

Mississippi Department of Archives and History
Archives and Library Division
Policy on the Reproduction of Archival Materials
Adopted by the Board of Trustees, December 13, 2002
Effective January 1, 2003
Revised April 25, 2003; Revised May 20, 2005
Revised January 20, 2006; Effective tbd, 2006

I. General

The Mississippi Department of Archives and History (MDAH) offers various ways to obtain copies of items in MDAH collections as a contribution to education and scholarship. The purpose of this policy is to define MDAH policies regarding the acquisition and non-personal use of reproductions of items held by the Archives and Library Division of MDAH.

A. Copyright

Some materials in these collections may be protected by the 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 reproduction of some materials may be restricted by terms of gift agreements, privacy and publicity rights, licensing and trademarks.

Copyright may be difficult or even impossible to determine for archival collections. Whenever possible, MDAH will provide information about copyright interests in and other restrictions on archival materials. MDAH provides this information as a service to aid the patron in determining the legality of the intended use of an item, but that determination ultimately rests with the patron. It is the patron's obligation to determine and satisfy copyright or other use restrictions when publishing or otherwise distributing materials found in MDAH collections.

B. Costs, Fees, and Payment

Reproduction costs and use fees are set by MDAH Board of Trustees and are subject to change without notice. Mississippi law requires payment in advance for all duplication services rendered (*MCA*, §25-61-7). Charges for services incurred and use fees cannot be waived and are not refundable. A current copy of the Cost and Fee Schedule is maintained at MDAH.

C. Limitations

MDAH may delay the reproduction of fragile items until appropriate conservation measures can be completed. Such measures are implemented as scheduling and

available funds allow. The patron may choose to expedite this process by paying the cost of conservation measures necessary to safely reproduce an item.

No copies of archival materials shall be donated to other institutions without the written consent of MDAH.

D. Self-Service Reproduction

Photocopies of books in the Public Reading Room as well as paper copies of microfilm and microfiche images and electronic images accessed in the Media Reading Room are produced by the patron.

E. Staff Reproduction

1. Standard

Paper copies of archival materials are produced by the Archival Reading Room reference staff. Some orders may be completed at the time of the request. Orders that are not completed at the time of request and large orders must be requested using an order form.

2. Order Form

A patron must submit an order form for the acquisition of copies not produced by the patron or completed and returned by the staff at the time of the request. Orders are processed on a first-come, first-served basis. Production time is usually within fifteen (15) working days, subject to the size of the order, format, and the number of orders received. MDAH may be able to offer expedited service within five (5) working days; however, no delivery date can be guaranteed.

F. Other Reproduction

1. Commercial Vendor

MDAH will select the vendor to provide duplication services. Normally, the vendor will be MDAH itself. If another vendor is used, the vendor must be approved by MDAH. The patron will make direct payment arrangements for vendor services. MDAH will not be responsible for the quality of duplication work performed by another vendor. A vendor delivery fee will be charged for each order placed with an outside vendor. However, no vendor duplication work will be authorized by MDAH until the patron and the vendor have agreed on payment terms, and the vendor has notified MDAH of the agreement. MDAH will be responsible for delivering the original material at the time agreed upon with the vendor and picking up both the original material and the reproductions.

2. Other Option

If MDAH or an approved vendor cannot provide the desired format, the patron may request to use personal equipment to produce the copy. All work must be done under the direct supervision of MDAH staff, and all archival materials will be handled only by MDAH staff. Such requests must be made in advance using an order form. If approval is granted, the patron must then contact the Order Clerk to set up an appointment to reproduce the materials. Failure on the part of the patron to appear at the appointed copying time will result in a cancellation of the appointment and of the order.

G. Shipping

All orders are shipped via standard U.S. mail unless otherwise requested. A standard postage and handling charge is assessed, but exceptionally large orders will be assessed the additional postage costs. MDAH will only ship through express carriers with third-party billing.

