


Presentation for:

ASERL

July 15, 2016

Anne Collins Goodyear



Code of Best Practices in Fair Use for the Visual Arts

Available at:

cmsimpact.org/fair-use

collegart.org/fair-use


Funded by the Andrew W. Mellon Foundation

Additional support provided by the Samuel H. Kress Foundation

Fair Use in the Visual Arts



ASERL
JULY 15, 2016



Code of Best Practices in Fair Use for the Visual Arts

Available at:
cmsimpact.org/fair-use
collegeart.org/fair-use

Funded by the Andrew W. Mellon Foundation
Additional support provided by the Samuel H. Kress Foundation

Code of Best Practices in Fair Use for the Visual Arts

CAA PUBLICATIONS

The screenshot shows the homepage of **caa.reviews**, a platform for critical reviews of books, exhibitions, and projects. The site features a navigation menu with links for About, Book Reviews, Exhibition Reviews, Essays, Recent Books in the Arts, and Dissertations. A search bar is located at the top right. The main content area is titled "Recently Published Reviews" and lists several articles, including one by Eva Arian on architecture in Istanbul and another by Jeanette Patel Peterson on Black Mexican art. On the right side, there are sections for "Exhibitions Close Up" and "Reviews by Category" with various sub-topics like Architecture, History/History, and Contemporary Art. A sidebar on the far right contains a "CAA Publications" section with a list of books and a "Supporters" section.

The screenshot shows the header of the **art journal** website. It includes the site's name "art journal" in a bold, lowercase font, a search bar, and a navigation menu with links for "Content", "About", "Print Issues", and "Submissions".



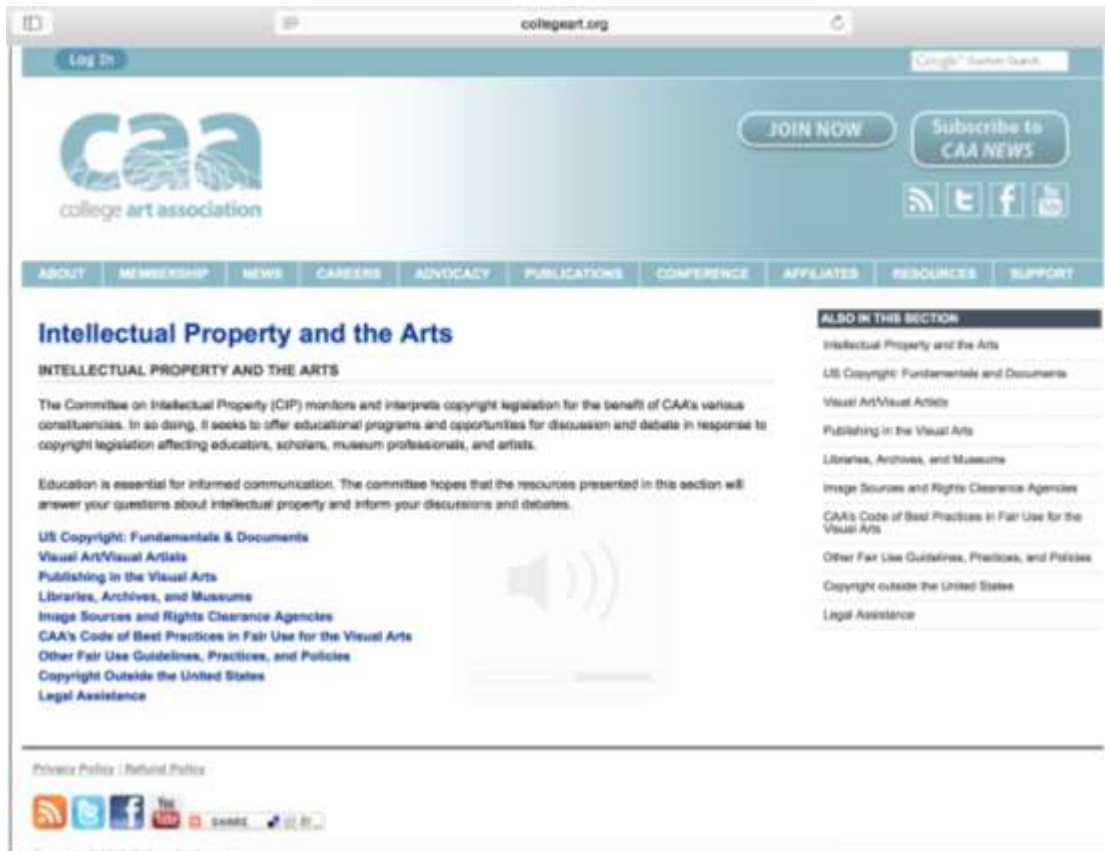
The screenshot shows the main content area of the **art journal** website. It features a grid of article previews. The first article is titled "Bound to Appear" by Daniel R. Ojeda, discussing the artist Roberto Jacoby. The second article is "Objects Made Black" by Sampaia Araújo, reviewing a book on the artist. The third article is "The New Geography: Earth Music and Land Art, Version 2.0, Comparison #2" by Mike Martin, discussing the work of Robert Rauschenberg and Robert Smithson. The fourth article is "A Fine Line: Drawing in the Work of Tamarit Norwood" by Becky Huff Hester, discussing the work of Tamarit Norwood. Each article preview includes a small image related to the article's topic.



