

# AMENDMENT OF THE RULES OF THE BOARD OF REGENTS

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- Pursuant to sections 101, 207, 215, 216 and 217 of the Education Law
  - Section 3.27 of the Rules of the Board of Regents is repealed, effective March 9, 2006.
  - A new section 3.27 of the Rules of the Board of Regents is added, effective March 9, 2006, as follows:
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## **§3.27 Chartering and registration of museums and historical societies with collections.**

### **(a) Definitions.**

Whenever used in this section, the following terms shall have the meanings indicated:

(1) **Museum** means an organized not-for-profit institution, including but not limited to halls of fame, zoos, aquariums, botanical gardens and arboretums, that is essentially educational or aesthetic in purpose, with professional staff, which ordinarily owns, exhibits, maintains, and/or utilizes artifacts, art, and/or specimens, including non-tangible electronic, video, digital and similar art, cares for them, and exhibits them to the public on some regular schedule.

(2) **Historical society with collections** means an organized not-for-profit institution, with purposes limited to a reasonable and clearly defined geographical area or to one or more specific subjects of interest, which gathers, preserves, advances or disseminates knowledge about the past through research, collections acquisition and management, preservation and/or interpretation, which carries on educational and public programs on a regular schedule, which makes its programs and resources accessible to the public, and which is appropriately and professionally staffed by paid and/or volunteer personnel who possess sufficient training and knowledge to meet the requirements of its mission and the needs of its collections.

(3) **Institution** means a museum or historical society with collections formed by the Board of Regents or otherwise incorporated as an education corporation under the laws of the State of New York.

(4) **Accessible** means the extent to which the institution ensures that its collections, interpretation, public and educational programming, and

physical plant are reasonably convenient for the public to use, understand and enjoy.

**(5) Accession** means:

- (a) adding an object to an institution's collection or
- (b) the act of recording/processing an addition to an institution's collection.

**(6) Catalogue** means the systematic classification of objects or specimens in the collection according to accepted museological practice.

**(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 when so designated by the institution;

**(8) Collection care** means the responsibility and function of an institution that involves developing and implementing policies and procedures to protect the long-term integrity of objects, artifacts, records and specimens, as well as their associated data and documentation, for use in research, education and exhibits.

**(9) Collection management** means the responsibility and function of an institution, through its collections managers, subject specialists, curators, and other institutional administrators to foster the preservation, accessibility, and

utility of the institution's collections and associated data, including recommending and implementing policy with respect to: artifact, record or specimen acquisition, collection growth, and deaccessioning; planning and establishing collection priorities; obtaining, allocating, and managing resources; and coordinating collection processes with the needs of curation, preservation, and collection use.

**(10) Deaccession** means:

- (a) removing an object from an institution's collection or
- (b) the act of recording/processing a removal from an institution's collection.

**(11) Diversity** means broadly inclusive participation in every aspect of governance, staff, operations and programs to represent the community and constituency served in terms of race, ethnicity, gender, economic background and geography.

**(12) Education/public programs and exhibitions** means the full range of mission-related educational activities in which the institution engages, to promote understanding and appreciation of a subject, and to support life-long learning.

**(13) Hours of Operation** means publicly stated and promoted regular hours during which the public has reasonably convenient access to the institution's education/public programs and exhibitions.

**(14) Interpretation** means the ways that the institution uses its collections, exhibits, and research to communicate meaning to the public

**(15) Mission Statement** means a statement modeled on and derived from the institution's corporate purposes, as set forth in its charter or certificate of incorporation, that identifies the benefits derived from the institution's activities.

**(16) Operating budget** means the amount of annual income or expenditures of the institution, excluding funds raised for capital improvements, funds received or designated for addition to endowments and funds raised or obtained from sale of collections.

