

## **Part 1 Chapter 5: Policy for Image Duplication and Use**

*(Adopted by the Board of Trustees on January 18, 2013; Amended July 31, 2015)*

### *Rule 5.1.*

#### **A. Introduction:**

The Mississippi Department of Archives and History (MDAH) is a comprehensive historical agency. MDAH collects, preserves, and provides access to the archival resources of the state; administers museums and historic sites; and oversees statewide programs for historic preservation, government records management, and publications. The purpose of this document is to define MDAH policies regarding duplication, and the broadcast, publication, exhibition, Internet use, and other distribution, of images of items from MDAH holdings for which use is not restricted by Federal or Mississippi State law. All division guidelines and procedures will conform to this policy.

#### **B. Items in the Public Domain:**

Permission to use images of items in the public domain (including, but not limited to, government records and most images taken by MDAH) may be granted for one-time use in multiple formats. Although state government records do not fall into the category of public domain automatically as do Federal records; as a courtesy to the public, MDAH considers most state government records in its custody to be in the public domain for purposes of duplication and use. No other edition, duplication, alteration, or transfer to other persons or institutions is permitted without prior written consent from MDAH. Such authorization is non-exclusive, and MDAH does not surrender its own right to publish or to grant others permission to publish.

#### **C. Items Not in the Public Domain:**

Some items in the MDAH collections are protected by U.S. Copyright Law (Title 17, U.S.C., in accordance with the Berne Convention for the Protection of Literary and Artistic Works) and the Digital Millennium Copyright Act. Additionally, the duplication and/or use of some items may be restricted by gift agreements with donors, privacy and publicity rights, and licensing and trademarks.

It is the responsibility of the user to obtain duplication and/or use permission from the copyright owner and to supply that permission to MDAH in writing before duplication. MDAH will provide copyright information when known. Permission to use images of items that are not in the public domain may be granted for one-time use for a limited period with the permission of the copyright owner.

No other edition, duplication, alteration, or transfer to other persons or institutions is permitted without prior written consent from the copyright holder and MDAH. Such authorization is non-exclusive, and MDAH does not surrender its own right to publish or to grant others permission to publish.

#### **D. Duplication Services:**

After the MDAH order form is completed, staff will perform all duplication services when possible. Orders are processed in the order received. A specific delivery date cannot be guaranteed.

MDAH may delay the duplication of a fragile item until appropriate conservation measures can be completed. Such measures are implemented by MDAH as scheduling and funds allow. The user may choose to expedite this process by paying all costs of the conservation measures necessary to preserve and safely duplicate an item as determined by MDAH.

MDAH reserves the right to deny any duplication request, in order to ensure the preservation of the item, the implementation of donor restrictions, and other applicable legal restrictions, including copyright, privacy and publicity rights, and licensing and trademarks.

If MDAH cannot produce the requested image, a commercial vendor approved by MDAH may be used at the user's expense. MDAH will not be responsible for the quality of work performed by a vendor.

If MDAH or an approved vendor cannot provide the desired format, the user may request permission to use personal equipment to produce the copy. Such requests must be made in writing in advance, and be approved by the division director or his designee. If approval is granted, the user must follow the duplication procedures established by the division.

**E. Use Permission:**

An MDAH use permission form must be completed and approved by the appropriate staff before broadcast, publication, exhibition, Internet use, or other distribution of images of items from the MDAH holdings.

The copyright owner, if appropriate, and MDAH must approve the superimposition of text, cropping, bleeding, addition of color, or other alterations at the time the use permission form is submitted.

MDAH reserves the right to withhold permission for any use it considers to be contrary to the mission of MDAH.

**F. Charges, Fees, and Payment:**

The MDAH Board of Trustees adopts rules and regulations related to charges and fees. A current schedule of charges and fees will be maintained at MDAH and will be publicly available. Charges and fees are subject to change without notice.

Legal residents of Mississippi; not-for-profit organizations chartered in Mississippi; state, county, and municipal agencies in Mississippi; and federal agencies will not be charged use fees in accordance with the current schedule; unless the intended use is a product that will be distributed for a price.

For-profit entities, and non-Mississippi individuals and organizations will be charged use fees.

Profit/Not-for-profit status is determined by the status of the entity requesting the use, not by the status of the entity funding the project. Proof of Internal Revenue Service filing category or a valid student identification card, in the case of scholastic use, is required to qualify for the not-for-profit fee rate.

Payment in advance is required for all products, services rendered, and use fees. Charges and fees are not refundable. Assessment of the use fee is based on the projected use at the time the use agreement is signed and cannot be prorated for lack of use thereafter. Any reduction of charges and fees will be determined by the division director or his designee according to division procedures.

**G. Product Copies:**

The user will provide MDAH a complimentary copy of, or internet link for, any product containing images from MDAH.

**H. Questions:**

Questions about this policy should be submitted in writing to the appropriate division director or his designee.

Source: *Miss. Code* §§ 25-59-1, 25-61-7 (1972, as amended).

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