

# Restriction Policy

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**Approved February 25, 2016**

The L. Tom Perry Special Collections is committed to making research materials available to students, faculty, and guests. We believe that a vital part of the education of undergraduate and graduate students is the ability to access, use and engage in the scholarly synthesis of original historical materials. We strongly encourage use of our collections and strive to offer access to them. To facilitate access, a publicly accessible catalog record or finding aid will be created for all materials in our holdings.

This is in accordance with the standard professional policy on access adopted jointly by the Society of American Archivists and the American Library Association (<http://www2.archivists.org/statements/alasaa-joint-statement-on-access-to-research-materials-in-archives-and-special-collection>). However, we feel that it is the responsibility of the Perry Special Collections to balance the researcher's need for access with the needs for confidentiality of persons and institutions whose activities are documented by those materials. This enables us to avoid putting the Perry Special Collections or Brigham Young University in legal jeopardy, and allows us to fulfill our important mission of making original historical resources available to students, faculty and guests. Consequently, the use of some materials in the Perry Special Collections, especially records of a corporate nature or those of more recent date, are subject to restriction.

There are two types of restrictions used by the Perry Special Collections—specific restrictions and general restrictions. Specific restrictions apply to a limited body of material and are for a set length of time. Specific restrictions may be established based on:

- the physical condition (fragile, etc.) of material;
- the value of material; or
- donor requests as documented in a deed of gift.

Information about the nature and term of specific restrictions will be found in the case file (in-house file kept for each collection) that covers the body of materials to which the specific restriction applies as well as the general library online public catalog record for the material.

General restrictions are restrictions that apply to more than one group of materials. They are applicable to particular kinds of information or designated classes of materials, wherever they may be found among our holdings. The Special Collections Coordinating Committee is responsible for the establishment and monitoring of general access and use restrictions placed on its materials. The Special Collections Coordinating Committee will review reasonable requests to access restricted materials.

The following is a list of the general restrictions that are applied to the materials held by the Perry Special Collections. These general restrictions are established pursuant to Brigham Young University and the Special Collections Coordinating Committee.

1. Materials containing information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy of a living person.
  - a. *Definition.* Materials containing information about a living person which reveal details of a highly personal nature which, if released, would constitute a clearly unwarranted invasion of privacy, including but not limited to information about the physical or mental health or the medical or psychiatric care or treatment of the individual, and which personal information is not known to have been previously made public.
  - b. *Restrictions.* Such records may be disclosed only:
    - i. To authorized personnel of the Perry Special Collections in the performance of normal archival work on such materials;
    - ii. To the named individual or his authorized representatives, provided that access will not be granted if the records are restricted pursuant to any other general or specific restrictions;
    - iii. To those officers and employees of Brigham Young University who have a need for the record in the performance of their official duties; or
    - iv. To the Donor of the materials or to the Donor's Designee, pursuant to the provisions of the gift.
  
2. Materials containing confidential business and financial information.
  - a. *Definition.* Materials which contain trade secrets and commercial or financial information which was obtained with an expressed or implied understanding of confidentiality.
  - b. *Restrictions.* Such information may be disclosed only:
    - i. If the information consists of statistical totals or summaries and does not disclose the source of the information or identify individual parties;
    - ii. If the party with whom the confidential relationship has been established agrees to its release;
    - iii. If, in the judgment of the archivist, the passage of time is such that release of the information would not result in substantial competitive harm to the parties identified in the materials;
    - iv. To authorized personnel of the Perry Special Collections in the performance of normal archival work on such materials;
    - v. To those officers and employees of Brigham Young University who have a need for the record in the performance of their official duties; or
    - v. To the Donor of the materials or to the Donor's Designee, pursuant to the provisions of the gift.
  
