

The Good News About Library Fair Use

Libraries Need Fair Use



An academic and research library's **mission** is to enable teaching, learning, and research. Increasingly this requires copying (especially digitizing), distributing, and displaying library materials. Library materials are mostly under copyright.



Life+70

Current duration of copyright



4.8 million

Average number of volumes in ARL library collection



85%

Academic librarians who expect online use of library materials to increase over next five years



70-80%

of a typical research library collection is likely under copyright.



50%

of in-copyright materials in library collections will be "orphan works" (i.e. author/owner is unknown or unlocatable).



Without fair use, much of this material would be off-limits for next-generation library uses.

Fair use is the broad, flexible doctrine that will allow libraries to meet mission in the digital age.



Guidelines vs. Best Practices

THE OLD GUIDELINES HAVE FAILED*

BECAUSE THEY:

- > purport to describe 'minimum safe harbors' but are inevitably treated as 'outer limits' by practitioners and rightsholders
- > were negotiated with rightsholders from a position of fear and intimidation
- > take no account of legitimate library practice or mission
- > have no legal force, despite appearances and pretense to the contrary
- > do not reflect current legal or scholarly understandings of fair use
- > include arbitrary numeric limitations
- > are promoted and distributed by groups hostile to libraries and our rights

* The most frequently cited of the old guidelines, which give arbitrary numerical limits (1 chapter, 1,000 words, etc.) that supposedly define the outer bounds of fair use, are the 1976 Classroom Guidelines. A federal court recently characterized these as "impractical and unnecessary" limits that "undermine the teaching objective favored by [fair use]" and are "not compatible with the language and intent" of fair use.

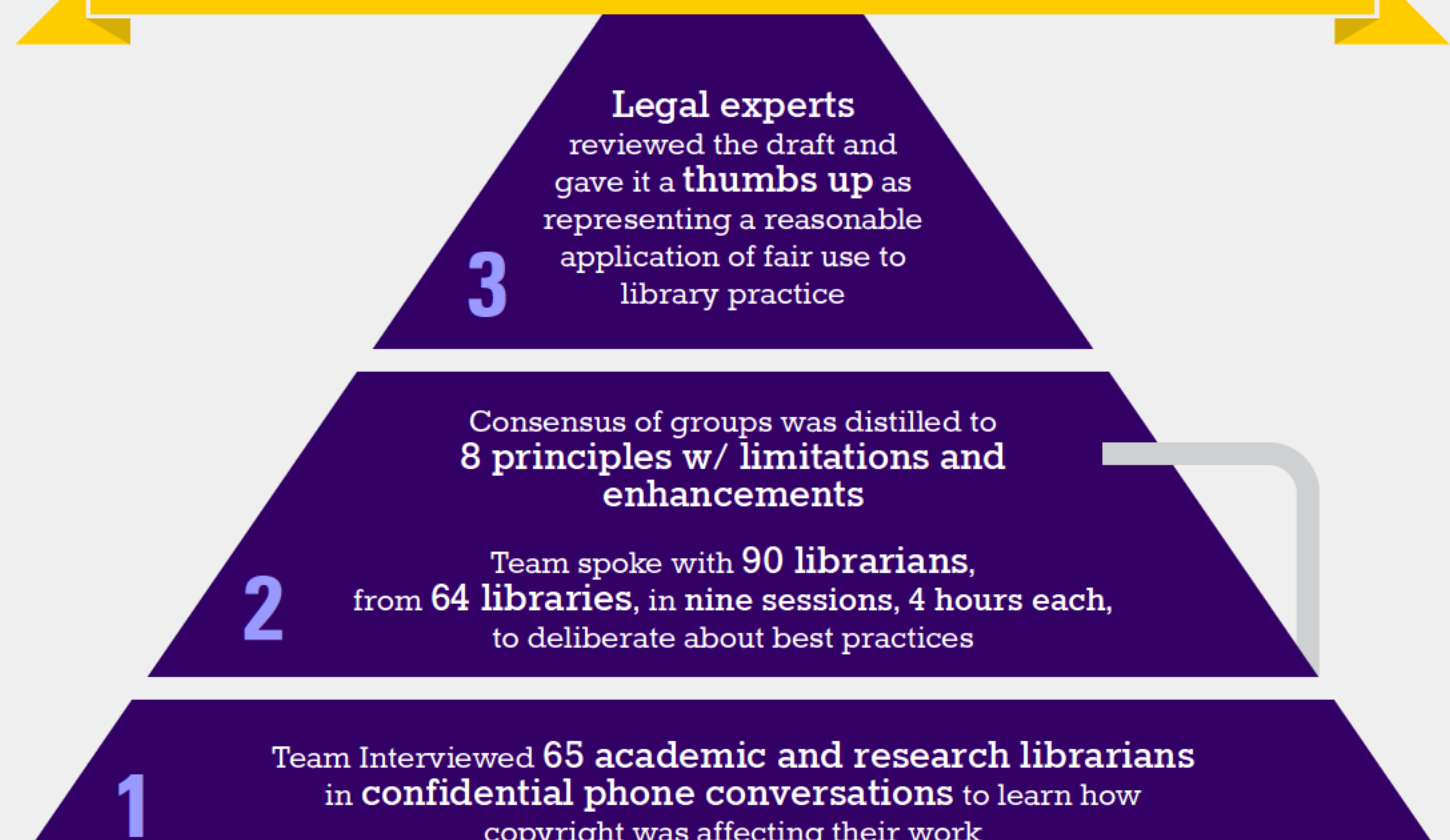
BEST PRACTICES RULE!