H. Broadcast/Publication/Exhibition/Internet Use of Copies

1. Written Permission Required

If publication or broadcast of the reproduction is intended, the patron must receive written permission from the Archives and Library Division director and any copyright holder(s), if applicable. Special restrictions are applied to certain items, based on format, and are detailed below. Use on the Internet or any web site is prohibited without prior written permission from MDAH director and copyright holder(s), if applicable.

Permission is granted for use for a period of no more than ten (10) years; rights are not granted in perpetuity. MDAH, and copyright holders, must approve superimposition of text, cropping, bleeding, addition of color, or other alterations at the time the request for duplication is approved.

2. Use Fee

MDAH assess a fee for the use of reproduced items from the collections of the Archives and Library Division. Use fees and use fee categories are set by MDAH Board of Trustees and are subject to change without notice.

a. MDAH to determine fee category of use

MDAH staff will determine the category of proposed use. Proof of Internal Revenue Service filing category is required to qualify for the not-for-profit fee rate. 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.

b. One-time use only

Use fees are for a one-time, non-exclusive use of the image(s) in one product distributed in one format/medium in one language and are in addition to any production, handling, and mailing costs. Any subsequent use constitutes a reuse and must be approved by MDAH following the procedures set forth in this policy. The reproduced material may not be used in other media or formats without the express, written permission of MDAH.

c. Cost and Fee Schedule and use fee categories

A current copy of the Cost and Fee Schedule and use fee categories is maintained at MDAH.

d. Exemptions

Legal residents of Mississippi and organizations chartered in Mississippi will not be charged use fees. Mississippi government agencies will not be charged use fees unless the intended use is related to a product that will be distributed for a price.

e. Indemnification

Each user of reproduced MDAH material will agree to indemnify MDAH for any liabilities incurred by MDAH as a result of misuse by the user.

f. Product copies

MDAH may request two complimentary copies of the final product.

II. Format-Specific Policies

A. Photographs

1. Alterations

MDAH prints and/or scans the image "as is" without alterations. If alterations or enhancements are desired, a request may be submitted for a copy negative or scan. The patron can then, with the permission of copyright holder(s), if applicable, have the image printed or scanned to specific requirements by a private vendor.

2. Exceptions

See section III for policies concerning the Eudora Welty Collection.

B. Motion Pictures

1. Reproduction of Motion Picture Holdings in Film or Video Format

a. Written request required

Requests for reference and production copies must be made in writing and include subject content, project information, intended use(s), contact information, and express delivery number (if third party shipping is desired).

b. Additional charges

If delivery to an outside vendor is required, the cost of transporting the original material will be billed as a production cost. Such transportation costs include, but are not limited to, public transportation, car rental, food, lodging, insurance, and salary expenses.

c. Executed use agreement required

Prior to delivery of the copied product, a use agreement tendered by MDAH covering the product must be executed by the patron and MDAH.

d. Reference view tape includes time code

A reference viewing tape is provided in VHS format. Each reference tape will include time code. The reference tape (with time code) must be returned before a production tape can be provided.

e. Time-code citation required for production tape

Time-code citations must be provided as part of a request for a production tape.

f. Return of reproductions required

Any duplicates received by a patron and any subsequent authorized reproductions must be returned to MDAH upon or before a date specified by MDAH. A per-day late fee will be charged for material returned after the agreed-upon date.

i. Exemption

MDAH director may grant a written exemption to this provision to allow an individual to retain permanently a reference tape for personal home use.

ii. Deposit fee

MDAH may charge individuals and entities exempt from the payment of use fees a deposit for each audiotape and production videotape, unless permanent retention of the reproduction has been authorized in writing by MDAH director. This deposit is refundable upon the return of the duplicate to MDAH.

g. Use fees paid on all production tape footage

The use fee total is calculated on the footage ordered in the production tape, regardless of how much of the footage is used in the final product.

h. Discounts

Requests for motion picture production footage in excess of 300 seconds will be eligible to a 10% discount on any use fees charged.

