

**COLLECTIONS MANAGEMENT
POLICY**

THE MUSEUM OF MODERN ART

Approved by the Board of Trustees

April 20, 2020

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MISSION STATEMENT

Founded in 1929 as an educational institution, The Museum of Modern Art is dedicated to being the foremost museum of modern art in the world.

Through the leadership of its Trustees and staff, the Museum manifests this commitment by establishing, preserving, and documenting a Collection of the highest order that reflects the vitality, complexity, and unfolding patterns of modern and contemporary art; by presenting exhibitions and educational programs of unparalleled significance; by sustaining a library, archives, and conservation laboratory that are recognized as international centers of research; and by supporting scholarship and publications of preeminent intellectual merit.

Central to the Museum's mission is the encouragement of an ever-deeper understanding and enjoyment of modern and contemporary art by the diverse local, national, and international audiences that it serves.

To achieve its goals The Museum of Modern Art recognizes:

- That modern and contemporary art originated in the exploration of the ideals and interests generated in the new artistic traditions that began in the late nineteenth century and continue today.
- That modern and contemporary art transcend national boundaries and involve all forms of visual expression, including painting and sculpture, drawings, prints and illustrated books, photography, architecture and design, film, video, digital, and performance as well as new forms yet to be developed or understood, that reflect and explore the artistic issues of the era.
- That these forms of visual expression are an open-ended series of arguments and counter arguments that can be explored through exhibitions and installations and that are reflected in the Museum's varied Collection.
- That it is essential to affirm the importance of contemporary art and artists if the Museum is to honor the ideals with which it was founded and to remain vital and engaged with the present.
- That this commitment to contemporary art enlivens and informs our evolving understanding of the traditions of modern art.
- That to remain at the forefront of its field, the Museum must have an outstanding professional staff and must periodically reevaluate itself, responding to new ideas and initiatives with insight, imagination, and intelligence. This process of reevaluation is mandated by the Museum's tradition which encourages openness and a willingness to evolve and change.

In sum, The Museum of Modern Art seeks to create a dialogue between the established and the experimental, the past and the present, in an environment that is responsive to the issues of modern and contemporary art, while being accessible to a public that ranges from scholars to young children. The ultimate purpose of the Museum declared at its founding was to acquire the best modern works of art. While quality remains the primary criterion, the Museum acknowledges and pursues a broader educational purpose: to build and preserve a collection that is more than an assemblage of masterworks, one that provides a uniquely comprehensive survey of the unfolding modern movement in all visual media.

COLLECTION COMMITTEES

The Board of Trustees will appoint a committee on the Collection for each curatorial department. These committees must approve all recommendations of works to be accessioned and deaccessioned from the Collection.

ACQUISITIONS

Principles

All works proposed for acquisition to the Collection should be relevant to the Museum's stated mission and should be in, or capable of being returned to, an acceptable state of conservation, unless the physical condition is integral to the meaning of the work. The Museum must be able to house and care for the proposed acquisition according to generally accepted museum practices.

Only works for which legal title can be firmly established should be considered for acquisition. (See "Provenance").

If a work is not appropriate for acquisition to the Collection, it may be acquired for a study collection. In such cases, the donor should be notified that the work will be acquired for the study collection.

As a general rule, the Museum does not accept gifts that carry restrictions. The same criteria should be used for accepting gifts as for making purchases.

Procedures

Acquisitions to the Collection may be made by purchase, gift, fractional interest gift, bequest, or exchange. All works proposed for acquisition, including works proposed as promised gifts for future acquisition, must first be recommended by the curatorial staff and approved by the Director. The Chief Curators may decide, in consultation with the Director, which gifts offered to the Museum should be recommended for acceptance and which should be rejected. Before a work is acquired by a gift, the donor must be given a copy of this Collections Management Policy and be made aware of New York State's abandoned property law.

