



**SOCIETY OF
American
Archivists**

Rights and Permissions:

**August 13, 2013
New Orleans, Louisiana**

**Instructor
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SOCIETY OF AMERICAN ARCHIVISTS
Rights &Permissions: Policies for Reproduction and Reuse of Archival
Holdings

WORKBOOK

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SOCIETY OF AMERICAN ARCHIVISTS
Rights &Permissions: Policies for Reproduction and Reuse of Archival
Holdings

9:00 am – 4:30 pm

1. Agenda

1. Introduction

- Introductions and housekeeping
- Scope of the course
- Group discussion of results of pre-course exercise

2. Constraints on reproduction and reuse

3. Research findings

BREAK

4. Developing an institutional policy

Learning Activity 1

4.1 Copying by institution for users

- Ordering copies
- Repository's permission

LUNCH

4.1 Copying by institution for users (continued)

- Specific terms and conditions
- Learning Activity 2*

4.2 Copying by users

- Digital cameras
- Online content

BREAK

4.3 General issues

- Location of terms of use
- Enforcement
- Educating users about copyright

5. Wrap-up

2. Goals and Learning Objectives

Making our holding available for use is fundamental to the archival mission; yet many archives attempt to control further uses of copies of their holdings in various ways. This one-day course explores the issues involved in developing an institutional policy on reproduction and reuse of its holdings in order to permit responsible reuse that is consistent with the law, ethical practice, its financial needs, and its core mission.

Upon completion of this course, you'll be able to:

- Articulate reasons for controlling reuse
- Distinguish between copyright issues and other reasons for controlling reuse
- Learn about empirical research findings regarding controls on reuse
- Understand the issues to be considered in developing an institutional policy on reproduction and reuse
- Revise your institutional policies as appropriate for your situation

3. PowerPoint Slides

Rights and Permissions: Policies
for Reproduction and Reuse of
Archival Holdings

Society of American Archivists
New Orleans, LA :: 13 Aug. 2013

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INTRODUCTION

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Outline

- Introduction
- Constraints on reproduction for reuse
- Research findings
- Developing an institutional policy
 - Copying by institution for users on request
 - Onsite copying by users
 - Copying online content
 - General issues
- Wrap-up

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A wall...?



http://commons.wikimedia.org/wiki/File:Brick_blast_wall_built_to_protect_a_Police_Box_in_London,_1941_-_D2742.jpg

4

... or a path?



<http://commons.wikimedia.org/wiki/File%3AMsvgardens2.jpg>

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Scope

- Archival material
- Copyright
- Copying for/by users

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Pre-course exercise responses

- Reasons why institutions wish to control reuse of copies of items from their holdings
- Reasons why institutions do not attempt to control reuse of copies of items from their holdings

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CONSTRAINTS ON REPRODUCTION FOR REUSE

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Constraints on reproduction for reuse

- External constraints
 - Professional codes of ethics
 - Copyright law
 - Contracts with donors
 - User behaviour
- Internal constraints
 - Institutional policies and procedures

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SAA Core Values of Archivists (2011)

- **Access and Use:** Archivists promote and provide the widest possible accessibility of materials, consistent with any mandatory access restrictions Although access may be limited in some instances, archivists seek to promote open access and use when possible.

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SAA Code of Ethics (2012)

- **Access and Use:** Recognizing that use is the fundamental reason for keeping archives, archivists actively promote open and equitable access to the records in their care within the context of their institutions' missions and their intended user groups. They minimize restrictions and maximize ease of access. Archivists formulate and disseminate institutional access policies along with strategies that encourage responsible use. In all questions of access, archivists seek practical solutions that balance competing principles and interests.

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ACRL/SAA Joint Statement on Access to Research Materials in Archives and Special Collections Libraries (2009)

- **Fees:** A repository should facilitate access to collections by providing reasonably priced reproduction services that are administered consistently in accordance with legal authority, including copyright law, institutional access policy, and repository regulations. These services ... should be clearly stated in a publicly accessible written policy.
- **Copyright:** It is the researcher's obligation to satisfy copyright law when copying or using materials found in collections. A repository should inform a researcher about materials for which it holds copyright.

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Copyright law

- §108 (Reproduction by libraries and archives)
- §107 (Fair use)
- Institution as rights holder

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Copyright law §108 (Reproduction by libraries and archives)

- Section 108 (d) and (e) permit libraries and archives to make copies of all or part of protected works in their holdings in response to user requests, subject to the following conditions:
- Excludes musical works; pictorial, graphic, or sculptural works; motion pictures or other AV works (108(i))
- Repository must have had no notice that the copy is for other than the user's private study, scholarship, or research (108(d)(1) and (e)(1))

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Copyright law §108 (cont)

- Required notice must be posted where the order is accepted and included in all order forms (108(d)(2) and (e)(2))
- Copy must become property of the user (108(d)(1) and (e)(1))
- If the request is for all or a substantial part of a work, the repository must undertake a reasonable investigation to determine that a copy of the work cannot be obtained at a reasonable price (108(e)(2))

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Copyright law §108 (cont)

- S. 108(a)(1) stipulates that the reproduction by the repository for the user must be made “without any purpose of direct or indirect commercial advantage.”
- S. 108(a)(3) stipulates that the reproduction must include a notice of copyright that appears on the item that is reproduced, or include a legend stating that the work may be protected by copyright if no such notice can be found on the item that is reproduced.

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Required notice (§108 (d)(2) and (e)(2))

- The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be “used for any purpose other than private study, scholarship, or research.” If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of “fair use,” that user may be liable for copyright infringement. This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law. 37 CFR s. 201.14

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Copyright law §107 (Fair use)

- “the fair use of a copyrighted work for purposes such as criticism, comment, news reporting, teaching, scholarship, or research, is not an infringement of copyright,” subject to a consideration of four factors:
 - purpose of the use,
 - nature of the work,
 - amount used, and
 - effect on the market for the work.

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RESEARCH FINDINGS

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Research studies

- Jean Dryden, 2014. "Just let it go? Controlling reuse of online holdings," *Archivaria* 77 (in process).
- Jean Dryden, 2012. "Cavalier or Careful? How Users Approach the Rights Management Practices of Archival Repositories," *Journal of Archival Organization* 10, no. 3-4 .
- Jean Dryden, 2011. "Copyfraud or legitimate concerns? Controlling further uses of online archival holdings," *American Archivist* 74(2).
- Jean Dryden, 2008. "Copyright in the real world: Making archival material available on the Internet," PhD. dissertation, University of Toronto. <http://hdl.handle.net/1807/11198>
- Kristin R. Eschenfelder & Grace Agnew, 2010. "Technologies employed to control access to or use of digital cultural collections: Controlled online collections," *D-Lib Magazine* 16 (1-2).
- Kristin R. Eschenfelder & Michelle Caswell, 2010. "Digital cultural collections in an age of reuse and remixes," *First Monday* 15 (11).
- Kristin R. Eschenfelder, 2009. *Controlling access to & use of online cultural collections: A survey of U.S. archives, libraries & museums for IMLS.* <http://minds.wisconsin.edu/handle/1793/38251>

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Unauthorized uses that create concern

(Eschenfelder & Caswell, 2010, Table 5)

Archives (N = 53)

- Individual research and study 11%
- Non-commercial educational use 13%
- Non-commercial modification/derivative use 49%
- Non-commercial publication 60%
- Non-attribution 66%
- Commercial publication 77%

(Percent concerned = "Some" + "a lot")

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Archives' reasons to control reuse

(Eschenfelder & Caswell, 2010, Table 6) (N = 53)

Proper object description and repository identification	1st (72%)
Avoid misuse/misrepresentation	2nd (66%)
Avoid legal risk	3 rd (51%)
Donor or owner requirement	4th (45%)
Generate income	5th (42%)
Protect privacy	6th (40%)
Control access to sensitive materials (racial, ethnic, religious, health)	7 th (38%)
Recover costs of IP management	8th (30%)

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Archives' reasons to control reuse

(Dryden, 2008, 191-3) (N = 22)

- Financial concerns
 - Unfair to generate profit for others, unless the archives also benefits
 - Revenue generation
- “Authenticity”
 - Mis-representation of the item
 - Incorrect captioning
 - Non-attribution
- Reputation of the repository
- Legal liability

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Archives' reasons to control reuse

(Dryden, in process, 2014) (N = 18)

- Attribution (8)
- Revenue generation (5)
- Track use (2)

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Archives' reasons NOT to control reuse

(Eschenfelder & Caswell, 2010, Table 7) (N = 53)

Belief that open collections have greater impact	1 st (59%)
Institutional mission, policies, or statutory requirements	2 nd (42%)
Institutional level technology choices	2 nd (42%)
Concerns with legal complexity	3 rd (29%)
Concerns about end user dissatisfaction	4 th (27%)
Concerns about negative perception by partners, funders or peers	4 th (27%)
Concerns with technological management complexity	5 th (23%)
Few best practices or examples from which to model	5 th (23%)

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Archives' reasons NOT to control reuse

(Dryden, in process, 2014) (N = 18)

- Access is our mission (11)
- Impossible to control (5)
- Nothing bad has happened (4)

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User study findings

Dryden, 2012 (N = 17)

- Users don't distinguish between archives and other sources
- Most of them associate copyright with citing sources properly

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To what extent do you consider copyright when reproducing archival material?