**(17) Professional staff** means at least one paid employee who commands an appropriate body of special knowledge in the area for which he or she is employed, and the ability to reach museological decisions consonant with the experience of his/her peers and apply accepted standards of practice, and who also has access to and acquaintance with the expertise, best practices, literature and scholarship of the field; provided, however, that a museum with an operating budget of \$100,000 or less shall be appropriately and professionally staffed by paid and/or volunteer personnel who possess sufficient training and knowledge to meet the requirements of its mission and the needs of its collections.

**(18) Public trust** means the responsibility of institutions to carry out activities and hold their assets in trust for the public benefit.

**(19) Research** means a studious inquiry conducted in support of an institution's stated purposes in order to bring to light new facts or to confirm or revise accepted conclusions.

**(b) Requirements for museum and historical society chartering.**

(1) **Provisional charters.** To be eligible for a provisional charter, a museum or historical society with collections shall submit to the Board of Regents a petition for a provisional charter together with evidence in writing which, in the judgment of the Board of Regents, makes it appear likely that the institution will be successful in achieving registration.

(2) **Absolute charters.** To be eligible for an absolute charter, a museum or historical society with collections shall submit a petition for an absolute charter together with evidence in writing establishing, in the judgment of the Board of Regents, the institution's compliance with the provisions of this section, including, but not limited to, the general requirements for museums and historical societies with collections under subdivision (c) of this section and the provisions for registration under subdivision (d) of this section.

**(c) General requirements for museums and historical societies with collections.**

**Each institution shall meet the following requirements:**

**(1) Organization.**

The institution shall:

- (i) be in compliance with all applicable local, state, and federal laws and regulations; and
- (ii) maintain a mailing address within New York State

adequate for legal service;

**(2) Mission.**

The institution shall:

- (i) develop and adopt a written mission statement;
- (ii) prioritize its activities to meet its mission statement; and
- (iii) review, and revise as necessary, its mission statement  
at least every 5 years.

**(3) Governance.**

The institution shall:

- (i) have a board-approved set of by-laws and/or constitution;
- (ii) have a board of trustees of which no more than one-third (1/3) of the members are related to each other by birth, marriage or domicile;
- (iii) where there is a relationship between the institution and another corporation, society, organization, institution or association, in which the institution and the other entity are related by common membership, governing bodies, trustees, officers, shared finances, collections or facilities, the institution shall have a board of trustees of which no more than one-third (1/3) are officers and/or directors of the other entity at the same time, provided that this provision shall not apply to any unit of government; and
- (iv) have a written, board-approved code of ethics applicable to

trustees, administrators and staff and volunteers that addresses issues of public trust, conflict of interest and is reviewed each year.

**(4) Finance.**

The institution shall:

- (i) prepare an annual budget and financial statements that are regularly reviewed by the board;
- (ii) have formal financial policies and maintain written records of financial transactions and reports pursuant to generally accepted accounting practices;
- (iii) appoint a board-constituted audit committee, composed of a minimum of three board members other than the treasurer and president, to review the institution's financial transactions and reports; this requirement shall apply to every institution regardless of the size of its operating budget and regardless of whether the institution has conducted a financial review pursuant to subparagraph (iv) of this paragraph;
- (iv) conduct a financial review in accordance with the following:
  - (a) if its annual operating budget exceeds \$250,000, the institution shall cause to be conducted annually an independent audit by a certified public accountant, which

shall include the auditor's report and the auditor's written opinion that the financial statements are presented fairly in all material respects and in conformity with generally accepted accounting principles applicable to not-for-profit organizations;

- (b) if its annual operating budget is at least \$100,000 but no more than \$250,000, the institution shall cause to be conducted annually an independent review by a certified public accountant in conformity with generally accepted accounting principles applicable to not-for-profit organizations;
- (c) if the annual operating budget of an institution is below \$100,000, no independent audit or review shall be required; provided that nothing herein shall relieve an institution of its responsibility to appoint an audit committee to review the institution's financial transactions, pursuant to subparagraph (iii) of this paragraph;
- (v) conduct its financial affairs in such a way that it does not jeopardize the ownership or integrity of its collection or any portion thereof; and
- (vi) have obtained and continue to maintain, or shall have filed an application for, tax-exempt status under section 501(c)(3) or

other section, as applicable, of the Internal Revenue Code or the corresponding provision of any future United States Internal Revenue Law.