Works recommended for acquisition, whether by gift or purchase, must be approved by the Trustee committee in charge of the relevant area of the Collection before they are accessioned as part of the Collection. The curators presenting works to the Trustee committee should outline the reasons why the proposed work is desirable for the Museum, explaining the work's historical importance, its relation to other works by the same or related artists already in the Collection, and its particular contribution to the Museum's Collection and mission in the broadest sense. For acquisitions that include extraordinary costs to bring the work into the Collection, the

presentation should detail those costs, including, by way of example and not limitation, outside storage costs, immediate conservation, cataloging, imaging, installation or fabrication or activation expenses for components of the work, and similar ancillary costs. Whenever possible, the works to be considered should be available to the Trustee Committee for viewing. A majority vote of the committee members present and constituting a quorum is required to approve acquisition of any work.

When timing or other constraints make it impossible or impractical to present a work to the applicable Trustee Acquisition Committee prior to acquisition, the Chief Curator of each Department has the authority to acquire the work, provided:

- It is valued at \$10,000 or less (\$25,000 or less for the Department of Painting and Sculpture) and the Director approves the purchase;
- It is valued at \$20,000 or less (\$50,000 or less for the Department of Painting and Sculpture) and both the director and the Chair of the applicable Trustee Acquisition Committee approve the purchase.

In addition, the Director of the Museum is authorized by the Trustees to approve acquisitions in the absence of a committee meeting when holding such a meeting is not feasible, such as at the end of the calendar year.

All works acquired in the absence of a Committee meeting must be reported at the next meeting of the applicable Trustee Acquisition Committee.

Promised gifts should be presented to the appropriate committee for approval for acquisition at the time that the promise to give the work is made. Although the work will not be accessioned until the gift is actually completed, the promised work will be assigned a "PG" number upon approval by the Office of the General Counsel of the legally binding promissory agreement and as directed by the Office of the Registrar.

Fractional gifts are accepted only if the remainder of the work is a promised gift ("Fractional and Promised Gifts") accompanied by a legally binding promissory document approved by the Office of the General Counsel. Such promissory agreements should contain provisions stating the requirement that the Museum have possession of the work as required by law and in keeping with the Museum's mission (See "*Possession of Fractionally Owned Works*" on page 11 for procedures pertaining to possession of Fractional and Promised Gifts). Fractional and Promised Gifts must be presented to the appropriate Trustee committee at the time of the initial gift. The accession number should be assigned upon receipt of the first deed of gift, even though the Museum's share may be small.

Works acquired for study collections do not require the approval of the relevant Trustee committee.

It is desirable to consult a conservator with regard to any proposed acquisition before presenting it to the relevant committee. If there is any question about the work's condition, such consultation is mandatory.

If an object has an estimated value of \$35,000 or more or merits a search for other reasons, it must be checked against the records of the Art Loss Register, unless it is directly purchased from or gifted by the artist or satisfactory evidentiary proof demonstrates that the work has been recently checked with the Art Loss Register. In addition, for works valued at \$35,000 or more, as complete and detailed an account of the object's provenance as can be obtained must be provided to the Director prior to the Trustee committee meeting. (See "Provenance").

Immediately after the Trustee committee meeting at which an acquisition is approved, the Registrar, or, with respect to films acquired by the Department of Film, the departmental staff, will assign it an accession number. If the work is by a living artist, whenever possible the artist should be informed and, if appropriate, sent a questionnaire to obtain background and history about the artist and the work. Every effort should be made to obtain a non-exclusive license allowing reproduction of the work for educational purposes.

Complete and accurate records, as set forth in "Records," below, must be maintained for all works acquired for the Museum's Collection.

DEACCESSIONING

Principles

The decision to deaccession should be made cautiously and follow generally accepted museum practices. Works of art may be deaccessioned for a variety of reasons, including but not limited to the following:

1. The object is not relevant to the mission of the Museum or has little value in the Museum's Collection.
2. The object is redundant or is a duplicate and is not necessary for research purposes.
3. The object is of lesser quality than other objects of the same type either already in the Collection or about to be acquired.
4. The authenticity, attribution or genuineness of the object is questionable or determined to be false or fraudulent.
5. The object lacks sufficient aesthetic merit or art historical importance to warrant retention.
6. The Museum is unable to conserve the object in a responsible manner or it is determined that it has decomposed.
7. The object is the subject of a claim related to title or provenance that requires its deaccessioning and dispersal.