- A range of responses
 - an historian who read a book about legal aspects of research which terrified him (“litigation is my worst nightmare”)
 - a genealogist who said “I don't like saying this, but it's the wicked truth. I don't consider it.... If it is what I need, I'm going to take it.”

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Copyright as Religion



- A matter of personal belief
 - “I feel that if it's online, it's open to use”
 - “I think in all honesty, this type of casual thing I'm doing is in the realm of fair use. It may not be, but that's my mindset.”
- Guilt
 - “they don't want to know about it because then they're going to have to feel guilty about it and they don't want to do any more work.”
- Confession
 - “if it's what I need, I'm going to take it....that's how I feel about it. I'm hoping that you will understand that.”
- Repentance (or not)
 - “I know that I'm violating copyright occasionally, well probably more than occasionally ... I just don't care that much.”

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Repositories' copyright claims

- If users don't believe that the repository owns the copyright (e.g., because the document is so old that the copyright has likely expired, or the original document was never protected by copyright, e.g., federal government documents), they may ignore the claim.

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DEVELOPING AN INSTITUTIONAL POLICY

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Means of controlling reuse

- Onsite
 - Policies and procedures
 - Terms of use
 - Staff make the copies
 - Order forms, cover letters, stamps, etc.
 - Users make the copies
 - Using the archives' equipment
 - » Signs posted by self-serve copiers, scanners, printers
 - Using their own equipment
 - » Vet images
 - » Waiver or agreement
 - » Place template over the image

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Means of controlling reuse (cont)

- Online
 - Policies and procedures
 - Terms of use posted online
 - Technical measures
 - Prevent copying (e.g., disable right click, prevent download, prevent printing)
 - Reduce quality of copies (e.g., low resolution, thumbnails, visible watermarks)
 - Drawing users' attention to copyright issues (e.g., click through agreements, pop-ups)

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• Overview of copyright policies (forms 1-4)

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Learning activity 1: Critique of copyright policies

- Examine the copyright policies (forms 1-4)
- Rank the policies in order of preference, with the most preferred ranked 1st and the least preferred ranked 4th
- Identify what you like most about the one you ranked first
- Identify what you like least about the one you ranked last

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What are the characteristics of a good policy?

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- Order forms and procedures (Forms 5-11)
 - Relationship between forms
 - Multiple order forms
 - Fee schedules

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- Requirement for repository permission (forms 12-15)
 - Repository's permission required in all cases
 - Repository requires evidence of rights holder's permission
 - Repository's permission required only if repository is rights holder
 - Repository neither grants nor denies permission
- Multiple agreements for use (form 16)
- Users' responsibility (form 17)
- Inform user of rights holder (form 18)

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- Specific terms and conditions (forms 19-22)

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Learning activity 2: Specific terms and conditions

Referring to the examples, consider why/why not your repository would include the following terms & conditions:

1. Attribution (form 19)
2. Authenticity (form 20)
3. "Misuse" (form 21)
4. Limit quality of digital formats for personal/research use (form 22)
5. Copies must be returned to repository after use (form 22)
6. Copies cannot be deposited in another repository (form 22)
7. Copies cannot be used for any other purpose (form 22)
8. Provide repository with copy/copies of final product (form 22)
9. Penalties for non-compliance with terms & conditions of use (form 22)

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Copying by users

- Digital cameras (form 23)
 - Policy choices
 - Prohibit
 - "Honour" system
 - Documentation
 - Lisa Miller, et al. "Capture and Release": *Digital Cameras in the Reading Room* (2010)
<http://www.oclc.org/research/publications/library/2010/2010-05.pdf>
- Online content (forms 24 & 25)

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Locations of terms of use

- Copyright policy
- Researcher registration form
- Reproduction order form(s)
- Permission to publish request form(s)
- "Letter" enclosing copies
- Description
 - Collection level
 - Item level

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Enforcement?



http://commons.wikimedia.org/wiki/File:3ASuff14gette_arrest%2C_London%2C_1914.jpg

Educating users about copyright

- **Cornell University Copyright Information Center Resources**
 - <http://copyright.cornell.edu/resources/>
- **Copyright at the University of Michigan**
 - <http://www.lib.umich.edu/copyright-office-michigan-publishing>

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COPYRIGHT ADVISORY OFFICE

Copyright, Fair Use, and Education

News and Developments:

- The White House Office of Science and Technology Policy issued an [executive order](#) to liberally funded research. [Learn More](#), [Director of Copyright Advisory Office](#) was [subject](#) of the order in the [White House](#) message.
- The [Library Code](#) and other [policies](#) have been [updated](#) in the [approval](#) of the [Copyright](#) to the [District Court](#) of Appeals. [Read the](#) [announcement](#) [on](#) [Library](#) [Communications](#).
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- Support [research](#) [practices](#) [and](#) [practices](#) [to](#) [improve](#) [the](#) [quality](#), [reliability](#), [and](#) [accessibility](#) [of](#) [information](#) [resources](#), [and](#)
- Understand [research](#) [and](#) [exploration](#) [of](#) [copyright](#) [issues](#) [to](#) [provide](#) [supportive](#) [understanding](#) [of](#) [the](#) [law](#) [and](#) [its](#) [importance](#) [to](#) [educational](#) [institutions](#) [and](#) [others](#).

<http://copyright.columbia.edu/copyright/>

Motivations to control reuse

- Control description/representation
 - Accurate description (context, ease of location, authenticity)
 - Repository named
 - Prevent misuse (disrespect/ integrity of the work/authenticity)
- Legal risks and complexities
 - Copyright (if institution is rights holder)
 - Comply with donor agreements
 - Make copies for users through copyright exceptions
- Getting Credit
 - Financial credit (Cost recovery (fiscal responsibility)/Revenue generation)
 - Social credit (demonstrate use/impact through counts of repro orders/citations in publications)

Eschenfelder & Caswell, 2010 "Discussion"

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Big Questions

- When is it acceptable (or necessary) for archives to limit reuses of their holdings?
- How can an archives permit responsible reuse in a way that is consistent with law, ethical professional practice, and its fiscal needs?

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Conclusions

- Good reasons for controlling further uses, but don't call it copyright
- One size does not fit all institutions
- Even within a single institution, policy must accommodate different situations
- If you don't hold the rights, avoid authorizing reuse (neither authorize or deny)
- Put responsibility for seeking permission on user
- Consider consulting users when reviewing your reproduction policies

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A wall...?



http://commons.wikimedia.org/wiki/File:Brick_blast_wall_built_to_protect_a_Police_Box_in_London,_1941_-_D2742.jpg

55

... or a path?



<http://commons.wikimedia.org/wiki/File:3AMsvgardens2.jpg>

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4. Examples of Forms and Policies

List of forms

Form No.	Description	No. of pages
Copyright policies		
1	Concise terms of use	1
2	Permissions and copyright policy	3
3	Reproduction and use of AV materials	2
4	Detailed terms of use	3
Order forms and procedures		
5	Order form	2
6	Relationship between forms	1
7	Simple order form	1
8	Reprographic order forms	1
9	Order form	1
10	Conditions of service	1
11	Detailed fee schedule	3
Repository's permission		
12	Repository's permission required in all cases	1
13	Repository requires evidence of rights holder's permission	1
14	Repository's permission required only if repository is rights holder	1
15	Repository neither grants nor denies permission	2
16	Multiple agreements for use	1
17	Users' responsibility	1
18	Inform user of rights holder	2
Specific terms and conditions		
19	Attribution —placement and content of credit line	1
20	Authenticity—no alteration	1
21	“Misuse”	1
22	Specific terms and conditions	1
Copying by users		
23	Use of digital cameras	3
24	Use of online content	3
25	Popup agreements	2

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Researching copyright

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[WATCH File](#): The WATCH File (Writers, Artists, and Their Copyright Holders) is a database containing primarily the names and addresses of copyright holders or contact persons for authors and artists whose archives are housed, in whole or in part, in libraries and archives in North America and the United Kingdom.

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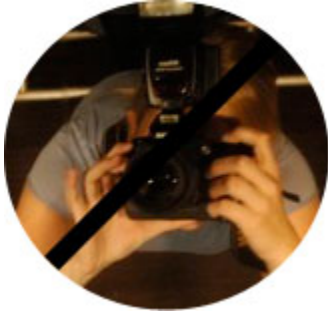
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[other examples omitted]

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5. Unless approved in advance by Special Collections, each image **must** be reproduced unaltered and in its entirety; the image must not be cropped, overprinted, printed on color stock, or bleed off the page.

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13. If so requested, a proof must be approved by the Special Collections Librarian before any reproduction of an image in color.