3. Materials containing confidential employment, personnel, or personal information.
  - a. *Definition.* Materials containing information on employment, appointment, performance evaluation, disciplinary action, and similar personal matters, which by their nature might create a reasonable expectation of confidentiality and privacy.
  - b. *Restrictions.* Such information may be disclosed only:
    - i. If the information is a summary statement of service;
    - ii. If the information does not identify particular individuals;
    - iii. If the individual or his legal representative agrees to its release;

- iv. If the individual is deceased or the passage of time is such that the individual may be presumed to be deceased;
  - v. To authorized personnel of the Perry Special Collections in the performance of normal archival work on such materials;
  - vi. To those officers and employees of Brigham Young University who have a need for the record in the performance of their official duties; or
  - vi. To the Donor of the materials or to the Donor's Designee, pursuant to the provisions of the gift.
4. Materials relating to investigations.
- a. *Definition.* Materials containing information related to or compiled during an investigation of individuals or organizations.
  - b. *Restrictions.* Such information may be disclosed only:
    - i. If the release of the information does not interfere with ongoing litigation or similar proceedings, and
    - ii. If confidential sources and information are not revealed, and
    - iii. If confidential investigative techniques are not described, and
    - iv. If the release of the information would not endanger the safety of law enforcement personnel; or
    - v. If the passage of time is such that:
      - (a) the safety of persons is not endangered, and
      - (b) the public interest in disclosure outweighs the continued need for confidentiality; or
    - vi. To authorized personnel of the Perry Special Collections in the performance of normal archival work on such materials;
    - vii. To those officers and employees of Brigham Young University who have a need for the record in the performance of their official duties; or
    - vii. To the Donor of the materials or to the Donor's Designee, pursuant to the provisions of the gift.
5. Materials restricted by statute, regulation, executive order, or court order.
- a. *Definition.* Materials containing information, the access to which is restricted by statute, regulation, executive order, or court order.
  - b. *Restrictions.* Such information may be disclosed only:
    - i. To authorized personnel of the Perry Special Collections in the performance of normal archival work on such materials; or
    - ii. In accordance with the provisions of such statute, regulation, executive order, or court order.
6. Materials containing information regarding confidential decision-making.
- a. *Definition.* Materials which contain information that was given in confidence in the period before a determination was made, including but not limited to advice given by attorneys, public accountants, and staff advisors.
  - b. *Restrictions.* Such information may be disclosed only:
    - i. To authorized personnel of the Perry Special Collections in the performance of normal archival work on such materials;
    - ii. If the decision has been made public and the nature of the determination leading to the final decision is known;

- iii. If the passage of time is such that release of the information would not impede current decision-making; or
  - iv. If, in the judgment of the archivist, the public interest in disclosure outweighs the continued need for confidentiality.
7. Materials containing sacred content.
- a. *Definition.* Materials which provide specific information about rites, ceremonies, or other sacred matters that have not been officially approved for release to the public, including privately produced records, published items, art, and artifacts.
  - b. *Restrictions.* Such information may be disclosed only:
    - i. If the organization or community (e.g., church, tribe) has granted permission for its release;
    - ii. To individuals who have been initiated into the religious rite described;
    - iii. To those officers and employees of Brigham Young University who have a need for the record in the performance of their official duties; or
    - iv. To the Donor of the materials or to the Donor's Designee, pursuant to the provisions of the gift.

Information about nature and term of restrictions will be found in the case file (in-house file kept for each collection) that covers the body of materials to which the general restriction applies as well as the general library online public catalog record for the material.

The Perry Special Collections will make a good faith effort to identify and restrict sensitive information in the classes listed above. However, use of archival materials is the responsibility of the researcher, who will be solely responsible for breach of confidentiality, publication of private facts, libel, copyright infringement, or other legal actions stemming from their disclosure of information found in the Perry Special Collections unless granted specific written permission from the university and/or other parties involved.

(As adapted from Gary M. Peterson & Trudy H. Peterson's "Model General Restriction Statement" in their *Archives & Manuscripts: Law* (Chicago: Society of American Archivists 1985, pp. 62-64)