



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: January 24, 2011

AUTHORIZATION(S):

Summary

Issue for Discussion

Should the Regents adopt the proposed amendment of §3.27 of the Rules of the Board of Regents, relating to museum collections management policies?

Reason for Consideration

Implementation of Regents policy.

Proposed Handling

The attached proposed amendment will be presented to the Cultural Education Committee for discussion at the February 2011 Regents meeting.

Procedural History

A prior emergency rule on deaccessioning was adopted at the December 2008 Regents meeting and readopted several times in 2009 and through July 2010, during which time State Education Department staff worked with the Legislature and with museum constituents to develop revised standards for a permanent rule on museum deaccessioning. However, the emergency rule expired on October 6, 2010 after the

Board of Regents decided at its September 2010 meeting to form an ad-hoc committee to review and make recommendations regarding deaccessioning procedures to the Cultural Education Committee and the Full Board. The Board of Regents Ad-Hoc Advisory Committee on Deaccessioning was established by the Regents at their November 2010 meeting.

Background Information

The proposed amendment has been recommended by the Board of Regents Ad-Hoc Advisory Committee on Deaccessioning and 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 with collections. Section 3.27 was first promulgated effective March 1971, and the Regents added a collections management policy requirement effective July 1998. An amendment to §3.27 in March 2006 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. 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 nine specific criteria under which an institution may deaccession an item or material in its collection.
- Specify that proceeds from deaccessioning be restricted in a separate fund to be used only for the acquisition of collections or the direct preservation, protection or care of collections.

Timetable for Implementation

It is anticipated that the proposed amendment will be presented for adoption at the May Regents meeting, after its publication in the State Register and expiration of a 45-day public comment period.

Attachment

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 (6) of subdivision (c) of section 3.27 of the Rules of the Board of Regents is amended, effective June 8, 2011, as follows:

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

(i) . . .

(ii) . . .

(iii) ensure that deaccessioning of items or materials in its collection is limited to the circumstances prescribed in paragraph (7) of this subdivision;

(iv) 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) . . .

(b) . . .

(c) . . .

(d) . . .

(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) of this paragraph;

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

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

[(vi)] (vii) 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 of collections, or the preservation, [protection] conservation or direct care of collections. In no event shall proceeds derived from the deaccessioning of any property from the collection be used for operating expenses or for any purposes other than the acquisition, preservation, [protection] conservation or direct care of collections.

2. Paragraph (7) of subdivision (c) of section 3.27 of the Rules of the Board of Regents is amended, effective June 8, 2011, as follows:

(7) Deaccessioning of Collections. An institution may deaccession an item in its collection only in a manner consistent with its mission statement and collections management policy and where one or more of the following criteria have been met:

(i) the item is inconsistent with the mission of the institution as set forth in its mission statement;

(ii) the item has failed to retain its identity;

(iii) the item is redundant;

(iv) the item's preservation and conservation needs are beyond the capacity of the institution to provide;

(v) the item is deaccessioned to accomplish refinement of collections;

(vi) it has been established that the item is inauthentic;

(vii) the institution is repatriating the item or returning the item to its rightful owner;

(viii) the institution is returning the item to the donor, or the donor's heirs or assigns, to fulfill donor restrictions relating to the item which the institution is no longer able to meet;

(ix) the item presents a hazard to people or other collection items; and/or

(x) the item has been lost or stolen and has not been recovered.

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

3. Subdivision (e) of section 3.27 of the Rules of the Board of Regents is amended, effective June 8, 2011, as follows:

(e) Annual reports. Each institution shall file with the commissioner an annual report, in a form prescribed by the commissioner, which records the educational and cultural activities of the institution and presents an accurate statement of all financial operations. Each institution shall include in its annual report a list of all items or item lots deaccessioned in the past year and all items or item lots disposed of in the past year.