All funds received from deaccessioned works which are sold by the Museum shall be used to fund the acquisition or commissioning of other works or the direct care of works in the Collection in accordance with guidelines set forth below, as they may be revised by the Museum from time-to-time. In all cases, the use of deaccessioning proceeds shall be in accordance with the principles and policies herein.

Works by living artists should not be sold except to acquire a superior work by the same artist and then with the agreement of the artist, if possible.

If a work is to be deaccessioned, the donor, or in the donor's absence his or her heirs, should be consulted, whenever possible. Precatory restrictions on works should be honored to the extent feasible. If there are questions about the terms of any such restrictions, consultation with the General Counsel's office is advised. When a work is sold or exchanged, the new work acquired with the proceeds of the sale or by exchange should bear a credit in the name of the donor of the work sold or exchanged.

No member of the Museum's Board of Trustees, staff or those whose association with the Museum might give them advantage in acquiring a work is permitted to acquire, directly or indirectly, a work deaccessioned by the Museum. No Trustee or staff member may benefit from the sale or trade of a work of art from the Museum's Collection. (See "*Code of Conduct*").

Procedures

The Chief Curator of the relevant department must recommend to and receive approval by the Director for any proposed deaccessioning. If the object is valued at more than \$35,000, the recommendation from the Chief Curator and approval for deaccessioning by the appropriate Trustee committee must be documented in writing. To the extent possible, the recommendation should include provenance, exhibition history, selected published references, current value, and recommended method of disposal.

If the Trustee committee approves the recommendation and votes to deaccession a work which is valued at more than \$35,000 or which merits special consideration, the committee shall present its recommendation to the entire Board of Trustees for approval. No work valued at more than \$35,000 may be deaccessioned without the approval of three quarters of the Trustees present at the meeting at which there is a quorum in which the work is being presented for deaccessioning.

Complete and accurate records, as set forth in "*Records*," below, including photographs, shall be permanently maintained on each object removed from the Collection.

The disposition of an object, whether by sale, exchange, or in appropriate circumstances through gift, should be conducted with a view toward maximizing the advantage and yield to the Museum, reputational or financial, without compromising the highest standards of professional ethics, the Museum's standing, or its responsibilities to the donor and the artist. Deaccessioned

objects should be offered for sale at public auction whenever possible. However, under certain circumstances it may be more effective to dispose of an object through a private treaty sale, and in such cases, the Chief Curator of the deaccessioning Department may recommend such a sale to the Director. If the Director agrees with the recommendation, the Chief Curator shall obtain at least three (3) written proposals for disposition of the object. The Chief Curator, in conjunction with the Director, will then select from among these proposals.

Works sold for reasons set forth in #4 of the "Principles" section, above, must contain full disclosure of the Museum's current research on the object.

PROVENANCE

The Museum will not purchase or accept as a gift, bequest or loan any work of art it knows or has good reason to believe is of questionable provenance or was stolen or sold under duress. In acquiring works of art for its Collection and in borrowing works for exhibitions, the Museum shall consider and, whenever possible, follow guidelines promulgated from time to time by the American Association of Museums (AAM) and the American Association of Museum Directors (AAMD). The Curator recommending an acquisition or loan must consider the work's provenance and make all reasonable inquiries to determine (a) that the Museum can obtain clear title if a purchase or gift is contemplated or (b) that a proposed lender has clear title at the time the loan is made.

If it appears that a work of art offered to the Museum for purchase, gift, or loan is of questionable provenance, may be stolen property, or is in the United States illegally, the Chief Curator of the appropriate department must promptly report the pertinent facts to the Director for further investigation and action.