Code of Best Practices in Fair Use for the Visual Arts

CAA Committee on Intellectual Property Intellectual Property and the Arts

<http://www.collegeart.org/ip/>



The screenshot shows the website for the College Art Association's Committee on Intellectual Property. The page is titled "Intellectual Property and the Arts" and provides an overview of the committee's mission and a list of resources. The CAA logo is prominently displayed at the top left, and a navigation menu is located below it. A sidebar on the right lists related content under the heading "ALSO IN THIS SECTION".

Intellectual Property and the Arts

INTELLECTUAL PROPERTY AND THE ARTS

The Committee on Intellectual Property (CIP) monitors and interprets copyright legislation for the benefit of CAA's various constituencies. In so doing, it seeks to offer educational programs and opportunities for discussion and debate in response to copyright legislation affecting educators, scholars, museum professionals, and artists.

Education is essential for informed communication. The committee hopes that the resources presented in this section will answer your questions about intellectual property and inform your discussions and debates.

US Copyright: Fundamentals & Documents

- Visual Art/Visual Artists
- Publishing in the Visual Arts
- Libraries, Archives, and Museums
- Image Sources and Rights Clearance Agencies
- CAA's Code of Best Practices in Fair Use for the Visual Arts
- Other Fair Use Guidelines, Practices, and Policies
- Copyright Outside the United States
- Legal Assistance

ALSO IN THIS SECTION

- Intellectual Property and the Arts
- US Copyright: Fundamentals and Documents
- Visual Art/Visual Artists
- Publishing in the Visual Arts
- Libraries, Archives, and Museums
- Image Sources and Rights Clearance Agencies
- CAA's Code of Best Practices in Fair Use for the Visual Arts
- Other Fair Use Guidelines, Practices, and Policies
- Copyright outside the United States
- Legal Assistance

