**What is current copyright and use policy (and practice) at your institution?**

As a research services librarian, I help field patron requests for reproductions and permissions. I've been in this position since 2006, so I was present for the evolution of our policies over the past decade. I'm speaking from my perspective as a member of the research services department, and also from a philosophy of removing barriers to scholarship and other public uses of archival materials, including financial burdens like usage fees.

The Rubenstein Library’s public website on [Citations, Permissions, and Copyright](#) addresses the questions: “When do I need to seek permission from the Rubenstein Library?” And “When do I need to seek permission from the copyright holder?” This text was developed as part of a website overhaul to become more clear and user-friendly, replacing more legalistic and dense text.

We direct people who wish to use images and other materials from our collections for publications, exhibits, video productions, websites, or performances to our online permissions request form, and indicate that they may need to “obtain a contract for permission for non-exclusive rights from the library.” This page also mentions that we may charge for commercial use of materials.

If the materials are not in the public domain and the Rubenstein Library is not the copyright holder, we direct researchers to request permission from the copyright holder. We link to the Cornell University’s Copyright Information Center’s website that has a chart outlining the guidelines for assessing public domain in the U.S. We also state that it is the researcher’s responsibility to make the determination about copyright status and to pursue permission. Although the website also states that we are unable to assist in this process, there are some materials for which we are able to connect the researcher with the rights holder.

For example, Alix Kates Shulman
Our page does not explicitly mention or address fair use, however, we do have Scholarly Communications experts on staff at Duke Libraries that we often consult about fair use when questions arise.

The question of whether we require permission to publish materials can be fuzzy. We are often working with authors or publishers who want to make sure they have clarity and documentation around permissions when they publish journal articles and books. We make it clear on the website and in direct communications that the library is not the copyright holder for most materials. There are a few collections for which the Rubenstein Library does hold copyright, so we do manage permissions in that case.

The fees we charge are normally the costs for creating high resolution scans and image files or digitization of audio and video. For some commercial publications, we do charge a commercial use fee of $100. On the permission request form, it states: "Our standard publication fee is $100 per image/file, which may be waived for non-commercial uses at the discretion of the Library."

How did your policy come to be was one of the questions we were asked to address.

The evidence I found through looking back through emails included an email dated August 2014 included a Policy for Commercial Use Charges for Rubenstein Collections with the following text:

The Rubenstein Library is committed to fostering the intellectual and creative use of its collections. In most cases, the Rubenstein Library will not charge so-called “use fees” for the publication (in whatever form) of images, text, moving image, sound, or other media from its collections.

The Rubenstein Library will charge commercial use fees only in those instances where Duke University controls the copyright for the requested material (e.g. William Gedney Photographs).

Staff should follow these basic guidelines for the following types of material:

**Clearly public domain**
Commercial use: No charge
Non-commercial use: No charge

**Items where Duke is copyright holder (Gamble, Stryker, Gedney, Maxwell, etc.)**
Commercial use: Can charge; standard fee is $100 per image
Non-commercial use: No charge

**Items where a living creator/executor controls copyright and/or is monetizing on use**

Commercial use: No charge
Non-commercial use: No charge

**Items where the rights are unclear/ambiguous because of unclear contracts (ex. BTV)**

Commercial use: No charge
Non-commercial use: No charge

Before this time, assessing fees was more at the discretion of the different research services staff and research centers.

This policy was developed to ensure consistency and equity for the users of our collections. Over the past two years, the Rubenstein Library has been developing more explicit policy and values statements around inclusive and equitable access to collections materials, including reproductions and publications. Our statistics have shown a decline in creation of permission to publish forms. One possible interpretation of this shift is that our clarified policies online and internally have reduced the need for this mediation of rights and permissions.
**Additional information not included in talk:**

**From the Registration Page:**

Copyright
Collection materials may be subject to laws governing copyright (Title 17, U.S. Code). Researchers acknowledge that they are solely responsible for determining the copyright status of the materials they use and for obtaining any necessary permissions from the copyright owner. In most cases the libraries do not hold or manage rights related to the materials and physical use does not constitute a grant of permissions. Permission of the copyright holder may be required for use, publication (including posting materials on publicly accessible websites), or reproduction.

The Libraries reserve the right to review materials before a copy is made (including copies made using a camera) and the right to deny a copying request.

Disclaimer
The University of North Carolina at Chapel Hill and Duke University assume no responsibility for infringement of literary property rights and copyright or for liability to any person for defamation or invasion of privacy that results from a researcher's use of collections.

Researchers agree to indemnify and hold harmless the University of North Carolina at Chapel Hill and Duke University and their officers, employees, and agents from and against all suits, claims, actions, and expenses arising out of use of collections held by the libraries.

**From the Permission to Publish contract**

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The recipient of this permission agrees to indemnify and hold harmless Duke University, its officers, employees and agents from and against all suits, claims, actions and expenses arising out of the use of reproductions provided by the Rubenstein Rare Book and Manuscript Library. In granting permission to publish this material, the Rubenstein Rare Book & Manuscript Library in no way surrenders its own right to publish the material or the right to grant others permission to do so.

Language from Reproduction Form

NOTICE
WARNING CONCERNING COPYRIGHT RESTRICTIONS

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 reproduction order if, in its judgment, fulfillment of the order would involve violation of copyright law.

TERMS OF AGREEMENT

1. Reproductions of Rubenstein Library material will be made only for use in the research, teaching, or private study of the applicant. They may not be made for or donated to other repositories by the signer of this contract. They may not be further reproduced except when publication permission has been granted.

2. The applicant agrees to give proper acknowledgment to the Rubenstein Library, Duke University, and further agrees to secure permission in advance from the Library to publish or broadcast any item, in whole or in part, from its collections. This permission may be granted in so far and only in so far as the rights of the Library are concerned.
The Library claims only physical ownership of most material. Persons wishing to broadcast or publish this material must assume all responsibility for identifying and satisfying any claimants of literary property rights or copyrights.

3. The applicant agrees to pay promptly, upon receipt of a bill or invoice, the full cost of reproduction and mailing. The Library reserves the right to require payment in advance.

4. The applicant agrees to indemnify and hold harmless Duke University, its officers, employees and agents from and against all suits, claims, actions and expenses arising out of the use of reproductions provided by the Rubenstein Library.