



The Walters Art Museum Deaccession Policy

December 2011

1. PREAMBLE

1.1 This policy statement defines the process of decision-making for the deaccession of items from the collection of the Walters Art Museum and the procedures to be followed. This policy should be read in conjunction with the *Walters Art Museum's Acquisitions and Accessions Policy*.

1.2 The collection is central to the mission of the Museum, and, for that reason, its integrity and development are fundamental responsibilities of the Museum's Trustees and staff.

The Walters Art Museum's Act of Incorporation (Laws of Maryland, Chapter 217 of 1933), section 4, stipulates that the **"Board [of Trustees] shall generally have all powers with respect to the affairs of said corporation which are conferred by the Public General Laws of Maryland upon the directors or managing bodies of Maryland corporations. And the power of the corporation shall include the power to acquire, hold, manage, sell, exchange, encumber or otherwise dispose of any property, real, personal or mixed; or to accept any grant, gifts, devises or bequests made to said Corporation, absolutely, or in trust, for any of the purposes of said corporation, or for any purposes germane thereto, and to execute such trusts."**

The Baltimore City Code, article 18, subtitle 14-8(e) with reference to the powers and duties of the Museum's Trustees regarding the property and funds bequeathed by Henry Walters

stipulates that: **“The Trustees may expend for the same purpose any funds derived from selling any of the contents of Walters Art Gallery [now Walters Art Museum] or of the property at 5 West Mount Vernon Place found not to be of museum value or interest.”** Furthermore, as per the Baltimore City Code, article 18, subtitle 14-11(a), **“The Trustees may not sell or otherwise dispose of any work of art without the consent of the Mayor and City Council of Baltimore.”**ⁱ

1.3 This policy is guided by:

- The American Association of Museums (AAM) Code of Ethics for Museums, 2000 <http://www.aam-us.org/museumresources/ethics/coe.cfm>
- The American Association of Museums (AAM) Information Center Fact Sheet – Guidelines for Discussion of Deaccessioning, 2003 (access by members only)
- The American Association of Museums (AAM) Information Center Fact Sheet – Selling Deaccessioned Materials Online, 2004 (access by members only)
- American Association of Museums (AAM) Information Center Fact Sheet – Ethics of Deaccessioning, 2005 (access by members only)
- The Association of Art Museum Directors (AAMD) Report of the AAMD Task Force on the Acquisition of Archaeological Materials and Ancient Art, June 2004 (as it pertains to handling claims) http://www.aamd.org/papers/documents/TaskForceReportwithCoverPage_Final.pdf
- American Association of Museums (AAM) Standards Regarding Archaeological Material and Ancient Art, June 2008 <http://www.aam-us.org/museumresources/ethics/ethics-archaeology.cfm>
- The Association of Art Museum Directors (AAMD) Professional Practices in Art Museums, 2011: Appendix B: Deaccessioning and Disposal, June 2010 <http://www.aamd.org/papers/documents/2011ProfessionalPracticesinArtMuseums.pdf>
- The Baltimore City Code

<http://cityservices.baltimorecity.gov/charterandcodes/Code/Art%2018%20-%20Educ&Cul.pdf>

- 1.4 The policy supersedes the deaccession policy approved by the Board of Trustees on October 11, 2006.
- 1.5 A copy of this policy shall be made publicly available and posted on the Museum's website.

2. PURPOSE

- 2.1 The Walters Art Gallery was incorporated in 1933 to house and exhibit the art collection bequeathed to it by Henry Walters. Since then the Museum has added to its collections, principally in the areas of ancient art, medieval art, manuscripts and rare books, Renaissance and Baroque, 18th-, 19th-, early 20th-century, Islamic, Asian art, and art of the ancient Americas in keeping with the fields represented by the collections of William and Henry Walters.
- 2.2 It is the intention of the Walters to re-examine its collection in light of its long-term goals for the use and development of its collections and to ensure that the Museum owns and uses these collections as appropriate to its mission and public trust responsibilities. AAM Information Center Fact Sheet – Ethics of Deaccessioning. Therefore, it has adopted a policy for the consistent and transparent disposition of certain works of art. The policy takes into account the necessary investigations to determine, with as little doubt as possible, which objects should be irrevocably removed from the collection. It takes into account the need for outside, independent opinions, avoidance of conflict of interest, and disclosure and approval by the Museum's full governing body.