Code of Best Practices
in Fair Use for the Visual Arts



**BUILDING ON EXISTING CODES
DEVELOPED FOR VISUAL RESOURCES AND LIBRARIES**

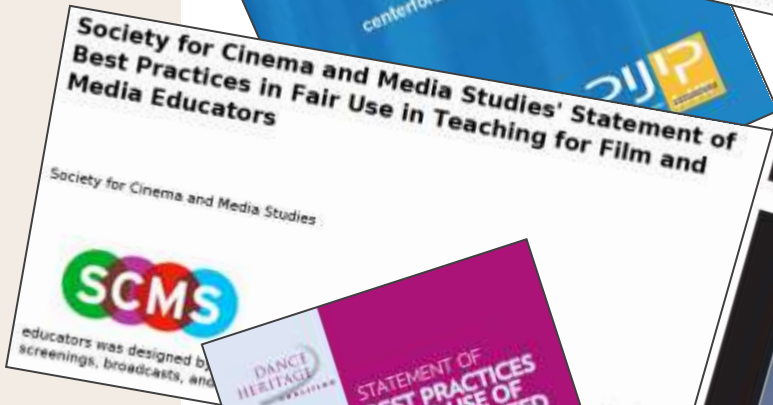
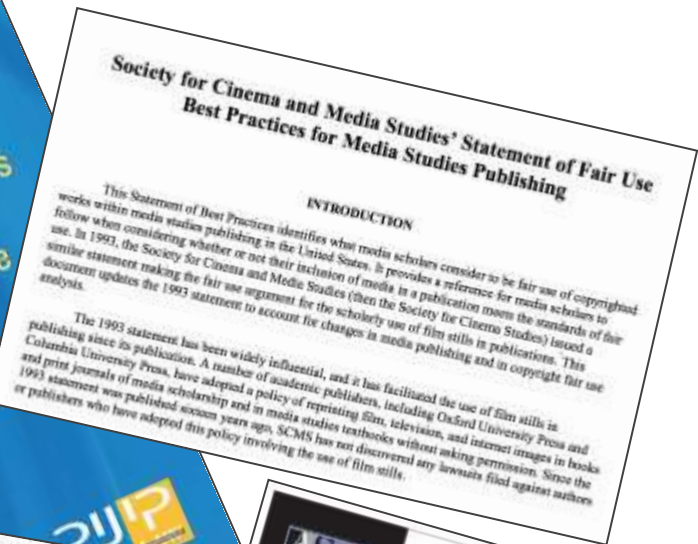
Code of Best Practices in Fair Use for the Visual Arts