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Source: adapted from: <http://www.li.suu.edu/content/123/docs/13-07-11-173716-ApplicationforPermis.pdf> & http://www.lib.utah.edu/pdf/Permission_to_Publish.pdf

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To complete your order, send or bring this form and your check to Special Collections, Sherratt Library, Southern Utah University, 351 W. Center, Cedar City, Utah 84720. Unless other arrangements have been made, payment is due when the order is received.

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Special Collections: Order Forms & Guidelines

These PDF forms are provided for your information and convenience. They can be filled out and mailed with your payment or you may bring them to the Sherratt Library, Special Collections and Archives Department.

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[Digitization and Reproduction Price List](#)

Lists prices established for both digitization (scanning) and reproduction of images.

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Source: <http://www.li.suu.edu/page/special-digital-collections-order-forms-guidelines>

The University of Mississippi Department of Archives and Special Collections
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Please fill out the following information and mail, fax, or email it back to:

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Archives and Special Collections
J.D. Williams Library
University, MS 38677
Telephone 662.915.5851
Fax 662.915.5734
Email pmw@olemiss.edu

Name: _____ Email: _____

Phone: _____ Fax: _____

Address: _____

Type of Project: Non-Profit or For-Profit:

Title of Research project: _____

Format(s) in which material will be used: _____

List of photograph(s) / film requested (include format which you want the material copied):

Source: http://www.olemiss.edu/depts/general_library/archives/policy/request.pdf

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The **Conditions of Service** form must be read and signed for each order.

- Conditions of Service Form (read and sign for each order)
 - [Word](#) | [PDF](#)
- **Guide to Metadata Elements**
 - [Word](#) | [PDF](#)

Rare Book & Manuscript Library Forms

Service	Word format	PDF format
Audio Reformatting	Order Form	Order Form
Digitization/Photography	Order Form	Order Form
Electronic Books	Order Form	Order Form
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Ordering Instructions

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Source: <http://library.columbia.edu/services/preservation/reproductions/forms.html>

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 NAME: _____
 ADDRESS _____

 CITY, STATE, ZIP: _____
 COUNTRY: _____
 TELEPHONE NUMBER: _____
 FAX NUMBER: _____
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RARE BOOK AND MANUSCRIPT LIBRARY
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 535 WEST 114TH STREET
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 (CURATOR/LIBRARIAN)

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*For assistance in filling out the fields above, please refer to Guide to Metadata Elements:
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DIGITAL SERVICES	Quantity	CU Student	CU ID	Non-CU	Total
Digitization set up fee	One fee per collection	\$25	\$30	\$35	
Flat item up to and including 16"x20"	Per image	\$1.00	\$1.00	\$1.00	
Flat item up to and including 18"x23"	Per image	\$2.00	\$2.00	\$2.00	
Copy of existing image (per image)	Per image	\$10.00	\$12.00	\$15.00	
Surcharge*					
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* Negotiated surcharge for oversize, three-dimensional and fragile items
 **FTP is the Default Delivery method; \$5.00 charge for DVDs plus additional charge of \$5.00 for domestic shipping and \$7.00 for foreign

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My request is within fair use and

- I have completed a review of the **Fair Use Checklist** and have reasonable grounds for concluding that my request is within fair use. A copy is attached.
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This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

I have read and agree to the Conditions of Service

Signature: _____

Date: _____

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Please read our [Permissions & Copyright Policies](#) and fill out its attached form.

Books, CD-ROMs - Rights	University Presses Only (Print runs up to 5,000)*		All other Publishers Print Run up to 4,000		Print Run 4,001-15,000		Print Run Over 15,000	
	B/W	Color	B/W	Color	B/W	Color	B/W	Color
North American-Single Language	\$25.00	\$35.00	\$35.00	\$50.00	\$75.00	\$125.00	\$125.00	\$150.00
North American-Multi Language	\$30.00	\$40.00	\$40.00	\$55.00	\$95.00	\$150.00	\$165.00	\$185.00
Worldwide Rights-Single Language	\$35.00	\$50.00	\$50.00	\$75.00	\$110.00	\$185.00	\$175.00	\$200.00
Worldwide Rights-Multi Language	\$50.00	\$75.00	\$70.00	\$100.00	\$150.00	\$250.00	\$225.00	\$275.00
Jackets/Covers-Full	\$150.00	\$200.00	\$200.00	\$300.00	\$300.00	\$400.00	\$450.00	\$550.00
Jackets/Covers-Composite	\$100.00	\$150.00	\$125.00	\$150.00	\$225.00	\$300.00	\$325.00	\$375.00
Reuse	75%	75%	75%	75%	75%	75%	75%	75%
Promotional use-Non Profit	please contact Archives							
Promotional use-Commercial	please contact Archives							

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North American-Single Language	\$25.00	\$35.00	\$50.00	\$75.00	\$75.00	\$125.00	\$150.00	\$250.00
North American-Multi Language	\$30.00	\$40.00	\$75.00	\$100.00	\$100.00	\$150.00	\$185.00	\$275.00
Worldwide Rights-Single Language	\$35.00	\$50.00	\$100.00	\$150.00	\$150.00	\$185.00	\$225.00	\$300.00
Worldwide Rights-Multi Language	\$50.00	\$75.00	\$125.00	\$200.00	\$200.00	\$250.00	\$300.00	\$450.00
Jackets/Covers-Full	\$150.00	\$200.00	\$200.00	\$300.00	\$350.00	\$450.00	\$500.00	\$600.00
Jackets/Covers-Composite	\$100.00	\$150.00	\$130.00	\$195.00	\$225.00	\$325.00	\$325.00	\$390.00
Online use for scholarly journals With circ. up to 10,000	\$25.00							
Online use for all other magazines, journals and newspapers			\$75.00					
Internet (including Web Sites & Streaming Video)	Non-profit		Educational Commercial (subscription based)		Commercial		Promotional	
up to 1 year	\$50.00		\$75.00		\$100.00		\$150.00	
1-5 years	\$75.00		\$150.00		\$175.00		\$300.00	
5-10 years	\$125.00		\$250.00		\$300.00		\$500.00	
E-books 1-5 years	\$50.00				\$125.00			
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Commercial TV-local	\$85.00	\$135.00	\$200.00
Commercial TV-North America	\$150.00	\$200.00	\$275.00
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Set Dressing-Commercial film		\$100.00	
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Non-Broadcast/Non-Theatrical		\$35.00	
Lectures/Presentations			
If free and open to the public		\$0.00	
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Exhibitions	Temporary	Traveling	Permanent
Commercial Museum/Gallery	\$125.00	\$150.00	\$250.00
Non-Profit Museum/Gallery	\$50.00	\$75.00	\$125.00
		B/W	Color
Use of photo(s) in exhibition catalog, print run up to 5,000		\$50.00	\$75.00
Use of photo(s) in exhibition catalog, print run over 5,000		\$100.00	\$150.00
Live Performance (for a period of 1 year)			
Commercial		\$175.00	
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Source: <http://library.cshl.edu/archives/permissions-a-copyright-policies/88-archives/101-permission-fee-schedule>

Form 4 point 1 and 2

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2. Beyond the permission of Special Collections, additional permissions may be required.

Source: adapted from: <http://www.li.suu.edu/content/123/docs/13-07-11-173716-ApplicationforPermis.pdf> & http://www.lib.utah.edu/pdf/Permission_to_Publish.pdf

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http://www.cah.utexas.edu/research/fine_print.php

Rights holder + Repository

Form 4, point 2

1. Beyond the permission of Special Collections, additional permissions may be required. ...

It is the responsibility of the applicant to obtain permission to publish from the owner of the copyright (the institution, the creator of the record, the author, or his/her transferees, heirs, legatees, or literary executors). The department will aid the applicant in contacting individuals pertaining by providing addresses, when available. However, the department does not warrant the accuracy of that information and shall not be responsible for any inaccurate information.

In instances where the individual or organization who may grant permission cannot be contacted, Special Collections may consider granting permission for reproduction based on the applicant's evidence of a good faith effort to contact the appropriate individual. However, the library assumes no responsibility for infraction of copyright laws, invasion of privacy, or any other improper or illegal use that may arise from reproduction of any image.

Rights holder only

The Getty Research Institute does not hold the copyright to every item in its collections. Library Services staff can assist requestors to determine whether the copyright of an item is held by the Research Institute, held by a third party, or in the public domain.

Identifying copyright holder(s) and obtaining permission to publish or quote from items in the Research Institute's collections is the responsibility of the requestor. For information about copyright research, consult the [Copyright Research Guide](#).