3. PRINCIPLES

- 3.1 Works of art in the Museum's collection are deaccessioned only after the most rigorous scrutiny and as a result of a deliberate decision to refine the Museum's holdings. Deaccessioning should be pursued slowly, deliberately, and responsibly. Museum ethical

practice demands that collections not be sold in response to current taste or pressures of the operating budget. Funds derived from the disposal of works of art must be used to purchase other works of art of appropriate quality and to maintain the high standards that the Museum has established for itself over its history. Funds derived from the disposal of works of art must be used to purchase works within the same curatorial collection area as those deaccessioned.

- 3.2 The Museum makes a formal distinction between an *accession* and an *acquisition*. The verb “acquire” is used generically to describe the process by which the Museum obtains works of art. The noun “acquisition” is used as a generic term both for works of art obtained by the Museum and for the act of obtaining these works of art. Works of art obtained by the Museum formally enter its collections as accessions for the permanent collection, or as non-accessioned acquisitions for study purposes, as incidental decoration for public or office spaces, or for possible sale. As part of the procedures for accepting works of art into the collection, the Museum asks donors to complete a Deed of Gift indicating that works are offered and accepted as unrestricted gifts, unless otherwise agreed upon in writing.
- 3.3 It is rare for objects from the original Henry Walters bequest (1931) to be candidates for deaccessioning, since the integrity of the collection is in itself a valuable cultural asset. Nevertheless, and on occasion, forgeries, redundant pieces, works judged not to be appropriate to the Museum’s mission, or works beyond repair might be recommended for disposal, even though they form part of the original bequest. Similar criteria should be applied to other works of art brought into the collection.
- 3.4 The removal of accessioned works of art from the collection must have the recommendation of the pertinent curator, the Director of the Curatorial Division, and the Director with the advice of the Collections Committee, approval by the Board of Trustees, and the consent of the Mayor and the Baltimore City Council in the case of the Walters bequest. The withdrawal or disposal must not violate the provisions of a gift, will, or bequest in those cases where such documents are involved. It is the Museum’s obligation to respect expressions of donors’ intent. The interests of the public, for whose benefit collections are maintained, must always be foremost. (The Association of Art Museum Directors (AAMD) Professional Practices in Art Museums 2011: Appendix B: Deaccessioning and Disposal, hereinafter referred to as AAMD Practices 2011: Appendix B)

- 3.5 Non-accessioned acquisitions may be disposed of (de-acquisitioned) at the discretion of the responsible curator and the Director.
- 3.6 Proceeds from the sale of deaccessions and de-acquisitions shall revert to the deaccession fund and be credited to the same curatorial collection area. In the case of disposal of gifts or bequests, where possible, donor credit should be transferred to resulting acquisitions.
- 3.7 The Museum shall comply with all applicable laws—including, if applicable to the AAMD member museum, the filing of required Internal Revenue Service forms—in deaccessioning and disposal of works from the collection. (AAMD Practices 2011: Appendix B, Policy Statement C)
- 3.8 The Museum shall not capitalize or collateralize collections or recognize as revenue the value of donated works. The 1993 Financial Accounting Standards Board (FASB) that established standards regarding how museums may account for their collections provides that contributions of works of art, historical treasures, and similar assets need not be recognized as revenue or capitalized if the donated items are added to collections that are (a) held for public exhibition, education, or research in furtherance of public service; (b) protected, kept unencumbered, cared for, and preserved; and (c) subject to an organizational policy that requires the proceeds from sales of collection items to be used to acquire other items for the collection. (AAMD Practices 2011: Appendix B, Policy Statement D)
- 3.9 The following criteria for withdrawal and steps for actual disposal represent a policy framework within which considered action may be taken.