BECAUSE THEY:

- > describe centrist, moderate practices that are neither the bare minimum nor the absolute maximum of fair use, but a comfortable middle
- > are developed by practice communities themselves, without intimidation from hostile outside groups
- > are grounded in library mission and practice
- > are based on solid research into how courts decide fair use cases
- > are informed by the latest scholarly and judicial opinions about fair use
- > do not impose arbitrary and absurd limitations
- > are endorsed by leading library and educational groups: ALA, ACRL, ARLIS/NA, CAA, CCUMC, MLA, VRA

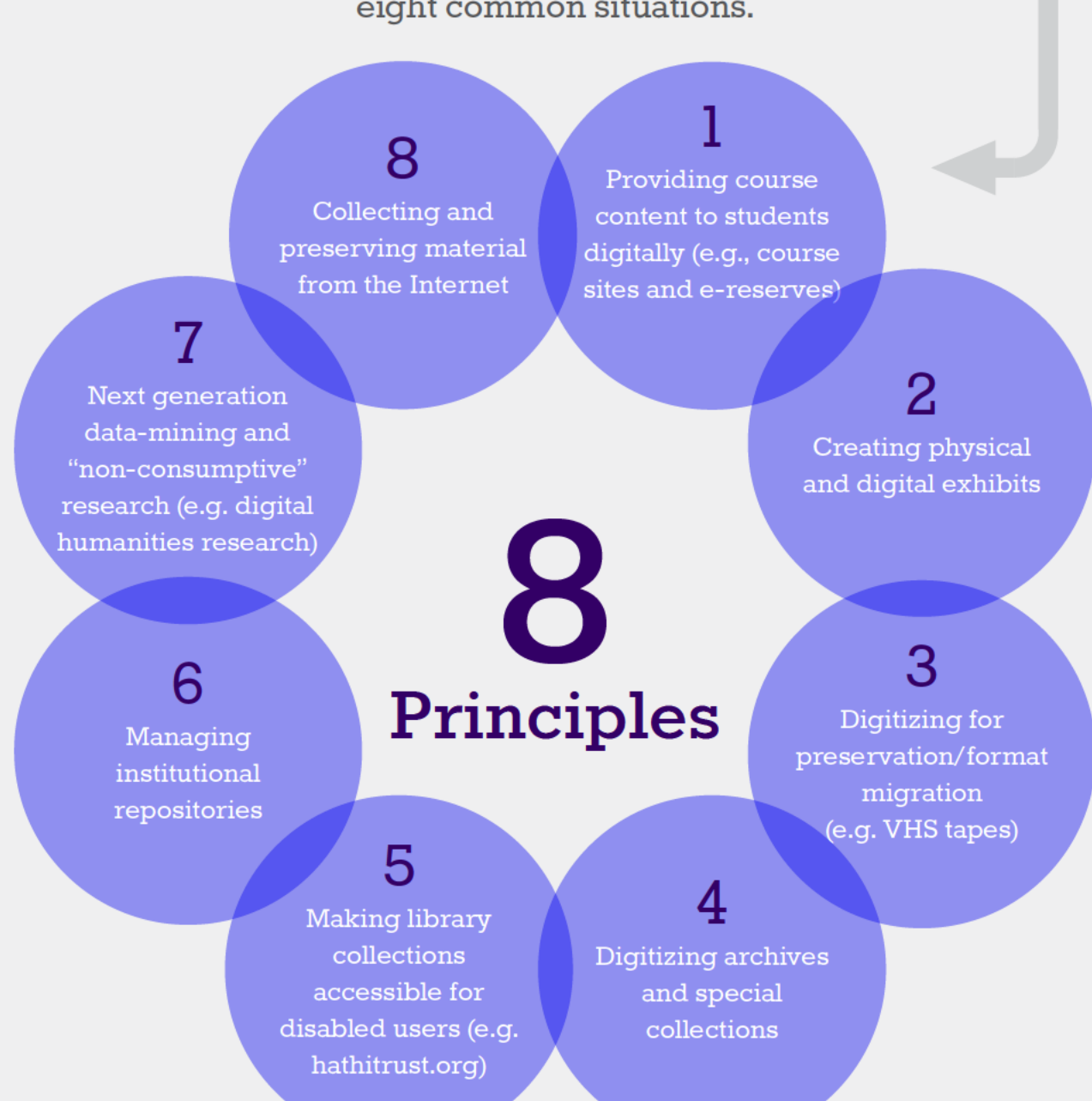
The Code of Best Practices in Fair Use for Academic & Research Libraries

How it was Made (Three Phases)



What's In It

Principles, limitations, and enhancements describe a reasonable consensus about what's fair in these eight common situations.



How You Can Use It



Share

it with your boss, your general counsel, your colleagues, and patrons so they know the good news



Use

it to guide project planning



Replace

old guidelines as a go-to resource for basic information

Access the full code and other resources at www.arl.org/fairuse

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