Requestors must provide a written statement to the Research Institute indicating that the copyright holder(s) has been identified and contacted for permission. If the copyright holder(s) cannot be identified, requestors must provide a written statement that due diligence has been conducted. **We must receive the written statement before we can release publication-quality digital files.**

http://www.getty.edu/research/conducting_research/library/rights_repro/index.html

Form 2, p. 1:

Commercial Use: If you wish to use any copyrighted materials or content on the Website for commercial use or any purpose other than fair use as defined by law, you must request and receive prior written permission for your intended use from the copyright holder. (See Researching copyright below for assistance with investigating copyright status and ownership.) As mentioned above, the Beinecke has been assigned copyright in [only few special circumstances, listed here](#), and you must obtain permission for commercial use or any other use of these specific materials that is not fair use as defined by law by writing the appropriate curator. Permission is granted on a case-by-case basis at the sole discretion of the Beinecke.
Source: <http://beinecke.library.yale.edu/research/permissions-copyright>

Fair Use: Materials held by the Special Collections Department are routinely reproduced for private study, scholarship or research. Under the fair use provision (17 U.S.C. § 107), such reproduction for private study, scholarship or research is not considered an infringement of federal copyright law. Any use other than private study, scholarship or research may be subject to copyright restrictions.

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Copyrighted Materials: Materials that are still under copyright protection will not be reproduced in excess of the library's fair use guidelines unless permission is granted by the copyright holder. The user is responsible for obtaining permission. Special Collections will make reasonable efforts to refer researchers to the copyright holder, but is not responsible for finding the holder or verifying the copyright status. Absent evidence to the contrary, all materials will be considered to be under the relevant copyright protection.

Materials for which the copyright is held by The George Washington University may be reproduced, and use permission granted subject to the following terms and conditions....

Source: <http://library.gwu.edu/collections/SCRC/Using/Permission-to-Use-Materials>

Form 2, p. 14

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Source: <http://beinecke.library.yale.edu/research/permissions-copyright>

Columbia University Libraries

In order to reduce barriers to the dissemination of research conducted in its collections, CUL will ordinarily not set conditions on publication of materials from the CUL collections in connection with scholarship. CUL does not hold the copyright to most materials in the collections, and CUL will neither grant nor deny copyright permission regarding such materials.

Source: http://library.columbia.edu/services/preservation/publications_policy.html

Getty Research Institute

The Getty Research Institute does not hold the copyright to every item in its collections. Library Services staff can assist requestors to determine whether the copyright of an item is held by the Research Institute, held by a third party, or in the public domain.

Identifying copyright holder(s) and obtaining permission to publish or quote from items in the Research Institute's collections is the responsibility of the requestor. For information about copyright research, consult the [Copyright Research Guide](#).

Requestors must provide a written statement to the Research Institute indicating that the copyright holder(s) has been identified and contacted for permission. If the copyright holder(s) cannot be identified, requestors must provide a written statement that due diligence has been conducted. **We must receive the written statement before we can release publication-quality digital files.**

If the Research Institute does not hold the copyright to an item, the release of digital image(s) does not grant nor deny permission to use the image(s) in any print publication or electronic format.

Source: http://www.getty.edu/research/library/using/reproductions_permissions/index.html

Guidelines for Using Public Domain Text, Images, Audio, and Video Reproduced from Cornell University Library Collections (<http://cdl.library.cornell.edu/guidelines.html>)

As part of its educational mission, Cornell University Library makes available through its reproduction services and via the World Wide Web copies of certain items from its collections.

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The nature of historical collections is such that copyright or other information about restrictions may be difficult or even impossible to determine. The records for individual items clearly state copyright information and restrictions on use when they are known. The absence of copyright or other information on restrictions is no guarantee, however, that a work is in the public domain either in the U.S. or abroad. The Library makes no express or implied warranty to others who wish to use or reproduce items found in its collection.

Source: <http://cdl.library.cornell.edu/guidelines.html>

NOTE: However, the repository's permission is required for non-public domain material even if repository is not the rights holder.

University of Mississippi Archives & Special Collections Forms and Policies:

Photographs:

- [Agreement for Use: Private Study, Scholarly or Research](#)
- [Agreement for Use: With Consent of Copyright Holder](#)
- [Agreement for Use: Without Copyright Permission](#)
- [Agreement for Use: University of Mississippi as Copyright Holder](#)

Moving Images:

- [Agreement for Use: Private Study, Scholarship or Research](#)
- [Agreement for Use: With Consent of Copyright Holder](#)
- [Agreement for Use: University of Mississippi as Copyright Holder](#)

Source: http://www.olemiss.edu/depts/general_library/archives/policy/

Nashville Public Library

Permission to use or publish materials must be obtained in advance and in writing from the Division Manager, and fees must be paid in advance. Requests for permission to use, quote from, or publish Division materials will be made through submission of a required form

([copyright status available](#) [NPL owns the copyright in the item],

[copyright status undetermined](#) [The Nashville Public Library (Library) has not determined the copyright status for many of the images in its collection. Therefore, the Library is acting only as an owner of the physical image, unless we have in our possession a written conveyance of copyright from the copyright owner]

[The form]... must include the requestors contact information, a detailed description of the materials to be published, information about the intended publication (format, title, publisher, expected publication date, print run, url, etc.), and rights requested. For materials to which the library does not own copyright, the requestor must obtain permission to publish from the copyright holder in addition to obtaining permission from the library as the physical owner. Permission to publish is granted for one-time, non-exclusive use.

Source: http://www.library.nashville.org/localhistory/his_spcoll_fees.asp#

Form 4 point 2:

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In instances where the individual or organization who may grant permission cannot be contacted, Special Collections may consider granting permission for reproduction based on the applicant's evidence of a good faith effort to contact the appropriate individual. However, the library assumes no responsibility for infraction of copyright laws, invasion of privacy, or any other improper or illegal use that may arise from reproduction of any image.

In all instances, the applicant agrees to hold [Library] and its agents harmless against any and all claims arising or resulting from the use of the material and shall indemnify the library and its agents for any and all costs and damages arising or resulting from any such unauthorized use.

Source: adapted from: <http://www.li.suu.edu/content/123/docs/13-07-11-173716-ApplicationforPermis.pdf> & http://www.lib.utah.edu/pdf/Permission_to_Publish.pdf

Form 5 p. 2:

10. The user agrees to defend, indemnify, and save and hold harmless Southern Utah University, Sherratt Library, and its Special Collections Department, and their employees or designates, the State of Utah and its agencies, employees or designates, from any and all costs, expense, damage and liability arising because of any claim whatsoever which may be presented by anyone for loss or damage or other relief occasioned or caused by the release of said photographs to the undersigned and their use in any manner, including their inspection, publication, reproduction, duplication or printing by anyone for any purpose whatever.

Source <http://www.li.suu.edu/content/123/docs/13-07-11-173828-ReproductionOrderFor.pdf>

Form 2:

Accordingly, you are solely responsible for determining the copyright status of any materials you may wish to use, to investigate the owner of the copyright, and to obtain permission for your intended use. (p. 1)...

You are solely responsible for determining whether your use is fair and for responding to any claims that may arise from your use. By using materials from the Website, you agree and warrant that your use will not violate the rights of the Beinecke or any other person or entity. (p. 1)...

You are solely responsible for addressing issues of privacy and publicity rights relating to your use of the materials. (p. 3)

Source: <http://beinecke.library.yale.edu/research/permissions-copyright>

Form 1:

The user of this material is responsible for compliance with the [copyright] law.

Source: <http://www.ulib.iupui.edu/special/services/copyright>

Will try to determine copyright status of materials it holds when it can reasonably do so within the framework of its overall mission of preserving and making these materials accessible to researchers. But **the burden for determining copyright status and obtaining appropriate permissions for purposes of publishing or other uses beyond “fair use” falls entirely on the researcher.**

Source: <http://www.lib.siu.edu/scrc-copyright>

Form 2 p. 3

Whenever possible, the Beinecke provides factual information about copyright owners and related matters pertaining to its materials.

Source: <http://beinecke.library.yale.edu/research/permissions-copyright>

Digital Media Repository only

Due to the nature of archival collections, we are not always able to identify rights information. All rights holders are listed, when known. We are eager to hear from any unidentified rights owners, so that we may obtain accurate information about our collections. If you have any additional information about the images or would like to suggest a correction, please contact the Digital Archivist.

Source: http://www.cah.utexas.edu/research/fine_print.php

The nature of historical collections is such that copyright or other information about restrictions may be difficult or even impossible to determine. The records for individual items clearly state copyright information and restrictions on use when they are known. The absence of copyright or other information on restrictions is no guarantee, however, that a work is in the public domain either in the U.S. or abroad.

Source: <http://cdl.library.cornell.edu/guidelines.html>

Form 4 point 2

It is the responsibility of the applicant to obtain permission to publish from the owner of the copyright (the institution, the creator of the record, the author, or his/her transferees, heirs, legatees, or literary executors). The department will aid the applicant in contacting individuals pertaining by providing addresses, when available. However, the department does not warrant the accuracy of that information and shall not be responsible for any inaccurate information.

Source: adapted from: <http://www.li.suu.edu/content/123/docs/13-07-11-173716-ApplicationforPermis.pdf> & http://www.lib.utah.edu/pdf/Permission_to_Publish.pdf

But see Form 5 point 8

The library does not claim to control the copyright for all materials in its various collections. The publishing party assumes all responsibility for clearing reproduction rights and for any infringement of United States copyright law. The library has no readily available information concerning the existence and/or whereabouts of copyright holders.