4. CRITERIA

There are a number of reasons why deaccession might be contemplated. Primary among these are the following:

- 4.1 The object is deemed to be of poor quality or insignificant in aesthetic quality and to lack value for exhibition or study purposes. (AAMD Practices 2011: Appendix B, II. A)
- 4.2 A better or comparable example is in the collection or may be obtained through whole or partial exchange of the object in question.
- 4.3 The object is an exact duplicate, deemed unnecessary to retain.
- 4.4 The condition of the object is such that repairs are not feasible or will no longer represent the original artist's intent.
- 4.5 The museum is unable to care adequately for the work because of the work's particular requirements for storage or display or its continuing need for special treatment. (AAMD Practices 2011: Appendix B, II.H)
- 4.6 The object is a reproduction.
- 4.7 The authenticity or attribution of the work is determined to be false or fraudulent, and the object lacks sufficient aesthetic merit or art historical importance to warrant retention. In disposing of or retaining a presumed forgery, the museum shall consider all related ethical issues including the consequences of returning the work to the market. (AAMD Practices 2011: Appendix B, II,D)
- 4.8 The object is deemed not pertinent to any field that falls within the Museum's mission to collect (the collection areas of the Museum are described in the Walters Art Museum's Acquisitions and Accessions Policy Section 2.2).
- 4.9 The Museum's possession of the work is not consistent with applicable law, e.g., the work may have been stolen or illegally imported in violation of applicable laws of the jurisdiction in which

the museum is located, or the work may be subject to other legal claims. (AAMD Practices 2011: Appendix B, II.C)

- 4.10 A competing ownership claim to antiquities and archaeological material has been found to have merit after the Museum has respectfully and diligently addressed the claim based on its own merits, whether based on ethical or legal considerations. As appropriate and reasonably practical, the Museum should seek to resolve the claim through voluntary discussions directly with a claimant or facilitated by a third party. (AAM Standards Regarding Archaeological Material and Ancient Art, July 2008, paragraph 4)

5. PROCEDURES

- 5.1 An object shall be recommended for deaccession by the curator of the appropriate field. A written recommendation shall be submitted for review to the Director of the Curatorial Division, and to the Conservation Division for technical examination and review of the object's condition. The Director of the Curatorial Division shall recommend consultation with other Walters' curators. (The deaccession procedures are summarized in chart form below and are also outlined in checklist form as Appendix I at the end of this document.)
- 5.2 When recommending a work for deaccession, the curator should provide thorough research on prior ownership history, an explanation of expressed donor intent (if any), current scholarly evaluation, and relevance to the existing collection and future collecting goals. (AAMD Practices 2011: Appendix B, Policy Statement, C)
- 5.3 The Chief Registrar shall ensure that the work is photographed and fully recorded.
- 5.4 The Conservation Division shall attach a condition report and any pertinent technical data to the written recommendation.

- 5.5 For accessioned works of art the curator's written recommendation regarding an object's intrinsic artistic and historical value, as well as its relation to the collection, must be accompanied by the written opinions of at least two disinterested outside experts. In addition, for any object estimated by the Walters to be worth more than \$10,000, or any object for which the Walters is unable to estimate the monetary value on the basis of staff research and knowledge, the written appraisal of at least one disinterested outside expert (who may be one of the two aforementioned experts) shall be obtained and included in the proposal to the Director. As per 3.5 works for study purposes, decoration, or for possible resale should not be accessioned and may be disposed of at the discretion of the responsible Curator and the Director.
- 5.6 The Chief Registrar, at the request of the Director of the Curatorial Division and with advice of counsel, if needed, shall determine whether any legal or precatory restrictions are attached to the gift or bequest of an object and advise the Director of the Curatorial Division on this matter.
- 5.7 Curators, conservators, and registrars shall discuss the proposed deaccession at the Loans and Acquisitions Meeting in order to forward a final recommendation to the Director. In the event that consensus is not reached, the opposing written recommendations shall be forwarded to the Director for review.
- 5.8 After the Loans and Acquisitions Committee presents its final recommendation for deaccession to the Director, the formal written recommendation for deaccession shall be forwarded to the Collections Committee of the Board of Trustees. The Collections Committee is staffed by the Director of the Curatorial Division and is composed of Trustees and the Director. The Collections Committee advises the Director on art acquisitions, gifts, and collections deaccessions in order to enhance and refine strategies for growing and culling the Museum's permanent collection in keeping with its mission.

If the Director, operating with the advice and counsel of the Collections Committee, endorses the withdrawal, the Director shall submit his/her final recommendation to the Board of Trustees for its approval.

