

Elements of a Copyright Policy for an Institutional Archives or Manuscripts Collection

© William J. Maher 2009

1 Ownership

- 1.1 If an institutional archives, who (which office or unit) is the designated owner to be named in grants of permission, and what unit is empowered to grant such permissions. If the archives has been delegated to grant permissions to what office does it go for problematic cases and policy support.
- 1.2 If the repository has any non-institutionally owned materials, the policy should specify the general limits on what rights the repository can claim to own and what rights it can grant.
- 1.3 If the repository regularly acquires non-institutional holdings (e.g. personal papers of staff members) a statement on whether the acquisition of copyrights is a required, desired, optional, or non-desired condition of acquisition of the physical property.
- 1.4 Ownership of works created by the archives such as finding aids, databases, websites and exhibits.
- 1.5 Whether parent institution has a policy claiming ownership of works as works-made-for-hire for all works made by all employees or whether it cedes such ownership to employees. Whether works created by volunteers and interns working on behalf of the archives are to be considered as works-made-for-hire.

2 User Services and Copying

- 2.1 Does the archives offer self-service copying or only staff copying?
- 2.2 All copying for or by users is understood for private study and fair use purposes only, unless otherwise requested and approved.
- 2.3 All copying equipment and copies as well as “order forms” must carry a standard copyright notice.
- 2.4 Users bear ultimate responsibility that the use of any copies made do not exceed limits of copyright.
- 2.5 A general statement of how much direction/advice the archives will provided to users and owners regarding copyright (e.g., limiting such advice to referral to standard sources such as a public domain chart, a fair use check list, and Copyright Office *Circulars*)
- 2.6 Statement of what if any permissions will be required before the archives will make reference copies of documents, including kinds of documents excluded from general copying by § 108 (i).
- 2.7 Statement of charges for the copying process and handling of orders as a matter separate from any publication permissions that the archives may charge.

3 Reproduction rights

- 3.1 Which rights the archives will and will not grant as a general matter for:
 - 3.1.1 Materials in which your institution owns the rights
 - 3.1.2 Materials for which your institution does not own the rights and does not know the identity of the owner.
- 3.2 Differentiation among types of uses that will be approved (e.g., non-commercial uses only)
- 3.3 Rights you will not grant (e.g., multiple successive uses, derivative rights, or publicity rights).
- 3.4 Limitations on what modifications or abridgements repository allows when documents are reproduced via publication, display or other presentation.
- 3.5 Nature of citation and credit lines required when documents are reproduced by the users

- 4 Caveat that neither the archives nor the parent institution are providing legal advice when responding to inquiries on copyright permissions. The users of the materials assume all responsibilities and risks associated with the use.