Source: <http://www.li.suu.edu/content/123/docs/13-07-11-173828-ReproductionOrderFor.pdf>

In description

Source: <http://brbl-dl.library.yale.edu/vufind/Record/3535861>

Item level rights info for items from the Robert Templeton drawings and sketches related to the trial of Bobby Seale and Erika Huggins, New Haven, Connecticut.

Rights: More about [permissions and copyright](#) [→ Form 2]

Permission from the Robert Templeton Estate is required to publish materials by Robert Templeton in any format. Contact information may be found in the [WATCH File](#).

We welcome any additional information you might have. If you know more about an image on our website or if you are the copyright owner and believe we have not properly attributed your work, [please contact us](#).

Item level rights info for items from the Bryher Papers.

Rights: More about [permissions and copyright](#) [→ Form 2]

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Placement of credit line

A credit line is required and MUST be included with each published image. It must state: "Wyoming State Archives, Department of State Parks and Cultural Resources." In the case of motion pictures and television, the credit line must be listed at the end of the production. In the case of digitized images, whether at a website or part of a CD package, the credit line must accompany the image without altering or being part of it. Credit for exhibited photographs must be placed in a visible location on or near the photograph and must be legible. The person ordering the photographs and requesting permission for their use will be responsible for the proper credit line.

Source: <http://wyoarchives.state.wy.us/pdf/ppc.pdf>

See also Form 4 point 3

See also Form 2 page 3

Content of credit line

The required credit line for use of images from Special Collections is: *University of Washington Libraries, Special Collections, [plus the negative or identification number]*. The negative number is provided with the image and is a letter + number combination such as UW13452, Hegg 1234, NA1275. A typical credit line would be, University of Washington Libraries, Special Collections, UW13452. In the case of film or television use, the negative number is not necessary. In certain circumstances, such as signage or product use, a credit line may not be required. Please contact us for further information.

Source: <http://www.lib.washington.edu/specialcollections/services/permission-for-use>

See also Form 4 points 3 and 10

7. Image alteration:

I understand that photographic images must be reproduced unaltered and in their entirety unless approved in writing (standard cropping and resizing are permissible).

8. Credit line:

This photographic image must be reproduced unaltered and in its entirety unless approved in writing (standard cropping and resizing are permissible), and it is mandatory that the credit line, including image number, appear with the image or on a credit page, indicating the page number. Crediting of each individual item is mandatory in all cases.

Example: Arizona State Library, Archives and Public Records, History and Archives Division, Phoenix, #94-7383.

Source: http://www.azlibrary.gov/archives/documents/pdf/for_publication.pdf

Form 4 point 5:

5. Unless approved in advance by Special Collections, each image **must** be reproduced unaltered and in its entirety; the image must not be cropped, overprinted, printed on color stock, or bleed off the page....

The applicant covenants, represents, and warrants that the Product will not contain any feature which would permit users to distort or mutilate the image, nor will the Product be intentionally designed or prepared so as to be compatible with any computer program which is designed to manipulate graphic images.

Source: adapted from: <http://www.li.suu.edu/content/123/docs/13-07-11-173716-ApplicationforPermis.pdf> & http://www.lib.utah.edu/pdf/Permission_to_Publish.pdf

The Department reserves the right to refuse the use of a photograph from its collections if it determines that such use is excessively frivolous or unethical and will reflect inappropriately on the [parent body], the donor, or the subject of the photograph. (96.125 #11)

Source: <http://wyoarchives.state.wy.us/pdf/ppc.pdf>

Form 4 points 1 & 5:

Point 1

The Department reserves the right to refuse reproductions of its holdings if it feels fulfillment of that order would be violating copyright law or other law. The department reserves the right to refuse reproduction of its holdings and to impose such conditions as it may deem advisable in its sole and absolute discretion in the best interests of the institution.

Point 5:

Special Collections reserves the right to examine proofs and captions for accuracy and sensitivity before publication with the right to revise if necessary, and reserves the right to refuse any request and to impose such conditions as it may deem advisable in the best interests of the library.

Source: adapted from <http://www.li.suu.edu/content/123/docs/13-07-11-173716-ApplicationforPermis.pdf> & http://www.lib.utah.edu/pdf/Permission_to_Publish.pdf

Number	Condition	Example
1	Limit quality of digital formats	Form 4, point 5 and below
2	Copies are repository's property and must be returned after use	See below
3	Copies cannot be deposited in other repository	Form 4, point 4
4	Copies cannot be used for any other purpose	Form 4, point 4
5	Provide repository with copy/copies of final product	Form 4, point 8
6	Penalties for non-compliance with terms & conditions of use	Form 4, point 1 & 3

1. Limit quality of digital formats

“When delivering digital files for personal use (rather than publication) images will be 150 dpi with a title bar [visible watermark] at the top or bottom of the file” 3.16

http://www.azlibrary.gov/archives/documents/pdf/personal_use.pdf

“JPEG files at the standard resolution of 72ppi @8x10 output size will be provided for Web and other electronic uses; TIF files at the standard resolution of 400 dpi @ 8x10 output size will be provided for print use and inclusion in film productions.”

Image Request Form at <http://www.bbhc.org/research/rights-reproductions/>

2. Copies are repository's property and must be returned after use

Agreement for Use: University of Mississippi as Copyright Holder

Use: Special Collections, subject to the other terms and conditions contained herein, grants to the applicant permission to make the following use of the materials:

- **Single Use:** Applicant is granted permission for a non-exclusive, single language, one time, single use, of the material(s) in a publication, exhibit, or other medium. Subsequent use of the material(s), including, without limitation, reformatting, reprints or new editions of a publication, requires a separate request and payment of additional fees. All materials will remain the property of Special Collections. The applicant agrees to return all materials within 60 days and to destroy all digital files. A copy of the completed work must be donated to Special Collections for the institution's records.

Source:

http://www.olemiss.edu/depts/general_library/archives/policy/vc_photo_application_umcopy_right.html

Note that the University of Mississippi's other agreement for use forms where the copyright holder is unknown or where the copy is for personal use do not contain this clause.

Personal Camera Policy (Photographing Newberry Materials for Study Use)

The Newberry allows readers to use personal cameras in the reading rooms. **Photographs taken by Newberry readers may be used for individual reference only;** for information on photography for publication, please see our [Rights and Reproductions](#) page. All readers who use digital cameras to photograph Newberry materials must handle materials as described in the Reading Room Rules above as well as agree to the following conditions:

- Photography taken by readers may only be used for personal reference and research purposes. Readers who require images for publication or broadcast should contact Digital Imaging Services at photoduplication@newberry.org. Images may not be published or broadcast in any media or displayed online without prior written permission of the Newberry.
- Use of a flash, outside lights, scanners, tripods, templates, or other equipment is prohibited.
- The preservation needs of the material outweigh the technical limitations of the camera.
- Materials must remain flat on the desk or in the stand/cradle provided.
- Readers may not push on bindings, stand on tables/chairs, or hold up materials in order to obtain a better quality picture.
- Images may not be added to the holdings of another library or archival repository.
- Photography of other readers or library staff is prohibited.
- The researcher accepts full responsibility for determining whether or not US copyright law protects the materials being copied and whether or not his or her use exceeds the limits of fair use.
- The researcher will adhere to any and all of the restrictions that govern the research use of a specific collection.
- The Newberry reserves the right to prohibit the photographing of any of its collections.

Source: <http://www.newberry.org/reading-room-policies>

POLICY ON DIGITAL PHOTOGRAPHY IN THE SPECIAL COLLECTIONS READING ROOM*

Readers are permitted to take a limited number of their own digital pictures for study purposes only in the Reading Room: 10 images per rare book and rare photograph collection and 35 images per manuscript archive. Digital cameras are available for loan from the Reading Room Supervisor. Images intended for publication (web or print) must be ordered from Visual Media Services. Forms for this purpose are available in the Reading Room.

It is the responsibility of the reader to keep complete and accurate citations (accession numbers, ID numbers, page numbers, and box and folder numbers) for all items photographed. Requests for permission to quote, or subsequent orders for high-resolution images, WILL NOT be processed without this information.