Deaccession proposals must be in writing and must address the following:

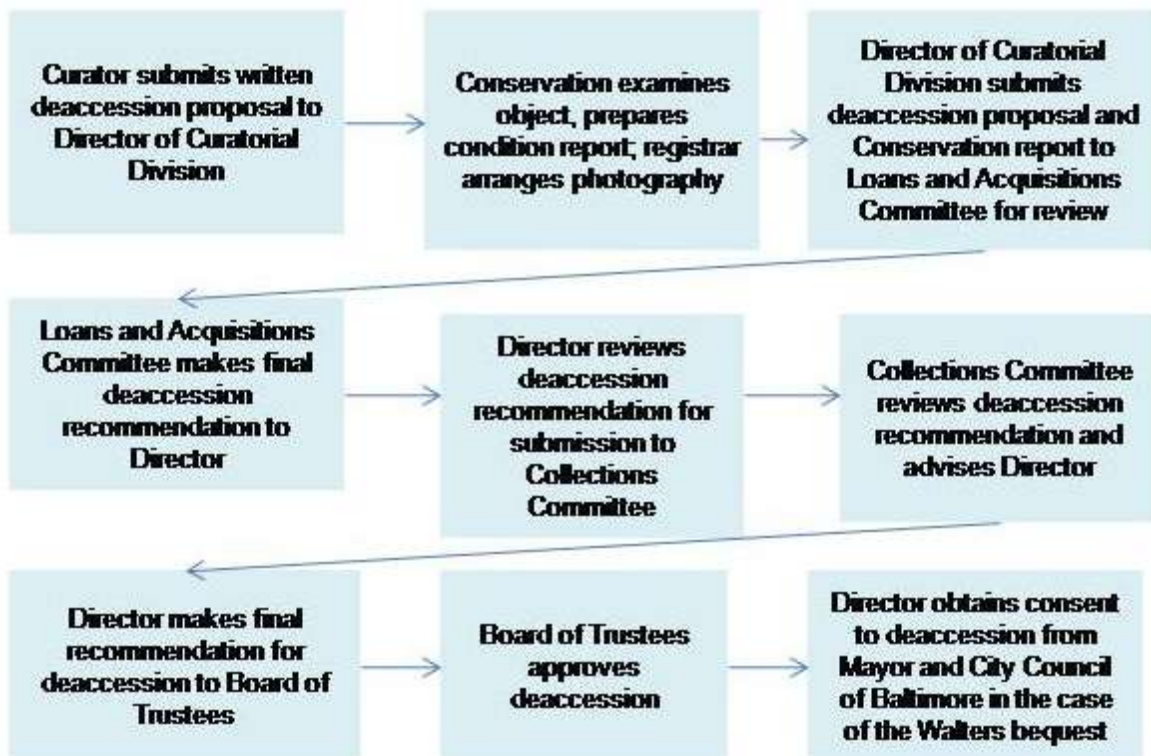
- The curator's written recommendation regarding the object's intrinsic artistic and historical value in relation to the collection, and the Museum's exhibition, loan, research or teaching purposes
- A description of the means by which the object was acquired and any known gift or bequest restrictions
- Written opinions of two outside experts (for an accessioned object)
- Current market value or auction estimates (and a written appraisal for any object valued over \$10,000)
- Donor or legator intent; whether donor or heirs have been contacted; whether there is any expressed objection to the deaccession
- Means of disposal

5.9 Following the decision of the Board of Trustees to deaccession a work of art that forms part of the bequest of Henry Walters, the Director, in accordance with Article 18 of the Baltimore City Code pertaining to said bequest, shall request the consent of the Mayor and City Council of Baltimore, or their designee or designees, to the Board's deaccession decision, and upon obtaining such consent, shall proceed to sell or otherwise dispose of the work of art in accordance with the terms of this policy.

5.10 Prior to any recommendation being presented to the Board of Trustees for a final vote, in the case of the proposed deaccession, the Museum shall make a reasonable effort to contact the donor or heirs, other family members, or appropriate legal representatives to apprise them of the proposed withdrawal. This same effort shall be made to contact Henry Walters' direct descendants or their representatives when the proposed deaccession applies to objects from

the original bequest of Henry Walters. Such actions shall not be construed as a request for permission to withdraw.

