

ARL, Center for Social Media, PIJIP to Prepare Code of Best Practices in Fair Use for Academic and Research Libraries

The Association of Research Libraries, working with the Center for Social Media at American University, and the Program on Information Justice and Intellectual Property in American University's Washington College of Law, is preparing a code of best practices in fair use for academic and research libraries. The project will have three phases:

- A research phase, in which the project team will conduct interviews with research and academic librarians to discover how they use materials and the problems they face due to questions or uncertainty about fair use;
- The development and publication of a code of best practices; and
- Extensive outreach to promote broad adoption of the code by research and academic librarians throughout the U.S.

The project is based on prior codes of best practices in fair use developed in several communities of practice, facilitated by American University professors Peter Jaszi and Patricia Aufderheide, who are part of the project team. ARL Law and Policy Fellow Brandon Butler will be coordinating the project with Prudence Adler, ARL's Associate Executive Director.

For libraries, the doctrine of fair use is the most important limitation on the rights of copyright owners. It protects libraries and their patrons from liability when they reproduce copyrighted works for purposes such as scholarship, research, teaching, news reporting, and criticism. Fair use also serves an important "gap-filler" function, for example protecting new uses as they arise alongside new technologies.

Unlike some previous attempts to reduce uncertainty in the application of fair use, this project will equip librarians with processes and conceptual tools they need to make their own fair use judgments based on their particular circumstances. One-size-fits-all "rules" that purport to draw bright lines (how many words or how many minutes constitute a "fair use") have no basis in the law and cut short the important analysis that should take place when fair use decisions are made. The project team is confident that a code of best practices that describes key concepts and values derived from the law and actual librarian practice will better serve research and academic librarians, and will in turn benefit the patrons and the educational institutions they serve.

The project will be undertaken between April 2010 and March 2013. If you have any questions about the project, or if you would like to participate in the research phase, please contact fairuseproject@arl.org.