



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: Cultural Education Committee
Jeffrey W. Cannell

FROM:

SUBJECT: Amendment of Regents Rule §3.27, Relating to Museum Collections Management Policies

DATE: August 26, 2010

STRATEGIC GOAL: Goals 2 and 4

AUTHORIZATION(S):

Summary

Issue for Decision

Should the Regents adopt the amendment of §3.27 of the Rules of the Board of Regents, relating to museum collections management policies, as a permanent rule?

Reason for Consideration

Implementation of Regents policy.

Proposed Handling

The proposed amendment will be presented to the Cultural Education Committee for approval and to the Full Board for action at the September 2010 Regents meeting.

Procedural History

The proposed amendment was discussed by the Cultural Education Committee and adopted by the Full Board as an emergency action at the December 2008 Regents meeting, effective December 19, 2008, and was readopted by emergency action on several occasions, most recently at the July 2010 Regents meeting.

Background Information

The proposed amendment has been recommended by the State Education Department and State Museum management to protect collections held by museums and historical societies. Regents Rule §3.27 provides standards for chartered museums and historical societies. Sections 3.27 and 3.30 were first promulgated effective March 1971, and the Regents added a collections management policy requirement effective July 1998. The March 2006 amendment greatly expanded the standards by providing increased oversight for collections and resources held in the public trust.

In the current financial downturn, museums face deficits that threaten the ownership or integrity of their collections. Museum constituents have asked for specific criteria and guidance relating to deaccessioning and use of collections proceeds. We believe current Regents Rules on collections need to be more explicit on acceptable criteria for deaccessioning collections. In addition, we seek to remove the option to use collections proceeds for improving a historic structure since such use of funds has been criticized and widely debated. Even if a museum fails, we want to keep collections in the public trust and not lose them to debt or insolvency.

The proposed amendment would apply to chartered museums and historical societies authorized to own and hold collections under Rule §3.27, and would:

- Enumerate four specific criteria under which an institution may deaccession an item or material in its collection.
- Remove the option allowing an institution to designate a structure as a collections item; but keep intact any such designation made by vote of a board of trustees prior to December 19, 2008.
- Specify that no proceeds from deaccessioning may be used for payment of outstanding debt or for capital expenses, except to preserve, protect or care for an historic building previously designated as part of the institution's collection, as above.

In November and December 2008 we informed constituents of the original emergency amendment through a mailing with cover memo, announcements on web sites, and copies sent to listservs and electronic mailing lists. We received about 30 written comments which we provided to the Regents prior to the December vote.

A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on June 30, 2010. Supporting materials are available upon request from the Secretary to the Board of Regents.

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That paragraph (7) of subdivision (a), and paragraphs (6) and (7) of subdivision (c), of section 3.27 of the Rules of the Board of Regents be amended, as submitted, effective October 6, 2010.

Timetable for Implementation

The proposed amendment was adopted as an emergency action at the December 2008 Regents meeting, effective December 19, 2008, and was readopted by emergency action on several occasions, most recently at the July 2010 Regents meeting. If adopted by the Board of Regents at the September meeting, the permanent rule will become effective on October 6, 2010.

AMENDMENT OF THE RULES OF THE BOARD OF REGENTS

Pursuant to sections 101, 207, 215, 216, 217 and 233-aa of the Education Law and Chapter 220 of the Laws of 2008

1. Paragraph (7) of subdivision (a) of section 3.27 of the Rules of the Board of Regents is amended, effective October 6, 2010, to read as follows:

(7) Collection means one or more original tangible objects, artifacts, records or specimens, including art generated by video, computer or similar means of projection and display, that have intrinsic historical, artistic, cultural, scientific, natural history or other value that share like characteristics or a common base of association and are accessioned; for purposes of this section, historic structures owned by an institution shall be considered as part of a collection only when so designated by the board of trustees of the institution by vote conducted on or before December 19, 2008;

2. Paragraphs (6) and (7) of subdivision (c) of section 3.27 of the Rules of the Board of Regents are amended, effective October 6, 2010, to read as follows:

(6) Collections Care and Management. The institution shall:

(i) own, maintain and/or exhibit original tangible objects, artifacts, records, specimens, buildings, archeological remains, properties, lands and/or other tangible and intrinsically valuable resources that are appropriate to its mission;

(ii) ensure that the acquisition and deaccessioning of its collection is consistent with its corporate purposes and mission statement, including that deaccessioning of items or material in its collection is limited to the circumstances prescribed in paragraph (7) of this subdivision;

(iii) have a written collections management policy providing clear standards to guide institutional decisions regarding the collection, that is in regular use, available to the public upon request, filed with the commissioner for inspection by anyone wishing to examine it; and which, at a minimum, satisfactorily addresses the following subject areas:

(a) acquisition. The criteria and processes used for determining what items are added to the collections;

(b) loans. The criteria and processes used for borrowing items owned by other institutions and individuals, and for lending items from the collections;

(c) preservation. A statement of intent to ensure the adequate care and preservation of collections;

(d) access. A statement indicating intent to allow reasonable access to the collections by persons with legitimate reasons to access them; and

(e) deaccession. The criteria and process (including levels of permission) used for determining what items are to be removed from the collections, which shall be consistent with paragraph (7) of this subdivision, and a statement limiting the use of any funds derived therefrom in accordance with subparagraph [(vii)] (vi) of this paragraph;

(iv) ensure that collections or any individual part thereof and the proceeds derived therefrom shall not be used as collateral for a loan;

(v) ensure that collections shall not be capitalized; and

(vi) ensure that proceeds derived from the deaccessioning of any property from the institution's collection be restricted in a separate fund to be used only for the acquisition, preservation, protection or care of collections. In no event shall proceeds

derived from the deaccessioning of any property from the collection be used for operating expenses, for the payment of outstanding debt, or for capital expenses other than such expenses incurred to preserve, protect or care for an historic building which has been designated part of its collections in accordance with paragraph (7) of subdivision (a) of this section, or for any purposes other than the acquisition, preservation, protection or care of collections.

(7) Deaccessioning of collections. An institution may deaccession an item or material in its collection only where one or more of the following criteria have been met:

(i) the item or material is not relevant to the mission of the institution;

(ii) the item or material has failed to retain its identity, or has been lost or stolen and has not been recovered;

(iii) the item or material duplicates other items or material in the collection of the institution and is not necessary for research or educational purposes; and/or

(iv) the institution is unable to conserve the item or material in a responsible manner.

(8) Education and Interpretation. The institution shall offer programmatic accommodation for individuals with disabilities to the extent required by law.