ABANDONED PROPERTY

Loans to the Museum should be periodically monitored and contact maintained with the lender, as appropriate under the circumstances. In rare circumstances, a curatorial department may become aware of an extended loan to the Museum where the lender has not been heard from in 10 years, or a loan for a specified term where the lender has not been heard from for 5 years beyond the end of the loan term. Departments may also identify works abandoned on the Museum's premises or that have no records reflecting their transfer to the Museum. In all such cases, the Chief Curator of the department should contact the General Counsel's office for guidance on how to process the property. Curatorial departments should periodically review their holdings for such works.

OUTGOING LOANS

In furtherance of its Mission, the Museum wishes to cooperate with other institutions through a loan program that increases public access to objects in the Collection, provided that long-term conservation and the Museum's educational, research, and exhibition needs are not compromised thereby. Loan requests must be evaluated in light of the art-historical and scholarly value of the exhibition for which they are requested, as well as the condition of the object and the need to incorporate it into the Museum's own programs. The borrowing institution must be able to ensure the safety of the loan and a current facilities report must be provided before a loan is approved. All loan requests must be approved by a Chief Curator after consultation with the appropriate conservation and/or curatorial staff.

Certain works of art should not leave the Museum except under extraordinary circumstances because of their physical condition or their great importance to the Museum. The Chief Curators may from time to time place restrictions on the loan of certain objects which, in the opinion of conservation and/or curatorial staff, should not be subjected to travel.

All loans should be for a specific period of time and should be documented and monitored by the Registrar and/or by the departmental staff in the Department of Film, as appropriate. Loans must be governed by written loan agreements between the Museum and its borrowers, which should be signed by both parties prior to shipment. Written condition reports should be made for all loans leaving the Museum and photographs should be available for all outgoing loans. Packing, shipping, and courier arrangements must be approved by the appropriate curator in consultation with Registrar and conservation staff as appropriate.

Long-term loans (those over one year at one location) should be reviewed by the appropriate curator and the Registrar at specified intervals to determine their future status. The condition of these objects should be checked on an annual basis.

Complete and accurate records, as set forth in "*Records*," below, must be maintained for all works that are loaned from the Museum's Collection.

INSURANCE

The Trustees should regularly review the type and amount of insurance carried for the Museum's Collection. It is the responsibility of the Chief Curator of each department to determine the insurance value of any object going out on loan. Opinions on current market values of works in the Collection, including the source and date of the opinion and the value ascribed, should be recorded and kept in the loan file.

LOANS TO THE MUSEUM

The Museum should exercise the same standard of care for borrowed works of art as it exercises for its own Collection. In general, the Museum shall consider and whenever possible will adhere to the AAM guidelines on exhibiting borrowed objects.

Except on the advice of the General Counsel, reports on the condition of works of art shall be available only to the owners of such works, and will not be made available for use in the sale of such works.

POSSESSION OF FRACTIONALLY OWNED WORKS

Curatorial departments shall consider annually whether to exercise their right to possess the Fractional and Promised Gifts in their collections. In making this determination, curators should evaluate the Museum's pending educational, research, and exhibition needs as well as the outgoing loan program and the condition of the object. In order to assure that the Museum satisfies its legal requirements regarding the possession of Fractional and Promised Gifts, Chief Curators should work in tandem with the Office of the General Counsel as part of the evaluation process.

CARE OF THE COLLECTIONS

The Museum is entrusted with the preservation of the Collection and works of art on loan and must be guided by an absolute respect for the integrity and conservation of the works of art. Conservation is essential to the stewardship of Museum Collection. Devoting Museum resources to the direct care of the works in the Collection is essential to safeguard and preserve the quality of the works and extend their lifespan. For example, direct care of the Collection ("Direct Collection Care") may include, but is not limited to, providing specialized safe, secure and climate controlled storage and galleries spaces, protecting the works which require it from heat, humidity, theft, visitor handling, fire, dust, excessive lighting, water, pests, physical forces and other elements, as well as providing expert conservation, registration, cataloguing, audio visual, imaging, framing and documentation services.