- 5.11 The Museum shall ascertain that the estimated value of the object correlates with its current market value. In the case of an object estimated to be worth more than \$10,000, or any object for which the Museum is unable to estimate the monetary value on the basis of staff research and knowledge, the estimated value will be based on the appraisal (see section 5.4 above).
- 5.12 The Board of Trustees shall make the final approval of a deaccession recommendation. Approval of a deaccession shall be so noted in the official Minutes of the Board of Trustees.



- 5.13 Funds deriving from the disposal of works of art shall be used exclusively to purchase other works of art within the same curatorial collection area. In the case of disposal of gifts or bequests, where appropriate, donor credit shall be transferred to resulting acquisitions. Expenses incurred to deaccession a work shall either be deducted from the resulting proceeds or come from Museum operations.
- 5.14 In the event that the Museum sells a known forgery or copy, such information and documentation shall be provided to any prospective agent or buyer of the object.
- 5.15 Before disposal, accession numbers and any other Museum identification shall be removed from the objects. Works stamped with the Museum's name shall be re-stamped "removed" or "withdrawn."
- 5.16 When a gift or bequest is received specifically for resale, the Director shall secure the donor's or executor's written authorization for such action. Such objects shall be disposed of by whichever method seems most advantageous in the opinion of the staff, although sale by public auction is recommended.
- 5.17 There are four principal methods of disposing of withdrawn objects:
- a. by sale at public auction (for decisions involving selling materials online, consult the AAM Information Center Fact Sheet: Selling Deaccessioned Materials Online, 2004)
 - b. by sale through consignment, by whole or partial exchange, or by direct sale to a dealer or other buyer
 - c. by gift, by whole or partial exchange, or by direct sale to another museum or suitable institution

- d. in the case of archaeological materials and ancient art, by return should continuing research establish another party's right to ownership or should another party comes forth with information supporting a legitimate claim (AAMD Task Force 2008 (Guidelines, II.G) and in the case of demonstrated Nazi-Era provenance by transfer to a claimant if loan or retention is ruled out.
 - e. if there is minimal or no market value, the Director may authorize withdrawn objects to be
 - 1. assigned as study materials and clearly marked as such; or
 - 2. destroyed before witnesses.
- 5.18 Means of disposal may vary according to the existing market for each type of object and current market conditions. In general, it is recommended that disposal take place through public auction. The specific terms of disposal through an auction house (including placement of reserves where appropriate), dealer, other buyer, or institution are determined by the Director with the recommendation of the curator. The Director shall register his/her approval by signing the agreement.
- 5.19 The Director shall recommend how ownership of the objects will be publicly designated at the time of disposal. Such designations may include "sold by the order of the Trustees of the Walters Art Gallery for the benefit of its acquisition funds," or the Museum may choose to remain anonymous as the seller.
- 5.20 After withdrawal of an object has been completed, the Chief Registrar shall retain all documentation relating to the deaccessioning; records shall be clearly updated to reflect the deaccessioning; accession numbers shall not be reassigned and photographic documentation of the deaccessioned object shall be maintained. Departments shall be informed as appropriate.

- 5.21 Funds received for the disposal of a deaccessioned work shall not be used for operations or capital expenses. Such funds, including any earning and appreciation thereon, may be used only for the acquisition of works in a manner consistent with the Museum's policy on the use of restricted acquisition funds. Monies realized from deaccessioned works shall be placed in a restricted fund account and deaccession proceeds, earning and appreciation thereon shall be credited to the relevant curatorial department. The Chief Registrar shall maintain a ledger of all deaccessions, tracking objects deaccessioned, transferee or auction house, sale, date of sale, net proceeds, and related credit line. Any subsequent purchases shall be tracked against the deaccession ledger so that credit lines can be transferred appropriately. (AAMD Practices 2011, Appendix B,I,B)
- 5.22 No member of the Museum's board or staff, or anyone whose association with the Museum might give them an advantage in acquiring the work, shall be permitted to acquire directly or indirectly a work deaccessioned, in whole or in part, by the Museum, or otherwise benefit from its sale or trade. The foregoing, however, shall not apply to a sale by the Museum of a work to one or more of any co-owners of such work. (AAMD Practices 2011, Appendix B,III,E)
- 5.23 The outside experts who are brought in to give their opinions about proposed deaccessions and the institutions they are affiliated with shall be asked to sign a document attesting that they will not acquire directly or indirectly the deaccessioned work(s) for which they have rendered an opinion.
- 5.24 If the Museum proposes to dispose of less than all of its interest (sometimes known as fractional deaccessioning) in a deaccessioned work (unless the interest to be retained is insubstantial), the disposal should be made only to an organization or organizations that is open to the public. (AAMD Practices 2011, Appendix B,III,F)
- 5.25 The Museum shall publish on its website within a reasonable period of time works that have been deaccessioned and disposed of. (AAMD Practices 2011, Appendix 2011, Policy Statement F)