PROCEDURE:

- 1) Most Special Collections materials may be digitally photographed. However, in some cases, the reader may be asked to submit a request for professional photography from Visual Media Services due to size or condition of the material. The final determination will be made by the Reading Room supervisor during the reader's visit. In the Reading Room, readers must sign the "Terms of Use for Images for Personal Study, Reference, or Lecture" agreement.
- 2) Before taking pictures, the reader must flag the requested pages with acid-free streamers. A Reading Room supervisor will review the material for size and condition before authorizing the photography.
- 3) A personal digital camera and a wrist strap must be used, and the flash must be disabled. A test shot of the corner of the room will be required to insure that the flash is off. The reader is responsible for knowing how the camera works. No cell phones, laptops, or portable scanners may be used in lieu of a digital camera. The camera must be set to silent mode. SLR cameras are not permitted in the Reading Room because they cannot be set to silent mode.
- 4) Readers must shoot each image with the white streamer provided by the Reading Room staff that states: "Special Collections, Research Library, Getty Research Institute." We strongly suggest that you write the ID number, volume, and page number or the accession number, box, and folder number on the streamer to facilitate your record keeping.
- 5) Readers may NOT take pictures of staff members or other readers.
- 6) Material must be photographed in situ. Readers may not alter the supports of rare books or aesthetically arrange material on foam. Only hand-held overhead capture is acceptable; the use of a monopod or tripod, or standing on the furniture, is strictly prohibited.
- 7) Never touch material while photographing; no pressure may be applied to the object.
- 8) Material should NOT be removed from mylar.
- 9) Reading Room supervisors will not assist the reader in taking photographs. If a researcher is having difficulty with photographing the material, then a supervisor will ask the reader to order professional photography from Visual Media Services.
- 10) Readers must be sensitive to others conducting research in the room; readers may be asked to delay their photography if the activity is disturbing other readers.

11) The Library reserves the right to deny requests or revoke permission for any reason at any time.

**Note: This is an experimental policy intended to provide better service to our readers. This policy and/or procedures may change in the future. (Revised February 2009.)*

Source: http://www.getty.edu/research/library/pdfs/digital_camera_policy.pdf

The Getty allows researchers to download collection images free of charge from our website for personal or classroom use. You may place an order for a digital image if it is not available online, and the fees below will apply

Source: http://www.getty.edu/legal/image_request/fees_schedule.pdf.

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Source: <http://beinecke.library.yale.edu/research/permissions-copyright>

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These Terms and Conditions of Use apply to individuals and institutions (“you”) visiting the Website, and, by downloading, printing, distributing or otherwise using or exploiting materials or content (“use”) on the Website, you hereby agree to comply with the terms and conditions detailed here and to comply with the Library's [Permissions and Copyright](#). The Beinecke does not warrant that use of any materials or content displayed on its website will not infringe the rights of third parties.

Source: <http://beinecke.library.yale.edu/terms-of-use>

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Source: <http://archives.csudh.edu/policies.shtml>

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Source: <http://webapp1.dlib.indiana.edu/inharmony/overview/copyright/index.jsp>

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Source: <http://cidc.library.cornell.edu/political/copyright.htm>

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Source:

http://library24.library.cornell.edu:8280/luna/servlet/detail/CORNELL~9~1~77785~3426:Harri man--In-Step-----Can-Win?sort=Date_Made%2CAccession%2CClassification&qvq=w4s:/when/1956;sort:Date_Made%2CAccession%2CClassification;lc:CORNELL~9~1&mi=25&trs=203

IN DESCRIPTION

Collection level: Copyright usage terms vary throughout the collection. Each item contains information about usage terms. If SMU does not have the right to publish the item on the Internet, only the item's metadata will be available and the digitized object will be available on a restricted access basis. Such items may only be viewed on campus. When items are available for

use, please cite DeGolyer Library, Central University Libraries, Southern Methodist University. A high-quality version of these files may be obtained for a fee by contacting degolyer@smu.edu.

Source: <http://digitalcollections.smu.edu/all/cul/ned/>

Item level (in “rights” field):

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Source: <http://digitalcollections.smu.edu/cdm/singleitem/collection/ned/id/395/rec/2>

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I have read, understood and agree to abide by the conditions stated above (click CONTINUE below):

[Close](#) | [Continue](#)

Pop-up click-through agreement required before viewing the item

Source:

http://digital.cjh.org/view/action/singleViewer.do?dvs=1368622473985~454&locale=en_US&VIEWER_URL=/view/action/singleViewer.do?&DELIVERY_RULE_ID=5&frameId=1&usePid1=true&usePid2=true©RIGHTS_DISPLAY_FILE=lbi-copyrightnotice-01

The screenshot shows a web browser window with a copyright agreement pop-up. The browser's address bar displays 'archives.cshl.edu/agree.html?url=http://archives.cshl.edu:80/R?'. The pop-up text reads: 'Most of the digital materials in CSHL Library and Archives Digital Collection are protected by the U.S. Copyright Law (Title 17, U.S.C.). Under Copyright Law, some use of copyright protected documents may be allowed under "fair use." The images and documents in the CSHL Library & Archives Digital Collection are solely for educational and scholarly uses. The materials may be used in reports, research, and other projects that are not offered for sale. Any commercial or public use of materials from this archive requires written permission from the CSHL Archives or the appropriate copyright holder. Granting or withholding of permission is determined by the CSHL Archives on an individual basis, and a usage fee is required.' Below the text is a button labeled 'I AGREE'. The background page is titled 'DIGITAL COLLECTIONS' and features a navigation menu with items: 'Browse / Search Collections', 'About the Project', 'Copyright Policy', 'Credits', 'FAQ', and 'CSHL Library & Archives'. A quote by Johann Wolfgang Von Goethe is visible at the bottom of the page: 'We said that the history of mankind depicts man; in the same way one can maintain that the history of science is science itself.' - Johann Wolfgang Von Goethe (1749-1832). The footer of the page states: 'The Digital Collections Project was funded by the Josiah Macy Foundation © 2007'.

Pop-up click-through agreement required before browsing/searching digital collections

Source: <http://archives.cshl.edu/>

5. Learning Activities

Learning activity 1:

Comparison of 4 different copyright policies (Forms 1-4)

Working in pairs or threes (depending on number of participants),

- Examine the copyright policies (forms 1-4)
- Rank the policies in order of preference, with the most preferred ranked 1st and the least preferred ranked 5th
- Identify what you like most about the one you ranked first
- Identify what you like least about the one you ranked last

Learning activity 2:

Specific terms and conditions (Forms 19-22)

Divide into 9 groups; each group will be responsible for one of the following conditions.

Referring to the examples in Forms 19-22, each group will consider why (or why not) an institution would include that particular condition in its reproduction and permissions policies, and report back to the class.

1. Attribution (form 19)
2. Authenticity (form 20)
3. “Misuse” (form 21)
4. Limit quality of digital formats for personal/research use (form 22)
5. Copies are repository’s property and must be returned after use (form 22)
6. Copies cannot be deposited in other repository (form 22)
7. Copies cannot be used for any other purpose (form 22)
8. Provide repository with copy/copies of final product (form 22)
9. Penalties for non-compliance with terms & conditions of use (form 22)

6. Pre-course Readings and Pre-course Exercise

Pre-course readings

Jean Dryden, 2013. “But Are They Grateful? Educating Online Users About Copyright,” *Imagine, Innovate, Inspire: Proceedings of the Conference of the Association of College and Research Libraries, April 10–13, 2013, Indianapolis, IN*, ed. Dawn Mueller (Chicago: Association of College and Research Libraries, 2013), 92-96
http://www.ala.org/acrl/sites/ala.org/acrl/files/content/conferences/confsandpreconfs/2013/papers/Dryden_Grateful.pdf.

Jean Dryden, 2011. “Copyfraud or legitimate concerns? Controlling further uses of online archival holdings,” *American Archivist* 74(2), 522-43.

Kristin R. Eschenfelder & Michelle Caswell, 2010. “Digital cultural collections in an age of reuse and remixes,” *First Monday* 15 (11).

Lisa Miller, et al. "*Capture and Release*": *Digital Cameras in the Reading Room* (2010)
<http://www.oclc.org/research/publications/library/2010/2010-05.pdf>

Pre-course exercise

1. Identify 2-3 reasons why your institution wishes to control reuse of copies of items from your holdings, and the ways in which your institution attempts to achieve that control.
2. Identify 2-3 reasons why your institution does not attempt to control reuse of copies of items from your holdings.

Please submit your responses to the instructor at jean.dryden@bell.net one week before the course.

7. Bibliography and Resources

Contents

Research studies
Best practices
Educating users about copyright
Fun reading
Professional codes of ethics

Research studies

Jean Dryden, 2014. “Just let it go? Controlling reuse of online holdings,” *Archivaria* 77 (in process).

Jean Dryden, “Cavalier or Careful? How Users Approach the Rights Management Practices of Archival Repositories,” *Journal of Archival Organization* 10, no. 3–4 (2012).

Jean Dryden, 2011. “Copyfraud or legitimate concerns? Controlling further uses of online archival holdings,” *American Archivist* 74(2).

Jean Dryden, 2008. “Copyright in the real world: Making archival material available on the Internet,” PhD. dissertation, University of Toronto. <http://hdl.handle.net/1807/11198>

Kristin R. Eschenfelder & Grace Agnew, 2010. “Technologies employed to control access to or use of digital cultural collections: Controlled online collections,” *D-Lib Magazine* 16 (1–2).

Kristin R. Eschenfelder & Michelle Caswell, 2010. “Digital cultural collections in an age of reuse and remixes,” *First Monday* 15 (11).