C. Sound Recordings

1. Reproduction in Analog Tape Format

a. Written request required

Requests for reproductions must be made in writing. Include subject content, project information, intended use(s), contact information, and express delivery number (if third party shipping is desired).

b. Executed use agreement required

Prior to delivery of the reproduction, a use agreement tendered by MDAH must be executed by the patron and MDAH.

c. Return of reproductions required

Any duplicates received by a patron and any subsequent authorized reproductions must be returned to MDAH upon or before a date specified by MDAH. A per-day late fee will be charged for material returned after the agreed-upon date.

i. Exemption

MDAH director may grant a written exemption to this provision to allow an individual to retain permanently the reproduction for personal home use.

2. Reproduction in Other Formats

MDAH does not currently possess the ability to reproduce audio in all formats, and the use of an outside vendor may be required. Reproduction may require the creation of an archival master copy. The patron must assume the costs for the production of this master copy, which is retained by MDAH.

D. Digital Imaging

The digital imaging policy of MDAH is supplementary to and subject to all other image reproduction policies established for the various collections held by MDAH. It is also subject to 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.

1. Restrictions

MDAH will only produce digital images from items held in the public domain or from copyrighted items for which permission to digitize has been obtained from the copyright owner(s). It is the patron's responsibility to contact the copyright owner(s) to request that the copyright owner(s) send MDAH written permission to digitize and distribute the copyrighted item.

a. Limitations

MDAH may limit the number of digital images in any one order and may apply additional charges for material that is unusually difficult to scan. Requests for imaging will be denied if the item is too large or too fragile to be scanned with available hardware.

b. Self-service digital imaging not permitted

Patrons are not permitted to image items from any of MDAH collections with a personal scanner, digital camera, or other portable imaging device.

2. Alterations

MDAH standard for digital imaging is to scan from the original item "as is," with two exceptions: (1) negative images are converted to positives, and (2) 35mm slides and negatives are scanned proportional to their original dimensions to a roughly 5"x7" size. MDAH does not retouch images. Custom images (resized, cropped, or saved as a different file type or on different storage medium) may be ordered, at the discretion of the copyright owner(s) and collection curator, with reimbursement of higher production costs. The patron must obtain specific permission from the copyright owner to crop an image before MDAH will produce the cropped image.

III. Eudora Welty Collection

The Eudora Welty Collection consists of manuscripts, photographs, printed works, and other materials presented to MDAH by Eudora Welty during her lifetime and by her heirs, incorporated as Eudora Welty, LLC, after her death. Some materials in the Eudora Welty Collection were created by others; reproduction and copyright issues related to such materials are addressed above in Sections I and II. The following section addresses issues for only those materials created by Eudora Welty.

A. Copyright

All copyright interest is held and protected by Eudora Welty, LLC.

B. Reproduction

MDAH must receive permission from Eudora Welty, LLC, in order to provide copies of any item(s) for which it holds copyright.

1. Photocopies of Photographs and Papers

Eudora Welty, LLC, has authorized the Archives and Library Division to permit the production of photocopies of unrestricted photographs and papers for “fair use” in private study, scholarship, and research. MDAH staff will handle all photocopying. Copies may not be further reproduced.

2. Photographic Reproductions of Photographs and Papers

a. Written request required

The patron must submit a written request to obtain photographic and electronic copies from MDAH. Upon receipt, MDAH forwards the request to Eudora Welty, LLC, for approval. After approval is received from Eudora Welty, LLC, an order for reproduction may be placed with MDAH.

b. Alterations and limitations

MDAH standard for producing photographic copies is to print from the negative as is. Any extraordinary processing specifications must be included in the approval from Eudora Welty, LLC.

MDAH reserves the right to limit the number of photographic copies and to charge additional fees for material involving unusual difficulty in copying.

3. Credit

Credit will be given as determined by Eudora Welty, LLC.