural appropriation?”</b></p> <p><b>Take home ideas:</b></p> <ul style="list-style-type: none"> <li>The media can normalize behaviors that can potentially harm groups of people. In doing so, the media can send a message that it’s okay to take certain aspects of a culture out of its original context and exploit it for other purposes, such as fashion or entertainment. This is harmful because it can suggest that the original cultural meaning is not worth knowing or respecting, and by extension, the cultural originators themselves.</li> <li>Think back to the image the class saw of the actor in blackface. The media perpetuated it, within a broader culture that saw it as okay to dehumanize African Americans in this way, but the media also worked in the other direction, to help educate Americans over a long period of time that playing “blackface” is offensive and harmful for all society. So the media can also work to change the way people think about cultural appropriation.</li> <li>If there is time, ask a follow up question, “How can we be a part of a broader movement to change the way our country thinks about cultural appropriation?”</li> <li>You might prompt the class with specific examples of potential campaigns they can support or even make up themselves, such as “A culture is not a Halloween costume,” or Indian Mascots.</li> </ul>



## DAY 5 Cultural Appropriation on Trial

Duration	Activity	Steps and Instructions
10 minutes	Small Groups Activity	<p><b>Prepare for trial:</b></p> <ul style="list-style-type: none"> <li>Review procedures of the mock trial.</li> <li>Arrange students in their small groups and allow them 10 minutes to practice their 2 minute statements. Warn them that they will be cut off at the 2 minute mark.</li> <li>While students are preparing, randomly select a delegate from each group to serve as “the jury.”</li> <li>Arrange the classroom into a “court room” with a “defendant stand” at the front of the classroom, and have the jury sit together to the side.</li> <li>You, the instructor, will be the judge</li> </ul>
25 minutes	Classroom Mock Trial	<p><b>Follow this procedure:</b></p> <ul style="list-style-type: none"> <li>Each mock trial should take approximately 5 minutes</li> <li>Show the video in question.</li> <li>First the prosecuting attorney picked from one group assigned to “Video A” makes a two-minute statement</li> <li>Then the defense attorney from the other group assigned to “Video A” makes a two-minute statement</li> <li>With a show of hands, have the jury “vote” on whether the celebrity in question demonstrated cultural appreciation or cultural appropriation</li> </ul>
10 minutes	Take Home Concepts and Take Home Quiz	<p><b>Lead discussion:</b></p> <ul style="list-style-type: none"> <li>Ask students for their (open ended) reflections on the trial.</li> </ul> <p><b>Hand out the take home quiz.</b></p>





## WHAT IS CULTURAL APPROPRIATION?

### Instructions:

1. Tell someone you know (a friend, parent, sibling, for example) about cultural appropriation.
2. With that person, or on your own, come up with two examples of cultural appropriation not discussed in class today.
3. Fill in the Cultural Appropriation Worksheet, and bring it to class tomorrow.

## CULTURAL APPROPRIATION WORKSHEET

Name: \_\_\_\_\_

**Example 1:** (name/describe) \_\_\_\_\_

What is being appropriated? \_\_\_\_\_

Who is doing the appropriating? \_\_\_\_\_

Why is this cultural appropriation? \_\_\_\_\_

Is there a power imbalance between people belonging to the culture of the appropriator and the culture being appropriated? **Circle:** Yes No

Briefly describe it: \_\_\_\_\_

**Example 2:** (name/describe) \_\_\_\_\_

What is being appropriated? \_\_\_\_\_

Who is doing the appropriating? \_\_\_\_\_

Why is this cultural appropriation? \_\_\_\_\_

Is there a power imbalance between people belonging to the culture of the appropriator and the culture being appropriated? **Circle:** Yes No

Briefly describe it: \_\_\_\_\_



## SAMPLE

**Example:** (name/describe) *Wearing a Native headdress at a music festival*

What is being appropriated? *Native American headdresses usually belonging to or copying a plains tribal style*

Who is doing the appropriating? *suburban, non-Native youth, young celebrities*

Why is this cultural appropriation? *Because it takes the headdress out of its context. The headdress is a sacred item that should be respected. Wearing a headdress at a festival*



## INTELLECTUAL PROPERTY LAW ASSIGNMENT

### IP Law Chart Worksheet

**Name:** \_\_\_\_\_

**Directions:** Read the brochure “Introduction to Intellectual Property (trademarks, copyrights, patents & trade secrets) for American Indian and Alaska Native Artists.” Using the information provided, fill out the following chart. Answer the question posed below and jot down any notes or questions you have in the space provided.