In accordance with the interim AAMD policies which were enacted in April 2020 and will be in effect for the next 24 months, as well as with existing AAM guidelines, the process set forth below will be followed in utilizing the proceeds from deaccessioned objects for Direct Collection Care, in compliance with legal parameters and accepted and ethical Museum practice, as may be revised from time-to-time: a committee convened by the Director with representation from senior members of the Departments of Curatorial Affairs, Collections Management, Finance, General Counsel, Conservation and the relevant Chief Curator will meet on a regular basis to assess Direct Collection Care and, if appropriate, allocate funds from the proceeds of deaccessioning and any appreciation and/or earnings from them,

where applicable to cover the cost of such Direct Collection Care. Deaccessioning proceeds may never be used to cover general operating budget gaps.

The Museum should provide appropriate security and fire detection systems and have a written disaster plan.

The Museum should maintain the highest standards of handling, installation and display to preserve the Collection.

The conservation department and the Film Conservator are charged with the long-term preservation of the Collection through hands-on restoration and the development of wide-ranging preventive strategies. The conservation department should maintain exact documentation on all examination and treatment work and provide copies of these records to the curatorial departments.

RECORDS

The Museum, through its curators, Registrar and conservation department, will maintain accurate, up-to-date records on the identification, location and condition of all objects in the Collection and appropriate records of deaccessioned works, as well as of ongoing activities such as exhibitions, loans, and research and correspondence with donors, artists and scholars. These records should be kept in an organized, coherent filing system and should be referred to the Museum Archives on a regular basis.

In particular, these records should include at least the following, where the information is reasonably available: 1) the name, address and phone number of the person or institution from whom a work was acquired or to whom it was deaccessioned or loaned; 2) a description of the work; 3) with respect to works still in the Collection, the work's current location; 4) the terms and any other material facts regarding the acquisition, deaccession or loan of a work; 5) a copy of the document conveying the work to or from the Museum; and 6) if the work was accessioned or sold pursuant to New York's abandoned property law, copies of all search and notices generated in compliance with that law.

In addition, the Museum will maintain files that include an object's registration number (accession number or temporary receipt number), legal status of the objects (e.g. whether the object is temporarily in the custody of the Museum, on loan, or owned by the Museum, and, if owned, whether title was acquired by gift, bequest, purchase, transfer, or exchange), activity and history of the object within the Museum (e.g. transfer of stewardship between departments and record of their movement at all times), loan and exhibition history, and exact credit line at time of acquisition.

All records created or received in the transaction of the Museum's proper business are the property of the Museum and must not be dispersed or destroyed except in accordance with its

records retention policy. The Museum will review inactive records and will, as appropriate, transfer those of continuing interest to the Archives, maintain them for reference use elsewhere in the Museum, or discard them in accordance with Museum policy.

The Museum shall make available to authorized persons (including qualified researchers and scholars) materials relating to the Collection and incoming and outgoing loans unless they are confidential or would suffer physical harm if handled.

The Museum's Collection must be inventoried under the supervision of the Registrar, or in the case of Film, under the supervision of the Film Collection Manager, as well as periodically by Chief Curators, and the resulting inventories must be maintained, corrected, and updated on a continual basis.

ARCHIVES

The purpose of the Museum Archives is to document the origin, development, activities, and achievements of the Museum. In fulfillment of this mission, the Archives will collect, preserve, and make accessible Museum records of enduring value and will coordinate a records management program for the orderly disposition of the ongoing records of the Museum. The Archives collects records, including personal papers, oral histories and sound recordings relevant to the Museum's history.

Records will be processed and stored with attention to standard preservation protocols. The Archives will ensure reasonable reference service to staff and other qualified researchers. Records will be as open for research as possible. In general, restrictions will be imposed only on certain sensitive documents or series, particularly those relating to Trustee activities, current transactions, and personnel matters, in order to protect privacy rights and the interests of the Museum.