RECLAIMING FAIR USE

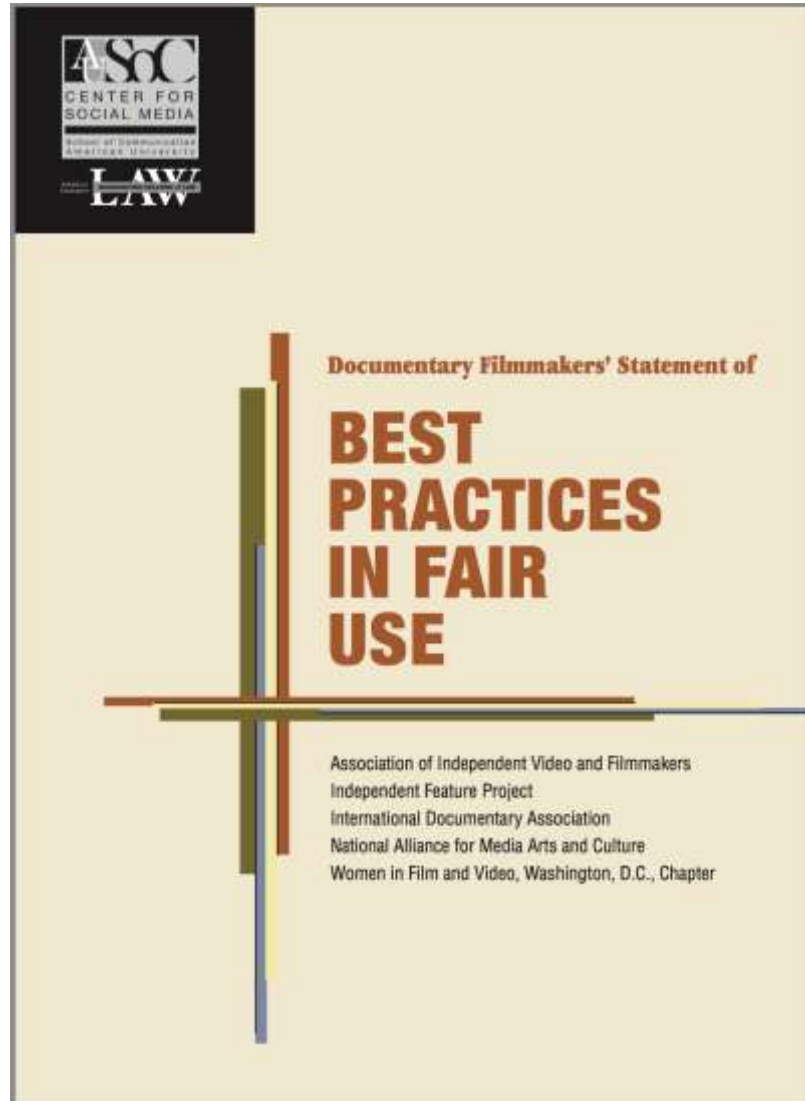


How to Put Balance Back in Copyright

PATRICIA AUFDERHEIDE and PETER JASZI



Code of Best Practices in Fair Use for the Visual Arts



Code of Best Practices in Fair Use for the Visual Arts

Copyright, Permissions, and Fair Use among Visual Artists and the Academic and Museum Visual Arts Communities

An Issues Report

A REPORT TO THE COLLEGE ART ASSOCIATION

By

Patricia Aufderheide, professor, School of Communication, and director, Center for Media & Social Impact, American University, coprincipal investigator

Peter Jaszi, professor, Washington College of Law, American University, coprincipal investigator

Bryan Bello, graduate fellow, Center for Media & Social Impact, School of Communication, American University

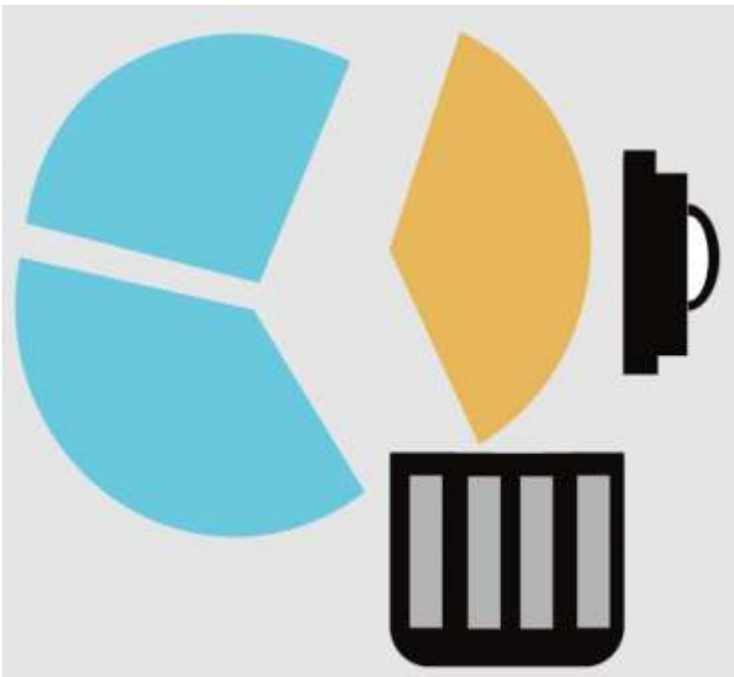
Tijana Milosevic, graduate fellow, Center for Media & Social Impact, School of Communication, American University

Funded by the Andrew W. Mellon Foundation

Additional support provided by the Samuel H. Kress Foundation

FEBRUARY 2014

CAA REPORT:



1/3 of the visual-arts
community have
avoided or
abandoned work
because of copyright
concerns

HOW MANY HAVE ABANDONED A PROJECT FOR COPYRIGHT REASONS?

1 in 5
Artists

3 in 10
Museum Staff

4 in 10
Academics



WHAT'S THE BIGGEST PROBLEM?