	Trademark	Copyright	Design Patent	Trade Secret
<b>What it protects</b>				
<b>How it protects</b>				
<b>For how long?</b>				

**Why is intellectual property law important?**

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**Write down questions and notes here:**

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## IP LAW CHART WORKSHEET ANSWER KEY

	Trademark	Copyright	Design Patent	Trade Secret
<b>What it protects</b>	Letters, words, slogans, symbols, designs, colors, product/packaging, configurations, sounds or scents.	Tangible property – thing like a book, sound, music, video, etc.	Decorative, non-utilitarian designs, such as patterns, shapes, line and colors.	Confidential business information.  Methods, techniques for producing products.
<b>How it protects</b>	Prevents others from using a confusingly similar mark (e.g. copying your business).	Rights to reproduction of the work.  Rights to display or performance of the work.  Rights to make derivative work.  Rights to distribute the work.	Protects the way something looks.  Prevents others from making, using or selling something using your design.	Prevents others from using your methods or techniques.  Prevents people working with you (employees, consultants, and business associates from revealing your secret business information.
<b>For how long?</b>	Potentially forever as long as they are being used in business.	70 years	14 years	Potentially forever, as long as it remains a secret.

### Q. Why is intellectual property law important?

**A.** Because it protects original artists or owners of a creation from being stolen and exploited by others. This results in protecting their livelihoods. It protects consumers by ensuring that they are getting what they want and what they paid for. In some cases, it prevents cultural appropriation.



## TAKE HOME EXAM

Name: \_\_\_\_\_

**Definitions:** *In your own words, define the following terms:*

**Cultural appropriation:**

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**Cultural appreciation:**

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**Matching:** *Match the example with the best way to protect it using legal means.*

**CULTURAL PROTECTIONS:**

<ul style="list-style-type: none"> <li>· Indian Arts and Crafts Act</li> <li>· Copyright</li> </ul>	<ul style="list-style-type: none"> <li>· Design Patent</li> <li>· Trademark</li> </ul>	<ul style="list-style-type: none"> <li>· Trade Secret</li> <li>· No legal remedy</li> </ul>
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**Example 1:** A Native American artist writes an original song using traditional instruments and musical forms.

Cultural protection: \_\_\_\_\_

**Example 2:** A Native American artist uses a design owned by her clan in her commercial pottery line.

Cultural protection: \_\_\_\_\_

**Example 3:** A basket made by a non-Native American artisan is labeled “Indian art.”

Cultural protection: \_\_\_\_\_

**Example 4:** Kokopelli designs are used to promote a business.

Cultural protection: \_\_\_\_\_

**Example 5:** A Native artist uses a traditional technique for coloring their signature art.

Cultural protection: \_\_\_\_\_



## ESSAY QUESTIONS:

*Write a 250-500 word answer to each question.*

**1. Why is cultural appropriation harmful?**

**2. Copyright is only issued to individuals or corporations, but not collectively owned intellectual property, and it only lasts 70 years. Why is this a problem for tribal designs? Should Indigenous artists be granted copyright over tribally-inspired designs? If so, under what conditions?**

**3. The Navajo Nation lost their trademark infringement case against Urban Outfitters "Navajo" line. Write a letter to Urban Outfitters convincing them to drop the Navajo fashion line. Present at least three different arguments to make your case.**



## TAKE HOME EXAM ANSWER KEY

**Definitions:** *In your own words, define the following terms:*

**Cultural appropriation:**

Response should include the following elements:

- Taking something from another culture
- Without permission
- By those who represent a group in a more powerful position

**Cultural appreciation:**

Response should include the following elements:

- Learning about or understanding another culture
- Respectfully and courteously –usually this means by getting to know people in that culture

**Matching:** *Match the example with the best way to protect it using legal means.*

<b>CULTURAL PROTECTIONS:</b>		
<ul style="list-style-type: none"> <li>• Indian Arts and Crafts Act</li> <li>• Copyright</li> </ul>	<ul style="list-style-type: none"> <li>• Design Patent</li> <li>• Trademark</li> </ul>	<ul style="list-style-type: none"> <li>• Trade Secret</li> <li>• No legal remedy</li> </ul>

**Example 1:** A Native American artist writes an original song using traditional instruments and musical forms.

Cultural protection: **Copyright**

**Example 2:** A Native American artist uses a design owned by her clan in her commercial pottery line.

Cultural protection: **Design Patent**

**Example 3:** A basket made by a non-Native American artisan is labeled “Indian art.”

Cultural protection: **Indian Arts and Crafts Act**

**Example 4:** Kokopelli designs are used to promote a business.

Cultural protection: **No legal remedy**

**Example 5:** A Native artist uses a traditional technique for coloring their signature art.

Cultural protection: **Trade Secret**



## TAKE HOME EXAM ANSWER KEY

### Essay Questions:

#### 1. Why is cultural appropriation harmful?

Responses will vary, but should include at least the following elements or ideas:

- ☉ Unauthorized taking is morally wrong/disrespectful.
- ☉ Cultural appropriation forwards stereotypes.
- ☉ It forwards the idea that Native Americans are “lesser” people, not worth asking permission.