Kristin R. Eschenfelder, 2009. *Controlling access to & use of online cultural collections: A survey of U.S. archives, libraries & museums for IMLS*.
<http://minds.wisconsin.edu/handle/1793/38251>

Best practices

Lisa Miller, et al. “*Capture and Release*”: *Digital Cameras in the Reading Room* (2010)
<http://www.oclc.org/research/publications/library/2010/2010-05.pdf>

ARL *Code of Best Practices in Fair Use for Academic and Special Libraries* (2012)
<http://www.arl.org/pp/ppcopyright/codefairuse/index.shtml>

Visual Resources Association “Statement on the Fair Use of Images for Teaching, Research and Study” (n.d.) <http://www.vraweb.org/organization/pdf/VRAFairUseGuidelinesFinal.pdf>

Educating users about copyright

Cornell University Copyright Information Center Resources

<http://copyright.cornell.edu/resources/>

Copyright at the University of Michigan

<http://www.lib.umich.edu/copyright-office-michigan-publishing>

Columbia University Libraries/Information Services

<http://copyright.columbia.edu/copyright/>

University of Minnesota Copyright Information and Resources

<https://www.lib.umn.edu/copyright/>

University of Texas at Austin Copyright Crash Course

<http://copyright.lib.utexas.edu/>

Fun (yes, really!) fiction about copyright

Rob Reid, *Year Zero: A Novel*, 2012

Alexander McCall Smith, *Love over Scotland*, 2007

Core Values of Archivists *(Approved by the SAA Council May 2011.)*

<http://www2.archivists.org/statements/saa-core-values-statement-and-code-of-ethics>

PURPOSE

Archivists select, preserve, and make available primary sources that document the activities of institutions, communities and individuals. These archival sources can be used for many purposes including providing legal and administrative evidence, protecting the rights of individuals and organizations, and forming part of the cultural heritage of society. The modern archives profession bases its theoretical foundations and functions on a set of core values that define and guide the practices and activities of archivists, both individually and collectively. Values embody what a profession stands for and should form the basis for the behavior of its members.

Archivists provide important benefits and services such as: identifying and preserving essential parts of the cultural heritage of society; organizing and maintaining the documentary record of institutions, groups, and individuals; assisting in the process of remembering the past through authentic and reliable primary sources; and serving a broad range of people who seek to locate and use valuable evidence and information. Since ancient times, archives have afforded a fundamental power to those who control them. In a democratic society such power should benefit all members of the community. The values shared and embraced by archivists enable them to meet these obligations and to provide vital services on behalf of all groups and individuals in society.

This statement of core archival values articulates these central principles both to remind archivists why they engage in their professional responsibilities and to inform others of the basis for archivists' contributions to society. Archivists are often subjected to competing claims and imperatives, and in certain situations particular values may pull in opposite directions. This statement intends to provide guidance by identifying the core values that guide archivists in making such decisions and choices. Core values provide part of the context in which to examine ethical concerns.

CORE VALUES OF ARCHIVISTS

Access and Use: Archivists promote and provide the widest possible accessibility of materials, consistent with any mandatory access restrictions, such as public statute, donor contract, business/institutional privacy, or personal privacy. Although access may be limited in some instances, archivists seek to promote open access and use when possible. Access to records is essential in personal, academic, business, and government settings, and use of records should be both welcomed and actively promoted. Even individuals who do not directly use archival materials benefit indirectly from research, public programs, and other forms of archival use, including the symbolic value of knowing that such records exist and can be accessed when needed.

Accountability: By documenting institutional functions, activities, and decision-making, archivists provide an important means of ensuring accountability. In a republic such accountability and transparency constitute an essential hallmark of democracy. Public leaders must be held accountable both to the judgment of history and future generations as well as to citizens in the ongoing governance of society. Access to the records of public officials and agencies provides a means of holding them accountable both to public citizens and to the judgment of future generations. In the private sector, accountability through archival documentation assists in protecting the rights and interests of consumers, shareholders, employees, and citizens. Archivists in collecting repositories may not in all cases share the same level of responsibility for accountability, but they too maintain evidence of the actions of individuals, groups, and organizations, which may be required to provide accountability for contemporary and future interests.

Advocacy: Archivists promote the use and understanding of the historical record. They serve as advocates for their own archival programs and institutional needs. They also advocate for the application of archival values in a variety of settings including, to the extent consistent with their institutional responsibilities, the political arena. Archivists seek to contribute to the formation of public policy related to archival and recordkeeping concerns and to ensure that their expertise is used in the public interest.

Diversity: Archivists collectively seek to document and preserve the record of the broadest possible range of individuals, socio-economic groups, governance, and corporate entities in society. Archivists embrace the importance of identifying, preserving, and working with communities to actively document those whose voices have been overlooked or marginalized. They seek to build connections to under-documented communities to support: acquisition and preservation of sources relating to these communities' activities, encouragement of community members' use of archival research sources, and/or formation of community-based archives. Archivists accept and encourage a diversity of viewpoints on social, political, and intellectual issues, as represented both in archival records and among members of the profession. They actively work to achieve a diversified and representative membership in the profession.

History and memory: Archivists recognize that primary sources enable people to examine the past and thereby gain insights into the human experience. Archival materials provide surrogates for human memory, both individually and collectively, and when properly maintained, they serve as evidence against which individual and social memory can be tested. Archivists preserve such primary sources to enable us to better comprehend the past, understand the present, and prepare for the future.

Preservation: Archivists preserve a wide variety of primary sources for the benefit of future generations. Preserving materials is a means to this end not an end in itself. Within prescribed law and best practice standards, archivists may determine that the original documents themselves must be preserved, while at other times copying the information they contain to alternate media may be sufficient. Archivists thus preserve materials for the benefit of the future more than for the concerns of the past.

Professionalism: Archivists adhere to a common set of missions, values, and ethics. They accept an evolving theoretical base of knowledge, collaborate with colleagues in related professions, develop and follow professional standards, strive for excellence in their daily practice, and recognize the importance of professional education, including lifelong learning. They encourage professional development among their co-workers, foster the aspirations of those entering the archival profession, and actively share their knowledge and expertise. Archivists seek to expand opportunities to cooperate with other information professionals, with records creators, and with users and potential users of the archival record.

Responsible Custody: Archivists ensure proper custody for the documents and records entrusted to them. As responsible stewards, archivists are committed to making reasonable and defensible choices for the holdings of their institutions. They strive to balance the sometimes competing interests of various stakeholders. Archivists are judicious stewards who manage records by following best practices in developing facilities service standards, collection development policies, user service benchmarks, and other performance metrics. They collaborate with external partners for the benefit of users and public needs. In certain situations, archivists recognize the need to deaccession materials so that resources can be strategically applied to the most essential or useful materials.

Selection: Archivists make choices about which materials to select for preservation based on a wide range of criteria, including the needs of potential users. Understanding that because of the cost of long-term retention and the challenges of accessibility most of the documents and records created in modern society cannot be kept, archivists recognize the wisdom of seeking advice of other stakeholders in making such selections. They acknowledge and accept the responsibility of serving as active agents in shaping and interpreting the documentation of the past.

Service: Within the mandates and missions of their institutions, archivists provide effective and efficient connections to (and mediation for) primary sources so that users, whoever they may be, can discover and benefit from the archival record of society, its institutions, and individuals. Archivists serve numerous constituencies and stakeholders, which may include institutional administrators, creators and donors of documentary materials, rights holders, un/documented peoples, researchers using the archives for many distinct purposes, corporate and governmental interests, and/or citizens concerned with the information and evidence held in archival sources. **Archivists seek to meet the needs of users as quickly, effectively, and efficiently as possible.**

Social Responsibility: Underlying all the professional activities of archivists is their responsibility to a variety of groups in society and to the public good. Most immediately, archivists serve the needs and interests of their employers and institutions. Yet the archival record is part of the cultural heritage of all members of society. Archivists with a clearly defined societal mission strive to meet these broader social responsibilities in their policies and procedures for selection, preservation, access, and use of the archival record. Archivists with a narrower mandate still contribute to individual and community memory for their specific constituencies, and in so doing improve the overall knowledge and appreciation of the past within society.

Code of Ethics for Archivists *(Approved by the SAA Council February 2005; revised January 2012.)*

<http://www2.archivists.org/statements/saa-core-values-statement-and-code-of-ethics>

Archives are created by a wide array of groups and provide evidence of the full range of human experience. Archivists endeavor to ensure that those materials, entrusted to their care, will be accessible over time as evidence of human activity and social organization. Archivists embrace principles that foster the transparency of their actions and that inspire confidence in the profession. A distinct body of ethical norms helps archivists navigate the complex situations and issues that can arise in the course of their work.

The Society of American Archivists is a membership organization comprising individuals and organizations dedicated to the selection, care, preservation, and administration of historical and documentary records of enduring value for the benefit of current and future generations.

The Society endorses this Code of Ethics for Archivists as principles of the profession. This Code should be read in conjunction with SAA's "Core Values of Archivists." Together they provide guidance to archivists and increase awareness of ethical concerns among archivists, their colleagues, and the rest of society. As advocates for documentary collections and cultural objects under their care, archivists aspire to carry out their professional activities with the highest standard of professional conduct. The behaviors and characteristics outlined in this Code of Ethics should serve as aspirational principles for archivists to consider as they strive to create trusted archival institutions.

