

## Copyright Guidelines for Use of Archives Photographs

### ATTRIBUTION/CREDIT

All digital images must provide attribution to Xavier University Archives and the name of the photographer or photography studio, when known, in the form of a citation or reference. The citation or reference usually includes the information listed below. Check standard citation style manuals (APA, MLA, Chicago, etc.) for additional formatting information.

1. Name of photographer/photography studio (this may be unknown)
2. Date the image was created (this may be unknown or estimated)
3. Title of the image
4. Name of the collection (XU Digital Photographs)
5. City and abbreviated state of the archives (Cincinnati, OH)
6. Name of the archives (Xavier University Archives)
7. Date the image was retrieved/accessed
8. Internet address (URL) for the digital collection

### FAIR USE

**Definition:** Fair use is a legal principle that provides certain limitations on the exclusive rights of copyright holders. The purpose of these guidelines is to provide guidance on the application of fair use principles by educational institutions, educators, scholars, and students who wish to use copyrighted visual images under fair use rather than by seeking authorization from the copyright owners for non-commercial educational purposes. These guidelines apply to fair use only in the context of copyright.

#### *Examples:*

- Use digital images in an academic course assignment such as a term paper or thesis, or in fulfillment of degree requirements.
- Publicly display their academic work incorporating digital images in courses for which they are registered and during formal critiques at a nonprofit educational institution.
- Retain their academic work in their personal portfolios for later uses such as graduate school and employment applications.

**Limitations:** Section 107 of the Copyright Act sets forth the four fair use factors which should be assessed in each instance, based on the particular facts of a given case, to determine whether a use is a fair use (see this [fair use checklist](#)). The limitations and conditions set forth in these guidelines do not apply to works in the public domain - such as U.S. government works or works on which copyright has expired for which there are no copyright restrictions - or to works for which the individual or institution has obtained permission for the particular use. Also, license agreements may govern the uses of some works and users should refer to the applicable license terms for guidance.

## **BEYOND FAIR USE**

**Definition:** Any commercial use of the work, where the user profits from the use, is considered beyond fair use. In addition, beyond fair use is implicated when a large portion of the work is used or when there is repeated or long-term use of the work.

### **Examples:**

- Use of the digital image in a published book or article
- Continuous or long-term educational use of the digital image
- Any for-profit use of the image

**Requirements:** If you seek to use copyrighted material that goes beyond fair use, you must obtain written permission from the copyright owner to copy the work. If you are unsure who the copyright owner is, contact the Library at [askus@xavier.edu](mailto:askus@xavier.edu) or (513) 745-4821. In many cases the copyright owner is unknown and permission cannot be obtained. In this case use is limited to fair use only.

**Seeking Permission from the Copyright Holder:** The fastest and easiest way of requesting permission is to use email. If sending a letter by regular mail, enclose a self-addressed, stamped envelope and include lines at the bottom of the letter for the copyright owner to date, sign, and grant/deny permission. You should also mail two copies of the letter so that the copyright owner can keep one and return a signed copy to you in the self-addressed, stamped envelope. When seeking copyright permission include the following details in your request: title, author, edition, date, material to be duplicated, number of copies, distribution, purpose, and type of reprint. It is important to maintain permanent records of permissions sought, denied, or granted. You should keep permission letters forever to defend against claims of infringement. For more information and samples of permission letters, see the [U.S. Copyright Office](#).

## **CEASE AND DESIST STATEMENT**

Xavier University Library is eager to hear from any copyright owners who are not properly identified so that appropriate information may be provided in the future. It is our policy to respond to notices of alleged infringement and comply with the [17 United States Code 512 \(c\) \(2\) \(Digital Millennium Copyright Act of 1998\)](#) in an appropriate manner under such Act and other applicable intellectual property laws, including the removal or disabling of access to material claimed to be subject of infringing activity. Direct any notices of infringement to the [Xavier University Copyright Agent](#).