#### 2. Copyright is only issued to individuals or corporations, but not collectively owned intellectual property, and it only lasts 70 years. Why is this a problem for tribal designs? Should Indigenous artists be granted copyright over tribally-inspired designs? If so, under what conditions?

Responses will vary, but should include at least the following elements or ideas:

- ☉ Most tribal designs are “cultural patrimony” which means they are collectively owned. Therefore, no one person can claim a right to use them.
- ☉ From an Indigenous perspective, artists should only be granted copyright if they have permission from within their own tribe to do so. Otherwise, they would be infringing on other tribal members’ rights.
- ☉ The problem really lies within the law itself, which is not set up to protect most Indigenous communities’ internal cultural protocols (laws) governing who and how designs can be used. The law also doesn’t protect designs that are appropriated outside of the “sales” context. If something is appropriated, but no one is trying to make money off the original design or the knock off, the law will not protect it.

#### 3. The Navajo Nation lost their trademark infringement case against Urban Outfitters “Navajo” line. Write a letter to Urban Outfitters convincing them to drop the Navajo fashion line. Present at least three different arguments to make your case.

Responses will vary, but should include at least the following elements or ideas:

- ☉ Explaining the problem
  - State that what is going on is cultural appropriation
    - E.g. “You may not be aware of it, but what your company is doing is called cultural appropriation. Cultural appropriation is harmful to people belonging to the source culture, and in some cases it is illegal.”
  - Define Cultural Appropriation in own words. Must include the elements:
    - Unauthorized borrowing
    - From someone in a dominant culture
- ☉ Appealing to decency
  - E.g. “it is never good business to market a product or event in a way that is harmful to some people.” Or “The right thing to do is to take down this image/stop this campaign.”





## TAKE HOME EXAM ANSWER KEY

- Pitch for authenticity
  - Explain why the appropriator and their customers might appreciate authenticity over an appropriation.
    - E.g. “Your customers will appreciate and pay more for something that is authentic.”
- Suggest a partnership
  - E.g. “Instead of selling fake Native art, why don’t you partner with a Native American artist to design this product.”



## Social Science National Curriculum Standards

### Culture

High school students use historical methods of inquiry to engage in the examination of more sophisticated sources. They develop the skills needed to locate and analyze multiple sources, and to evaluate the historical accounts made by others. They build and defend interpretations that reconstruct the past, and draw on their knowledge of history to make informed choices and decisions in the present.

### Individual Development and Identity

At the high school level, students need to encounter multiple opportunities to examine contemporary patterns of human behavior, using methods from the behavioral sciences to apply core concepts drawn from psychology, sociology, and anthropology as they apply to individuals, societies, and cultures.

### Individuals, Groups and Institutions

High school students must understand the paradigms and traditions that undergird social and political institutions. They should be provided opportunities to examine, use, and add to the body of knowledge offered by the behavioral sciences and social theory in relation to the ways people and groups organize themselves around common needs, beliefs, and interests.

### Power, Authority and Governance

High school students develop their abilities to understand and apply abstract principles. At every level, learners should have opportunities to apply their knowledge and skills to participate in the workings of the various levels of power, authority, and governance.

### Production, Distribution and Consumption

High school students develop economic perspectives and deeper understanding of key economic concepts and processes through systematic study of a range of economic and sociopolitical systems, with particular emphasis on the examination of domestic and global economic policy options related to matters such as trade, resource use, unemployment, and health care.

### Global Connections

At the high school level, students are able to think systematically about personal, national, and global decisions, and to analyze policies and actions, and their consequences. They also develop skills in addressing and evaluating critical issues such as peace, conflict, poverty, disease, human rights, trade, and global ecology.

### Civic Ideals and Practices

High school students increasingly recognize the rights and responsibilities of citizens in identifying societal needs, setting directions for public policies, and working to support both individual dignity and the common good. They become familiar with methods of analyzing important public issues and evaluating different recommendations for dealing with these issues.