6. REVIEW

This policy shall be reviewed periodically and at least once every five years.

7. Appendix 1: The Walters Art Museum Deaccession Procedures Record (appended below) forms part of this document.

APPENDIX I

THE WALTERS ART MUSEUM DEACCESSION PROCEDURES RECORD

This document is to be completed as a record of the deaccession process for each object proposed for deaccession and filed with relevant attachments in the Registrar Department Deaccession File.

1. Description of Object:

Accession #:

Title:

Artist

Medium:

Date:

Credit line:

Photography:

2. The Museum must have a legal right to dispose of the object. How has this been determined?

3. What was the means of acquiring the object?

Date of Acquisition:

Board of Trustees Minutes' Date:

Gift Restrictions:

4. Curator's written recommendation to the Director of the Curatorial Division:

Specific reason for deaccessioning the object:

When was the object last exhibited?

Does the object have future value for exhibition?

Does the object have future value as a loan?

Does the object have value as part of a research or teaching collection?

Does the object form part of a large category of similar objects at the Museum?

Date of recommendation:

Filed in Registrar Deaccession File:

5. Curator's written recommendation sent to the Conservation Division:

Date:

Filed in Registrar Deaccession File:

6. Conservation Division's written evaluation:

Date:

Filed in the Registrar Deaccession File:

Attach a description of the overall condition.

7. Consultation with other Walters curators:

Date:

Summary of discussion:

8. Opinions to substantiate deaccessioning recommendations:

a. Written opinion of 1st outside expert:

Date:

Filed with the Registrar Deaccession File:

b. Written opinion of 2nd outside expert:

Date:

Filed in the Registrar Deaccession File:

9. Written contrary opinions:

10. Current market value:

How was this determined?

Attach a written appraisal for any object valued over \$10,000.

11. If the object was a gift, answer the following:

Is the donor still alive?

Has the Museum made a reasonable effort to contact the donor (or heirs)?

Has the donor (or heirs of the donor) been informed of the Museum's intentions?

Is the donor likely to make a further gift or bequest to the Museum?

Has the donor (or heirs of the donor) objected to the deaccession or disposal?

12. Is there another museum, public institution, organization, or individual which might consider the object for exchange, purchase, or gift?

13. Preferred means of disposal:

a. public auction:

b. exchange:

c. private dealer:

d. other (give details):

14. Presentation at the Loans and Acquisitions Meeting:

Date of proposal to forward deaccession recommendation to the Director:

In the event of opposing opinions, date written opinions were forwarded to the Director:

Attach opposing opinions.

15. Consultation with the Collections Committee:

Date of meeting:

Advice of the Collections Committee to the Director:

16. Recommendation to the Board of Trustees:

Date of Board of Trustees Meeting:

Attach Board of Trustees Minutes

Board of Trustees Action Taken:

17. Director's request for consent to deaccession to Mayor and City Council of Baltimore:

Date of notification of Board of Trustee approval and request for consent:

18. Mayor and City Council of Baltimore consent to deaccession:

Date of consent:

19. Deaccession Documentation:

a. Removal of accession number:

b. Forgeries/reproductions described to seller/buyer:

c. Expenses charged to museum operations:

d. Method of sale:

e. Sale/exchange report to Board:

Value received:

f. Transfer of credit line:

g. Deaccession documentation completed; records updated and filed in Registrar Deaccession File:

h. Departments notified as appropriate:
