

University of South Carolina School of Law

Collection Management Policy and Guidelines 2020

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Collections Management Policy

Introduction

This policy consists of the following sections: statement of purpose, collection description, collection plan, ethics standards, and collections management activity. The goal of this policy is to set guidelines and provide transparency regarding the acquisition, donation, and display of artwork by the University of South Carolina School of Law.

This document should be issued to individuals who are considering donating or loaning artwork for display in the University of South Carolina School of Law. The following policy has been reviewed by the University of South Carolina School of Law. Any questions or concerns regarding the collections management policy can be directed to Liz Niehaus via e-mail at niehaus@law.sc.edu.

Statement of Purpose

The purpose of the art collection held by the University of South Carolina School of Law is to enhance the beauty and esthetics of the building. Preference will be given to artwork that is tied to the institution and/or more broadly to the state of South Carolina and the legal profession through either subject matter and/or artist. To maintain the School's ethical standards and values, all incoming works will be reviewed by the School of Law's Art Committee and leadership before approval. The acquisition guidelines can be found in the Acquisition Guidelines and Process section of this document. These guidelines include all disqualifying factors for which each incoming piece will be held accountable. The acquisition guidelines are strictly enforced to maintain the ethical values of the institution and the architectural integrity and beauty of the building.

Once acquired, either through donation or loan, the University of South Carolina School of Law will document, house, and provide descriptions for each work of art. The goal of this process is to provide students, employees, and visitors of the institution with an informative and enjoyable interaction with the collection. Further information on the handling of acquired or borrowed art can be found in the Collections Management Activity section of this document.

The University of South Carolina School of Law welcomes and appreciates all donations of art; however, an acquisition guidelines assessment will be performed for all submissions. If a proposed work is declined for display, the donating party will receive a document detailing the reasoning for its refusal. In an aim to maintain and foster relationships with all parties submitting

art for review, the University of South Carolina will conduct each art assessment without bias and will hold each incoming work to an equal standard.

Definition of Collections

Currently the University of South Carolina School of Law's art collection consists of works that have been donated to the institution or are on loan from the McKissick Museum. The artwork itself has a consistent theme of being tied to the institution or, more broadly, the state of South Carolina in either subject, artist, or donor. The collection is comprised of a variety of mediums which include paintings and prints. In the continuation of its collection, the University of South Carolina School of Law may give preference to pieces that are tied to the state, institution, or the legal profession.

The importance of the constant representation of the school's alumni, the state of South Carolina, and native artists derives from the audience of the collection. The main viewers of the collection are students, faculty, staff, visitors, and alumni. Except for occasional special events, the collection is rarely seen by those with no ties to the University of South Carolina or the University of South Carolina School of Law. The art on display is not subject to exhibition or advertised as such. It serves as an alternative form of education on the state of South Carolina, alumni of the University of South Carolina School of Law, and events related to the practice of law in the state.

Ethics

A top priority for the University of South Carolina School of Law is the practice of an ethical acquisitions process. All incoming works of art will be ethically acquired, evaluated, described, and displayed. Details of this process are further explained in the Acquisitions Guidelines and Process section of this document. The intention of an ethical evaluation for the University of South Carolina School of Law is to ensure that there will be no display of art that is culturally, racially, or politically insensitive to the audience of the collection.

The policy has been submitted to the School of Law's Advisory Committee for approval by Liz Niehaus and Elizabeth Oswald-Sease.

University of South Carolina

School of Law

Acquisition Guidelines and Process

I. Prior to Acquisition Assessment

- a. All objects submitted to the University of South Carolina must be accompanied by the following documentation:
 - i. A description or history of the proposed object.
 - ii. If an object is being donated permanently to the school, the Donor Questionnaire must be completed before the assessment (page 8).
 - iii. If an object is being proposed for exhibition by an artist, the Exhibiting Artist Questionnaire must be completed before the assessment.

II. Evaluation of Objects

- a. The Practical Assessment
 - i. Is the object consistent with the collection goals of the institution?
 - ii. Does the artwork complement the space and the architectural standards of the building?
 - iii. Does the artwork maintain high artistic quality, craftsmanship and integrity of materials? Does it have structural integrity and appropriate safety elements (no sharp edges, etc.)
 - iv. Is the artwork appropriate in scale, form, content, materials, textures, colors, and design with the building and the environment?
 - v. Will the artwork align with the School's mission, vision, and values?
 - vi. Does the artwork broadly respect the diverse population at the University and the Law School in a positive manner?
 - vii. Will the object be useful for educational purposes?
 - viii. Can the institution properly exhibit the object? Is maintenance required or will the artwork be vulnerable to theft or vandalism?

ix. Will the acquisition of this object result in any additional expenses? If so, please quantify.

b. The Ethical Assessment (Mandatory for all incoming objects)

i. The object will also be subject to evaluation according to the following standards set by the American Alliance of Museums:

1. The distinctive character of museum ethics derives from the ownership, care and use of objects, specimens, and living collections representing the world's natural and cultural commonwealth. This stewardship of collections entails the highest public trust and carries with it the presumption of rightful ownership, permanence, care, documentation, accessibility and responsible disposal. Thus, the School of Law ensures that:

- collections in its custody support its mission and public trust responsibilities;
- collections in its custody are lawfully held, protected, secure, unencumbered, cared for and preserved;
- collections in its custody are accounted for and documented;
- access to the collections and related information is permitted and regulated;
- acquisition, disposal, and loan activities are conducted in a manner that respects the protection and preservation of natural and cultural resources and discourages illicit trade in such materials;
- acquisition, disposal, and loan activities conform to its mission and public trust responsibilities;
- disposal of collections through sale, trade or research activities is solely for the advancement of the School'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;
- collections-related activities promote the public good rather than individual financial gain;
- competing claims of ownership that may be asserted in connection with objects in its custody should be handled openly, seriously, responsively and with respect for the dignity of all parties involved.

III. Acquisition

University of South Carolina Gift Acceptance Policy: The University or its Foundations may accept gifts of tangible personal property including works of art, jewelry, antiques, coin, stamp and other collectibles, automobiles, manuscripts and books. All such gifts must be approved by the Gift Acceptance Committee (of the University). The University and its Foundations reserve the right to sell or otherwise dispose of the property if such action is financially advisable or necessary. Such gifts will not be accepted if use or display of the property is a pre-condition of the gift. If a decision is made to sell the property, the University or its Foundations will advise the donor that such action may limit the amount of the charitable donation deduction and recommend that they consult with their personal tax advisor. The Office of Development in the School of Law should be part of the process if the approved artwork is being donated as a gift in-kind. If the donor does not want the artwork to be a gift in-kind, the development officer can assist in getting a Declaration of Gift and Acknowledgement form completed. A Contract Approval Form must be completed as well.

The University of South Carolina will not appraise tangible personal property, pay for such property to be appraised, nor assign values to such gifts. If the donor estimates the value of their gift of tangible personal property at \$5,000 or more, they must obtain a written appraisal by a qualified independent appraiser in order to satisfy the Internal Revenue Service requirements for income tax deductibility.

If gifts of art are made for the benefit of the Law School through the Foundation, where the Law School intends to keep the artwork for display as part of its permanent collection (i.e., there is no intent to sell the artwork and use the proceeds for the benefit of Law School), the Foundation can accept the artwork and immediately gift it to the University for the benefit of the Law School. If the artwork is valued at \$5,000 or more, the donor is responsible for obtaining and paying for an independent appraisal by a qualified appraiser, which must accompany the gift. It is the policy of the Foundation to always allow the donor to choose his/her appraiser. The Foundation must also receive IRS Form 8283 (Donee Acknowledgement Form) from the donor if the gift is valued at \$500 (five hundred dollars) or more, sign the 8283, keep a copy, and return the original to the donor for submission with his/her tax return.

Valuable works of art will be insured by the University and the Law School, if insurance is deemed to be necessary. The Foundation does not insure art or personal collections of other tangible property.

The IRS Form 8283 (Donee Acknowledgement Form) can be found at this link:

<https://www.irs.gov/forms-pubs/about-form-8283>

- a. If the object is being permanently donated or gifted to the school, the owner must complete the Deed of Gift form (page 11) and the Confirmation of Gift form (page 12).
- b. If the object's ownership will not be transferred to the school or the object is being proposed for non-permanent display, the current owner must complete the Loan Contract (page 13). The Law School will not display a loaned piece for a period of less than one year.
- c. Once the status of the object is determined: Artists and donors/loaners will receive a proposal which will detail where and how the school will display their objects. The proposal may either be accepted or declined, but not negotiated.

Donor Questionnaire

Please complete the following document to the best of your ability. It is important that the University of South Carolina School of Law have a complete history of the ownership of objects offered as gifts. If you can provide supplemental documentation or information regarding the history of the object and its ownership, please do so upon the completion of this form. If the donor is proposing multiple objects for acquisition, please fill out a separate questionnaire for each item.

Donor(s) name(s):

Title of object:

How long have you owned this object?

How did you acquire this object? If you can provide any documents indicating ownership of the object, please attach a copy to this form.

Description of object:

Additional information, i.e. exhibition history, press clippings, etc. If you can provide historical documentation or publicity on the object, please attach a copy to this form.

Please indicate any repairs or conservation done on the object and if it requires consistent maintenance.

Donor(s) signature(s):

Date:

Department Signature/ Date:

Please upload a photo of the artwork to include with the submission.

Exhibiting Artist Questionnaire

Please complete the following document to the best of your ability. For many reasons it is important that the University of South Carolina School of Law have a complete history of objects being proposed for exhibition. If you can provide supplemental documentation or information regarding the creation or previous exhibition of the object, please do so upon the completion of this form. If the artist is proposing multiple objects for exhibition, please fill out a separate questionnaire for each item.

Artist, Title, Date of Creation, and Medium:

Subject Description:

Artist Biography and Exhibition History:

Please indicate any repairs or conservation done on the object and if it requires consistent maintenance.

If yes, indicate last conservation date and services done on the object.

Artist signature and date:

Department signature and date:

Any questions or concerns may be directed to: Bari Lasky at blasky@law.sc.edu or (803) 777-8058

Condition Report

Please complete the following form to the best of your ability. It is important that the University of South Carolina receives an accurate condition report on the object prior to acquisition for liability reasons. A second condition report will be filled out by the institution which will then be sent to the owner for review. The object will not be acquired until the second condition report is approved by the current owner. This form is mandatory for all incoming objects.

Artist, Title, Date:
Dimensions (approximate height, width, depth, and weight of object):
Number of parts (ex. If a framed painting is being submitted, indicate two parts 1. Frame 2. Painting):
Type and Location of Damage (ex. Scratch, Bottom Left Corner):
Dates and Reason for Damage (if known):
Overall Object Condition (Please check one): Good (no damage indicated, no deterioration, perfect condition) Fair (minimal damage, slight deterioration, previously repaired) Poor (extensive damage, severely deteriorated, previously repaired or needs repairs)
Examined by:
Date:

University of South Carolina
School of Law
1525 Senate St, Columbia, SC 29208

Deed of Gift

Donor Name:
Donor Address:
Donor Telephone:

Description of Object(s):

Donor hereby transfers and assigns without condition or restriction all right, title, and interest free of restrictions or encumbrances in the tangible personal property listed above (the "Object"), and all rights (including trademarks, and copyrights) associated with it to the University of South Carolina School of Law.

Donor warrants and represents that the Donor has the full power and authority to transfer the Object to the University of South Carolina School of Law.

Donor signature:

Date:

Accepted for the University of South Carolina School of Law by:

Director signature:

Date:

This deed agreement represents an agreement between the University of South Carolina School of Law and the donor named. Any variation in the terms noted must be designated in writing and approved in writing by both parties.

The donor received no goods or services in consideration of this gift.

University of South Carolina
School of Law
1525 Senate Street
Columbia, SC 29208

Confirmation of Gift

I hereby confirm my agreement to give to the University of South Carolina School of Law, the work or works of art listed below or on the attachment hereto:

You have informed me that other collectors, Trustees and friends of the University of South Carolina School of Law have indicated their intention of giving to the institution works of art which they own in order to enhance the institution's collection. As I believe that definite commitments to make such gifts or bequests will be of great value to the University of South Carolina School of Law, I have agreed to give the institution the above described work of art on the understanding (I) that you will do your best to obtain similar commitments, and (II) that this agreement shall be governed by the laws of South Carolina.

I may, according to my own convenience, give this work of art to you during my lifetime. Should this gift not be completed during my lifetime, it is understood that this agreement shall be binding on my heirs, executors, and administrators, and that omission from my Will of a specific bequest of this work of art to the University of South Carolina School of Law shall not release them from delivering the aforementioned work of art to the University of South Carolina School of Law in accordance herewith, or otherwise impair the force and effect of this agreement.

I have entered into this agreement on the date indicated below with the full intention that I will be legally bound hereby pursuant to the applicable provisions of the law relating to written obligations and that this agreement shall be binding as well on my heirs, executors, administrators, and assigns.

Signature _____

Date _____

We confirm that the above correctly states the agreement between us.

For the University of South Carolina School of Law

Signature _____

Date _____

University of South Carolina
School of Law
1525 Senate Street
Columbia, SC 29208

Loan Agreement
For objects placed on deposit for a year or less

Agreement

The undersigned (“Lender”) hereby places the object(s) described herein custody of the University of South Carolina School of Law for the purposes, and subject to the terms and conditions, set forth.

PURPOSE:

PROJECT OR EVENT: _____

DATES OF CUSTODY PERIOD: _____

LENDER: _____

Address: _____

Telephone: _____ **Fax:** _____ **E-mail:** _____

Contact Person: _____

OBJECT DESCRIPTION: _____

INSURANCE: _____

Lender Signature: _____ **Date:** _____

Institution Signature: _____ **Date:** _____

Please complete, sign, and return to the University of South Carolina School of Law. A countersigned copy will be returned to Lender.

Copyright Agreement

For purposes of this Policy, the following terms have the meanings set forth below:

Artists means living artists and/or artists and/or entities whose works are protected under copyright laws of the United States. The term also includes estates, foundations, artists' rights organizations or other legal entities that hold copyright or represent the artist.

Collections image database means any digital compilation or a website, including unrestricted websites, maintained by the museum or an affiliate of the museum of digital images of objects from the museum's collection maintained primarily to support education or research and to foster interest in museum collections.

Digital Image means a two-dimensional image using ones and zeroes (binary).

Digital Imaging means a process whereby an electronic photograph, scanned document, or image is converted into a series of electronic dots called "pixels."²

Collateral materials mean magazines, articles, flyers and related materials made available electronically by a museum, at no cost to the recipient, to promote its exhibitions, collections and programs.

Online scholarly publications means an educational publication made available (i) on a website whose primary purpose does not include paid advertising or the selling of merchandise, or (ii) on a subscription-based website with no more than 2,000 subscribers, provided, multiple end users accessing content through one subscription agreement shall be considered one subscription, or (iii) on a website that provides archival versions of the publication in non-profit electronic archives such as JSTOR and/or in for-profit electronic library content providers such as EBSCO or ProQuest.

Thumbnail image means a low resolution, small version of less than commercial quality (less than 250 x 300 pixels) of a digital image that is typically used in a collection image database, on a web page, or in an online publication to represent an image or to provide a link to other content, such as a larger version of the image. Thumbnail images may or may not link to higher resolution images.

Website means a collection of related web pages, images, videos, or other digital assets that are addressed relative to a common Uniform Resource Locator (URL), often consisting of only the domain name or the IP address and the root path ('/') in an internet protocol-based network accessible via the internet. A website may be static or interactive and may include retail options.

ANNEX A

Fair Use (from US Copyright Office FL-102, Revised September 2019)

One of the rights accorded to the owner of copyright is to reproduce or to authorize others to reproduce the work in copies or phonorecords. This right is subject to certain limitations found in sections 107 through 118 of the copyright law (title 17, U. S. Code). One of the more important limitations is the doctrine of “fair use.” The doctrine of fair use has developed through a substantial number of court decisions over the years and has been codified in section 107 of the copyright law.

Section 107 contains a list of the various purposes for which the reproduction of a work may be considered fair, such as criticism, comment, news reporting, teaching, scholarship, and research. Section 107 also sets out four factors to be considered in determining whether a particular use is fair:

1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes
2. The nature of the copyrighted work
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole
4. The effect of the use upon the potential market for, or value of, the copyrighted work

The distinction between fair use and infringement may be unclear and not easily defined. There is no specific number of words, lines, or notes that may safely be taken without permission.

Acknowledging the source of the copyrighted material does not substitute for obtaining permission.

The 1961 Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law cites examples of activities that courts have regarded as fair use: “quotation of excerpts in a review or criticism for purposes of illustration or comment; quotation of short passages in a scholarly or technical work, for illustration or clarification of the author’s observations; use in a parody of some of the content of the work parodied; summary of an address or article, with brief quotations, in a news report; reproduction by a library of a portion of a work to replace part of a damaged copy; reproduction by a teacher or student of a small part of a work to illustrate a lesson; reproduction of a work in legislative or judicial proceedings or reports; incidental and fortuitous reproduction, in a newsreel or broadcast, of a work located in the scene of an event being reported.”

Copyright protects the way an author has expressed himself. It does not extend to any ideas, systems, or information conveyed in the work.

The safest course is always to get permission from the copyright owner before using copyrighted material. The Copyright Office cannot give this permission.

When it is impracticable to obtain permission, use of copyrighted material should be avoided unless the doctrine of fair use would clearly apply to the situation. The Copyright Office can neither determine if a certain use may be considered fair nor advise on possible copyright violations. If there is any doubt, it is advisable to consult an attorney.

U.S. Copyright Office
101 Independence Avenue SE Washington, DC 20559-6000 (202) 707-3000

Agreement

With my signature, I grant the University of South Carolina School of Law the reproduction rights to my object(s) in the following forms as defined in the first section of this Copyright Agreement:

Collections image database,
Digital Image
Digital Imaging,
Collateral materials
Online scholarly publications
Thumbnail image
Website

Signature: _____

Date: _____

Resources

“American Alliance of Museums.” American Alliance of Museums. Accessed November 11, 2019. <https://www.aam-us.org/>.

Buck, Rebecca A. *MRM5: Museum Registration Methods*. Washington, DC: AAM Press, 2011.

“Object Registry.” Association of Art Museum Directors. Accessed November 11, 2019. <https://aamd.org/object-registry>.

Office, U.S. Copyright. “Chapter 11: Subject Matter and Scope of Copyright.” Copyright. Accessed November 11, 2019. <https://www.copyright.gov/title17/92chap1.html#107>.

Malaro, Marie C. *A Legal Primer on Managing Museum Collections*. Washington, D.C.: Smithsonian Institution Press, 1998.