1. Restrictive publishing contracts

2. High licensing fees

3. Difficulty of obtaining clearances

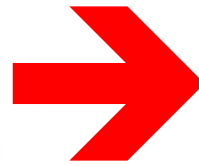
4. None of the above

SELF-CENSORSHIP



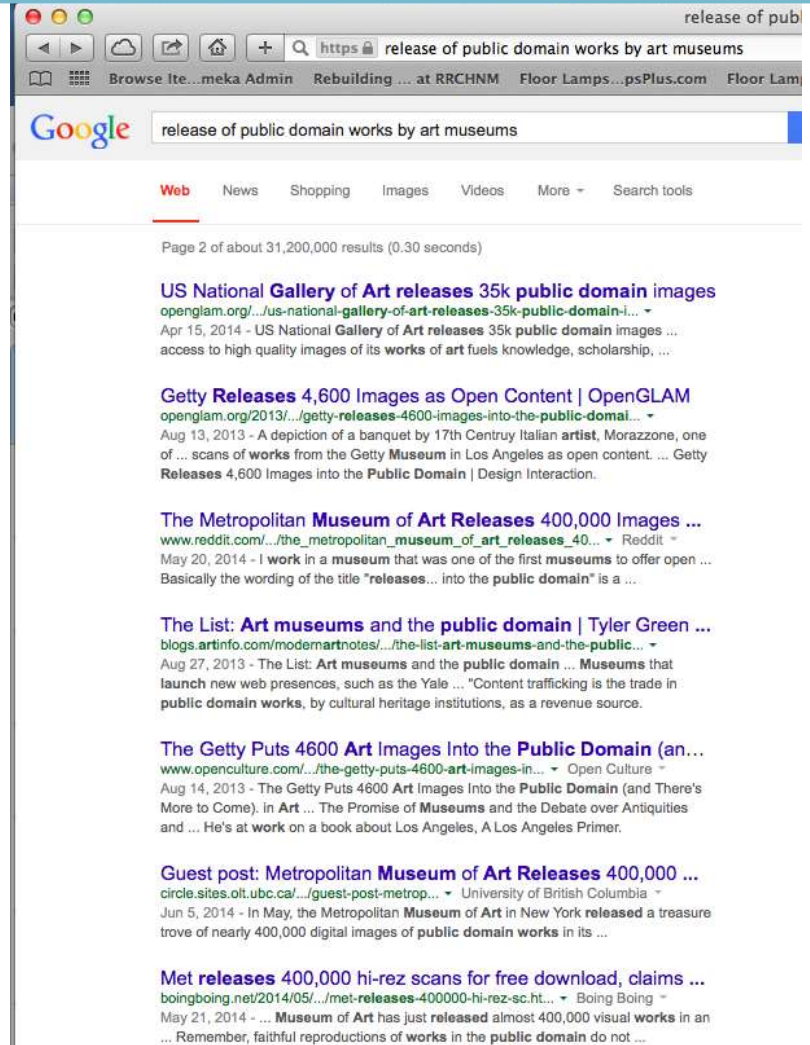
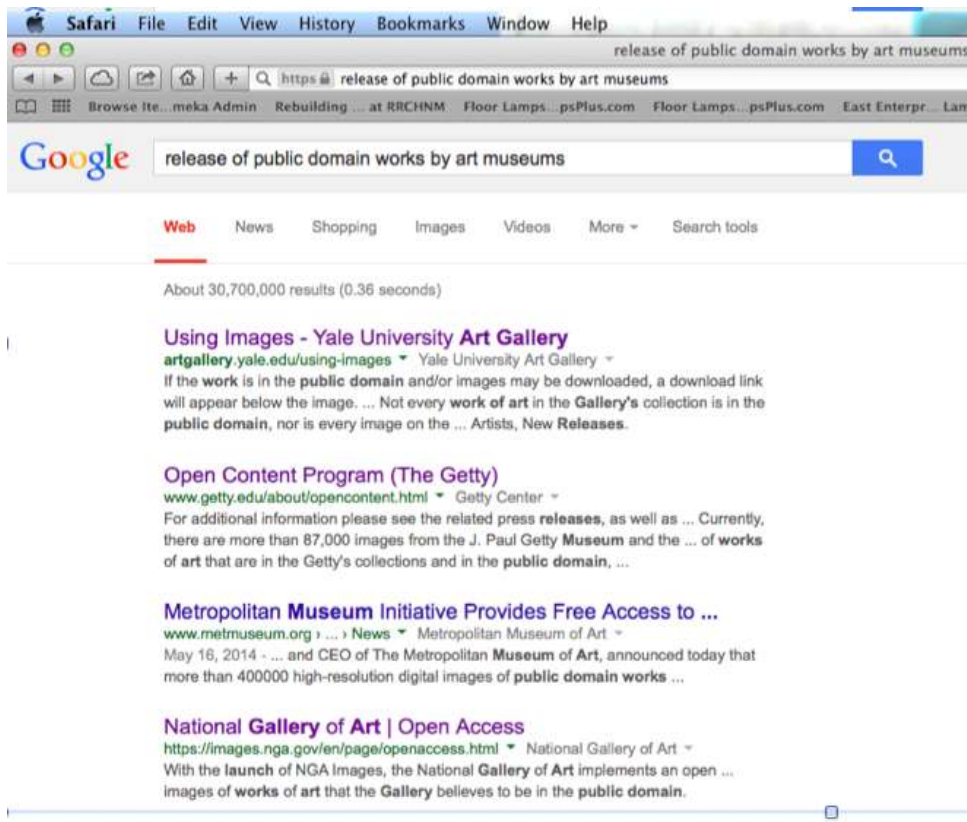
WE HAVE A PROBLEM...

