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## ***Deaccessioning done right***

*by Jennifer Holt, Curator, Will Rogers Memorial Museums, Claremore*

**D**eaccessioning is the process used to remove permanently an object from a museum's collection or to document the reasons for an involuntary removal of an object from such a collection. The deaccessioning process is used only when accessioned objects are at issue. Deaccessioning should not be viewed as a routine way to manage indiscriminate collecting. The first rule is careful, focused collecting.

There are a number of reasons why a museum may be prompted to consider deaccessioning. The condition of the object may be so bad that it threatens other objects in the collection. A collection may contain unnecessary duplicates. These dupes take resources that could be used for new objects. Or an object might be inappropriate for a collection, completely unrelated to the museum's mission and collecting focus.

A museum must first determine whether it can legally engage in the practice of deaccessioning. Does the museum own clear title to the object? Are there any laws that prevent the institution from deaccessioning the object? If a museum has determined that it has the power to deaccession it should establish in advance just how it will proceed as individual cases arise. This involves establishing deaccession policy and procedures. Museums should always be mindful of legal duties of care, loyalty and obedience; ethical principles that go beyond what the law may require.

When setting policy and procedures, a museum should consider both legal and ethical ramifications of the proposed action. Public perception is very important when deaccessioning is at issue. Clear delegations of authority in deaccessioning procedures encourage prudent and timely decision-making. Good record-keeping should be mandatory in any deaccession process; document, document, document. Always be mindful of the need to be transparent and accountable. Be aware of freedom of information laws. Once lost, public trust is hard to regain.

The level of authority for deaccession decision-making should be at least as high, or higher than for accessioning. Consider donor notification. The museum needs to establish legal title to the object. You must gather sufficient facts to make an informed decision (duty of care). Any deaccessioning policy should cover disposal options and list their order of preference. If selling items, public auctions should be consid-

ered; private sales can be problematic due to transparency and accountability issues. The use of all proceeds should comply with the professional ethics and the law.

Procedures should be developed along with policies. Deaccession check lists should follow policy parameters. The registrar/collection manager/curator should oversee the process and maintain permanent records of all deaccessions.

Problems may arise with the deaccession of an object. The title to the object may be incomplete. Restrictions may have been placed on deaccessioning the object when donated. Other issues that may appear include privacy/publicity rights, copyrights, unclear title (theft, illegal export, NAGPRA, federal/state laws, "found in collections" (FIC), "old loans," or tax issues.

Two examples of donor restrictions follow: "I give my prized gem collection to Museum X and it is my wish that the gems will be publicly displayed." vs "I give my prized gem collection to Museum X provided that the Museum agrees to permanently display my entire collection together as a unit in a special exhibition hall bearing my name at Museum X and dedicated by Museum X for this sole purpose."

When dealing with donor restrictions, the museum needs to examine the nature of the obligation. Is it binding? Is the language mandatory or precatory? Is it possible to reasonably interpret the restrictions? The first restriction stated above gives a museum much more wiggle room than the second. In some cases a declaratory judgment action in court to lift the restriction may be necessary. This may be possible if the donor's purpose is impossible, impractical or illegal. An alternate course of action may be pursued if the donor has a general charitable intent and the alternate course is in keeping with this general intent. A museum may request to change the prescribed method by which an object is governed if that method is thwarting the accomplishment of the original purpose of the donation. Museums should speak with legal counsel regarding individual cases. Parties that may enforce restrictions are the attorney general, persons with "special interest," or donors/heirs if there is a "reversionary clause."

Selected cases that may be studied for guidance include Barcroft Art Collection (posses

sion), Morgan Guaranty (permanent exhibition), Taussig (no new restrictions not in original conveyance), Maryland Institute College of Art (disposal restrictions must be express and clear), and the Fisk University case (failure to appraise court of sale restriction).

The term “deaccession” should be defined to include both the process of deciding whether to remove an object as well as the process of how that object should be disposed of. Will the object be destroyed, given to another collection, or sold? The question of how proceeds from deaccession sales should be used has plagued the museum community.

**Use of Proceeds**

Collecting disciplines can vary in their approaches to use of proceeds from deaccession sales. In the last decade the codes of ethics of major museum professional organizations have addressed the issue of use of proceeds from deaccession sale.

**Ethical Codes Regarding Use of Deaccession Proceeds**

AAM Code of Ethics for Museums (2000)

“disposal of collections through sale, trade, or research activities is solely for the advancement of the museum’s mission. Proceeds from the sale of nonliving collections are to be used consistent with the established standards of the museum’s discipline, but in no event shall they be used for anything other than acquisition or direct care of collections.”

[www.aam-us.org/museumresources/ethics/index.cfm](http://www.aam-us.org/museumresources/ethics/index.cfm)

AAMD Code of Ethics (2001)

“A museum director shall not dispose of accessioned works of art in order to provide funds for purposes other than acquisitions of works of art for the collection (in accordance with Paragraph 25, p. xx).”

[www.aamd.org/about/#Code](http://www.aamd.org/about/#Code)

AASLH (2002)

“C. Collections shall not be capitalized or treated as financial assets. D. Collections shall not be deaccessioned or disposed of in order to provide financial support for institutional operations, facilities maintenance or any reason other than preservation or acquisition of collections, as defined by institutional policy.”

[www.aaslh.org/ethics.htm](http://www.aaslh.org/ethics.htm)

The 800 pound gorilla - FASB

FASB: Financial Accounting Standards Board

“An entity need not recognize contributions of works of art, historical treasures, and similar assets if the donated items are added to collections that meet all of the following conditions: a. Are held for public exhibition, education, or research in furtherance of public service rather than financial gain, b. Are protected, kept unencumbered, cared for, and preserved, c. Are subject to an organizational policy that requires the proceeds from sales of collection items to be used to acquire other items for collections.”

[www.fasb.org/pdf/aop\\_FAS116.pdf](http://www.fasb.org/pdf/aop_FAS116.pdf)

“Museums” in non-museum parent organizations such as university galleries may have different requirements. Should museum standards and procedures apply? What

obligations do the Boards of Trustees of the parent organization have regarding the collections? All of these questions need to be addressed before a deaccessioning project can begin.

**Further Resources**

AAM: Collections Exchange Center

[www.aam-us.org/museumresources/cec/index.cfm](http://www.aam-us.org/museumresources/cec/index.cfm)

AAMD: Art Museums and the Practice of Deaccessioning

[www.aamd.org/papers/documents/FINALPositionPaperDeaccessioning.doc](http://www.aamd.org/papers/documents/FINALPositionPaperDeaccessioning.doc)

AASLH: Ethics Position Paper 1: Capitalization of Collections

[www.aaslh.org/images/Pos%20Paper%201%20on%20Capitalization%20Coll.pdf](http://www.aaslh.org/images/Pos%20Paper%201%20on%20Capitalization%20Coll.pdf)

AASLH: Ethics Position Paper 2: When a History Museum Closes

[www.aaslh.org/documents/EthicsPositionPaper2-WhenaHistoryMuseumCloses.pdf](http://www.aaslh.org/documents/EthicsPositionPaper2-WhenaHistoryMuseumCloses.pdf)

National Park Service: “Clearinghouse”

[www.cr.nps.gov/museum/deaccess/deaccess.htm](http://www.cr.nps.gov/museum/deaccess/deaccess.htm)

(This page provides a link to the list of objects deaccessioned and available for transfer.)

National Park Service, Museum Handbook Part II, Chapter 6, “Deaccessioning”

[www.cr.nps.gov/museum/publications/MHII/mh2ch6.pdf](http://www.cr.nps.gov/museum/publications/MHII/mh2ch6.pdf)

Buck, Rebecca and Gilmore, Jean (eds.). *The New Museum Registration Methods*, pp. 167-176; and pp. 311-319.

Malaro, Marie C. *A Legal Primer on Managing Museum Collections*, (2nd 2d. 1998) Chapter V, pp. 216-238.

Tompkins, William, “Should Museums Capitalize Their Collections?” *Museum News* (Jan/Feb 2004).

Weil, Stephen E., ed. *A Deaccession Reader*, the following chapters are especially useful:

Miller, “‘Guilt-Free’ Deaccessioning,” pp. 93-97.

Rewald, “Should Hoving Be De-accessioned?” pp. 23-37.

Weil, “The Deaccession Cookie Jar,” pp. 87-91.

Metropolitan Museum of Art, “Procedures for Deaccessioning and Disposal of Works of Art,” pp. 197-202. (The MET adopted this policy after experiencing very bad press regarding its handling of “the deGroot affair.” See footnote 196 in Chapter IV of *Legal Primer on Managing Museum Collections*.)

**Sample Forms online**

Sindecuse Museum of Dentistry Deaccessioning Form

[http://sitemaker.umich.edu/colcom.forms/files/sindecuse\\_deaccession.pdf](http://sitemaker.umich.edu/colcom.forms/files/sindecuse_deaccession.pdf)

University of Michigan Museum of Anthropology Deaccession Checklist

[http://sitemaker.umich.edu/colcom.forms/files/deaccession\\_checklist.doc](http://sitemaker.umich.edu/colcom.forms/files/deaccession_checklist.doc)