Professional Relationships

Archivists cooperate and collaborate with other archivists, and respect them and their institutions' missions and collecting policies. In their professional relationships with donors, records creators, users, and colleagues, archivists are honest, fair, collegial, and equitable.

Judgment

Archivists exercise professional judgment in appraising, acquiring, and processing materials to ensure the preservation, authenticity, diversity, and lasting cultural and historical value of their collections. Archivists should carefully document their collections-related decisions and activities to make their role in the selection, retention, or creation of the historical record transparent to their institutions, donors, and users. Archivists are encouraged to consult with colleagues, relevant professionals, and communities of interest to ensure that diverse perspectives inform their actions and decisions.

Authenticity

Archivists ensure the authenticity and continuing usability of records in their care. They document and protect the unique archival characteristics of records and strive to protect the records' intellectual and physical integrity from tampering or corruption. Archivists may not

willfully alter, manipulate, or destroy data or records to conceal facts or distort evidence. They thoroughly document any actions that may cause changes to the records in their care or raise questions about the records' authenticity.

Security and Protection

Archivists protect all documentary materials for which they are responsible. They take steps to minimize the natural physical deterioration of records and implement specific security policies to protect digital records. Archivists guard all records against accidental damage, vandalism, and theft and have well-formulated plans in place to respond to any disasters that may threaten records. Archivists cooperate actively with colleagues and law enforcement agencies to apprehend and prosecute vandals and thieves.

Access and Use

Recognizing that use is the fundamental reason for keeping archives, archivists actively promote open and equitable access to the records in their care within the context of their institutions' missions and their intended user groups. They minimize restrictions and maximize ease of access. They facilitate the continuing accessibility and intelligibility of archival materials in all formats. Archivists formulate and disseminate institutional access policies along with strategies that encourage responsible use. They work with donors and originating agencies to ensure that any restrictions are appropriate, well-documented, and equitably enforced. When repositories require restrictions to protect confidential and proprietary information, such restrictions should be implemented in an impartial manner. In all questions of access, archivists seek practical solutions that balance competing principles and interests.

Privacy

Archivists recognize that privacy is sanctioned by law. They establish procedures and policies to protect the interests of the donors, individuals, groups, and institutions whose public and private lives and activities are recorded in their holdings. As appropriate, archivists place access restrictions on collections to ensure that privacy and confidentiality are maintained, particularly for individuals and groups who have no voice or role in collections' creation, retention, or public use. Archivists promote the respectful use of culturally sensitive materials in their care by encouraging researchers to consult with communities of origin, recognizing that privacy has both legal and cultural dimensions. Archivists respect all users' rights to privacy by maintaining the confidentiality of their research and protecting any personal information collected about the users in accordance with their institutions' policies.

Trust

Archivists should not take unfair advantage of their privileged access to and control of historical records and documentary materials. They execute their work knowing that they must ensure proper custody for the documents and records entrusted to them. Archivists should demonstrate professional integrity and avoid potential conflicts of interest. They strive to balance the sometimes-competing interests of all stakeholders.

ACRL/SAA Joint Statement on Access to Research Materials in Archives and Special Collections Libraries

Adopted by the SAA Council on June 1, 2009

<http://www2.archivists.org/statements/alasaa-joint-statement-on-access-to-research-materials-in-archives-and-special-collection>

1. **RESPONSIBILITY.** It is the responsibility of a repository to make available original research materials in its possession on equal terms of access. Access to all research materials, irrespective of format, should be provided in accordance with a clearly defined and publicized institutional access policy, the “Code of Ethics for Archivists”, the “ACRL Code of Ethics for Special Collections Librarians” and this Joint Statement. A repository should not deny any researcher access to materials, nor grant privileged or exclusive use of materials to any researcher, nor conceal the existence of any body of materials from any researcher, unless required to do so by law, institutional access policy, or donor or purchase stipulation.
2. **INTELLECTUAL ACCESSIBILITY.** A repository should inform researchers in a timely manner of the collections in its custody in accordance with institutional access policy and current professional practice. This may be accomplished through the assistance of staff members; entries in local, regional, or national catalogs; inventories, and other documents describing a repository’s holdings and created using nationally recognized standards; published guides; repository websites; and other means, including announcements in appropriate print, electronic, and other media. The existence of original research materials should be reported, even if they are not fully accessible because they are not processed or because of restrictions.
3. **RESTRICTIONS.** Repositories must be committed to preserving research materials and to making them available for research as quickly as practicable following their acquisition. Nevertheless, a repository must fulfill legal and institutional obligations to protect confidentiality and physical security of its collections. Moreover, donors may wish to impose reasonable restrictions upon their papers for a defined period of time to protect privacy or confidentiality.
 - a. Repositories must inform researchers of restrictions that apply to collections, and should be encouraged to make this information generally available.
 - b. Repositories should discourage donors from imposing unreasonable restrictions, encourage a specific time limitation on restrictions that are imposed, and make the duration of the restriction known to its users.
 - c. Repositories should periodically review and reevaluate restricted material and remove restrictions when they are no longer required.
4. **POLICIES.** To protect and insure the continued accessibility of its holdings, repositories should require all patrons to use all research materials in accordance with published institutional policies. Each repository should publish or otherwise make known to potential researchers its policies governing access and use. Such policies should be applied and enforced equally, and may include provisions such as:

- a. To protect its collections, each repository may, in accordance with legal authority and institutional access policy, require acceptable identification of any individual wishing to use its materials, as well as a signature verifying the individual has agreed to abide by a statement defining the policies and regulations of the repository.
 - b. Repositories should also instruct researchers in proper handling of materials.
 - c. Repositories may refuse access to an individual researcher who has violated the published policies and regulations of the repository.
 - d. Repositories may limit the use of materials, but should try to provide suitable reproductions to researchers in lieu of the originals.
 - e. Repositories may limit access to unprocessed materials, as long as the limitations are applied and enforced consistently and equally to all users.
 - f. Repositories may, under special circumstances, lend or place on deposit with another repository part or all of a collection. In such cases, repositories have the responsibility to publicize the unavailability, including length of time, of collections due to loans.
5. **FEES AND SERVICES.** Repositories should strive to provide access to their holdings at no direct cost to the researcher. In situations where this is not possible, reasons for charging fees should be made publicly available. A repository should facilitate access to collections by providing reasonably priced reproduction services that are administered consistently in accordance with legal authority, including copyright law, institutional access policy, and repository regulations. These services may include electronic, paper, or photographic copies; microfilm; or other means of reproduction and should be clearly stated in a publically accessible written policy. A repository is not obligated to provide reproductions or research services beyond those required by institutional access policy. Repositories may impose reasonable limits on requests for reproductions, but such limits should be clearly stated in the institutional access policy and should also be applied equally and consistently to all users.
6. **CITATIONS.** Each repository should publish or otherwise make available to researchers a suggested form of concise citation crediting the repository and identifying items within its holdings for later reference. Citations to copies of materials in other repositories should include the location of the originals.
7. **COPYRIGHT.** It is the researcher's obligation to satisfy copyright law when copying or using materials found in collections. A repository should inform a researcher about materials for which it holds copyright.

8. Glossary

Attribution: Acknowledgement of the repository as the location of the original document.

Copyfraud: Unfounded claims of copyright.

Credit, credit line: *see Attribution*

Further uses: *see Reuse*

Repository: An archive, special collections library, research center, museum, historical society, or any other institution responsible for keeping and providing access to research materials in any form, including manuscripts, photographs, moving image and sound materials, and their electronic equivalents.

Reuse: Incorporating a reproduction of some or all of a document in a new work OR for a new purpose.

Use fee: An additional fee added to the cost of making a copy if the requestor wishes to publish or otherwise publicly disseminate the copy, or use it for commercial purposes. Also referred to as a permission fee, publication fee, or commercial use fee.

User: A person who uses the collections and services of a repository. Also referred to as a researcher or patron.

9. Instructor Bio and Contact Information

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Jean Dryden's expertise in both copyright and archives has been developed over many years of experience as an archivist in the government, education, and non-profit sectors in Canada. Her doctoral dissertation (Toronto, 2008) investigated the copyright practices of Canadian archival repositories in making their holdings available online. Upon completion of her doctorate, she taught archives and records management at the University of Maryland from 2008-2011, and served as research faculty until 2013, when she resumed her information consulting practice in Toronto.

While at Maryland, Jean was also the principal investigator for a comparative research study funded by Institute of Museum Library Services that examined the copyright practices of American archival repositories and their impact on users. Her research looked at the copyright policies of nearly one hundred archival institutions; it is their reproduction and use policies that form the basis of the content for this course. The findings revealed a wide range of practices that sometimes apply copyright in ways that impede use of archival material, for reasons other than copyright (and often when the institution has no copyright interests to protect). The course explores ways in which repositories can achieve institutional goals without inappropriately invoking copyright.