Licensing
Hyper-
Compliance

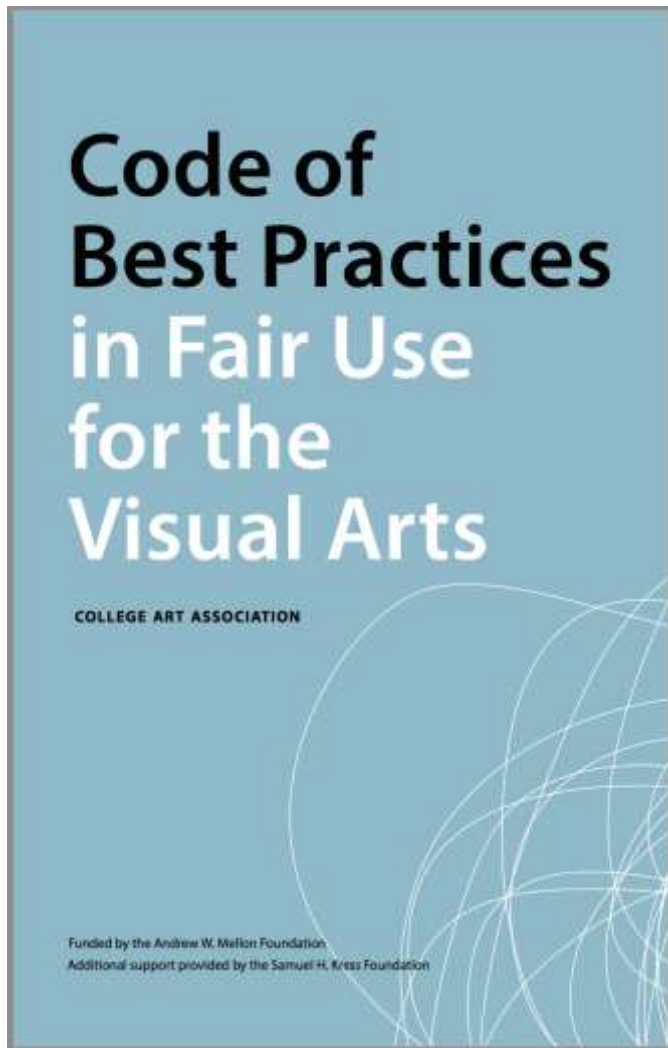


Code of Best Practices in Fair Use for the Visual Arts

Many museums are now
being applauded for freely sharing their
public domain works with the public



Code of Best Practices in Fair Use for the Visual Arts



Reflects:

- Conversations with over 250 Visual Arts Professionals
- Survey of Membership of College Art Association
- Expert Oversight by Project Advisors
- Input from Community Practices Advisory Committee
- Review by Legal Advisory Committee
- Oversight of CAA Fair Use Task Force, Committee on Intellectual Property, Board of Directors

Code of Best Practices
in Fair Use for the Visual Arts

**Code of
Best Practices
in Fair Use
for the
Visual Arts**

Writing about art

Teaching about art

Making art

Museum uses

**Online Access to Archival
and Special Collections**

FAIR USE

**Practice
Makes
Practice**

MORE INFORMATION:

THE CODES AND MUCH MORE

(VIDEOS! PRESENTATIONS! FAQs! WEBINARS!)

cmsimpact.org/fair-use
collegeart.org/fair-use

Further questions? Please contact: nyoffice@collegeart.org

FAIR USE: MEASURING IMPACT

Numerous
Professional
Associations Have
Provided
Endorsements
and Statements of
Support

ENDORSEMENTS BY:

American Library Association
Art Libraries Society of North America
Association of Art Museum Curators
Association of College and Research Libraries
Association of Research Libraries
Society of Architectural Historians
Visual Resources Association

STATEMENTS OF SUPPORT BY:

American Alliance of Museums
Association of Art Museum Directors

FAIR USE: MEASURING IMPACT



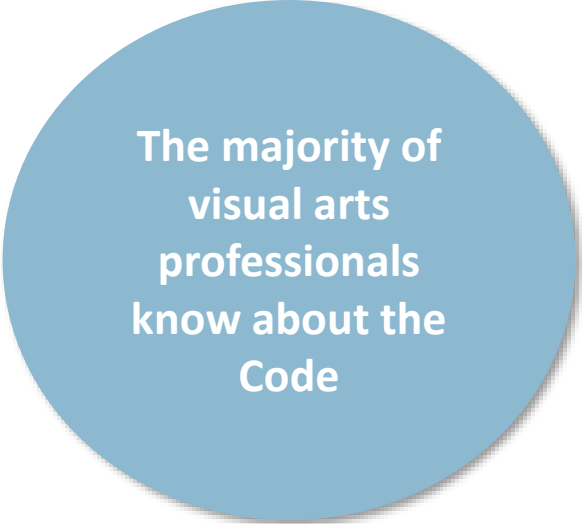
More people in
the visual arts are
employing fair
use

About **60%** of visual arts professionals who use others' copyrighted work do not always feel compelled to request permission

80% of those people have relied on fair use to modify their approach.

11% of those people only started using fair use after the Code was created

FAIR USE: MEASURING IMPACT




The majority of
visual arts
professionals
know about the
Code

63% of respondents were familiar with the Code, almost all from multiple sources

32% of those who heard about it have shared the Code, most often with multiple people, including colleagues, students and administrators.

FAIR USE: MEASURING IMPACT



Visual arts
professionals are
using the Code to
change practices

51% of respondents (1,222 respondents) have already used the Code in their work.

25% of respondents work for an institution that changed its policies

19% of those institutions did so only after the Code was created.

FAIR USE: MEASURING IMPACT



Real world
change!

IMPLEMENTATION BY CAA:

- New CAA Author Agreements
- Questionnaires on analytic writing and making art

IMPLEMENTATION OF CODE'S PRINCIPLES BEYOND CAA:

- Yale University Press: New Fair Use Code
- Association of Art Museum Directors (AAMD): New Fair Use Guidelines
- Robert Rauschenberg Foundation: New Fair Use Policy
- New Policies at Museums
- Artists Confidently Creating New Work

For more on the Code's impact please visit: <http://www.collegeart.org/news/2016/02/22/caa-celebrates-national-fair-use-week/>

MORE INFORMATION:

THE CODES AND MUCH MORE

(VIDEOS! PRESENTATIONS! FAQs! WEBINARS!)

cmsimpact.org/fair-use
collegeart.org/fair-use

Further questions? Please contact: nyoffice@collegeart.org

Code of Best Practices
in Fair Use for the Visual Arts

THANK YOU!

CONTACT INFO

nyoffice@collegeart.org