**(5) Facilities.**

The institution shall:

- (i) have a physical plant that is accessible to individuals with disabilities to the extent required by law;
- (ii) have adopted emergency action and disaster preparedness plans appropriate for the institution's facilities, exhibits and collections;
- (iii) ensure that the physical plant is adequately insured; and
- (iv) ensure that any structure or facility owned or leased by the institution that houses offices, classrooms, exhibits or collections is equipped with an adequate, working alarm system for detection of fire, smoke and intruders.

**(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;

- (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, and a statement limiting the use of any funds derived therefrom in accordance with subparagraph (vi) below;
- (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 or for any purposes other than the acquisition, preservation, protection or care of collections.

**(7) Education and Interpretation.**

The institution shall offer programmatic accommodation for individuals with disabilities to the extent required by law.

**(d) Requirements for registration of museums and historical societies with collections.**

An institution shall be deemed registered upon the granting of an absolute charter. To be eligible for registration, an institution shall meet the requirements for an absolute charter pursuant to subdivision (b) of this section and the following additional requirements:

**(1) Organization.**

The institution shall:

- (i) have been chartered, incorporated or in operation a minimum of five years;
- (ii) have sufficient financial and physical resources to achieve its mission and meet the standards prescribed in this section; and
- (iii) be open and accessible to the public on a regular basis, provided that institutions having an operating budget in excess of \$100,000 per year shall be open to the public a minimum of 1,000 hours of operation per year.

**(2) Governance.**

The institution shall:

- (i) organize its governing authority, staff, financial resources, collections, public programs and other activities to effectively achieve its mission statement and fulfill its public trust obligations; and
- (ii) effectively advance diversity of membership and participation in the institution's mission;

**(3) Finance.**

The institution shall have obtained, and continue to maintain, tax-exempt status under section 501(c)(3) or other section, as applicable, of the Internal Revenue Code or the corresponding provision of any future United States Internal Revenue Law.

**(4) Facilities.**

The institution shall:

- (i) own or occupy through lease or other legally enforceable agreement safe, well-maintained and accessible facilities; any lease or agreement shall be sufficiently long as to be convenient for the public and accommodate the institution's need for operational stability;
- (ii) ensure that the physical plant is adequately maintained; and
- (iii) ensure that any historic structure owned by the institution that is eligible for or listed on the State and/or National Registers of Historic Places will be restored and/or maintained according to accepted historic preservation practices.

**(5) Education and Interpretation.**

The institution shall:

- (i) use its collections to present programs, publications, and exhibitions that are consistent with the organization's mission, based upon the highest standards of scholarship and offered to as broad a segment of the population served as possible, with consideration given to the learning styles of the audiences to be served;
- (ii) present regularly scheduled, publicly stated and promoted

- programs and exhibits that are intrinsically educational and that use and interpret collections for the public's benefit;
- (iii) employ a variety of presentation and teaching techniques that acknowledge the ways audiences gather information and learn; and
  - (iv) ensure that any school programs conducted by the institution shall be based on the appropriate State learning standards, and with input from teachers and/or other educators.

**(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.

**(f) Use of names.**

(1) The name of the institution shall be consistent with and clearly indicative of its purpose, and shall not be identical with or so similar to the name of any existing entity as to cause confusion between the institution and any other entity incorporated under the laws of New York.

(2) The terms "National," "American," "United States," "World," "International," and similar geographically descriptive terms shall not be used

in a corporate name unless the institution seeking to use such term can demonstrate that: (i) the institution has such coverage, scope of collections, breadth of exhibits, broad representation and sufficient recognition to warrant such term in the corporate name; or (ii) such term is used in a context that does not imply a geographical area that is served by the institution.

(3) No museum or historical society with collections shall use the word "library" and no historical society with collections shall use the word "museum" in connection with its operations unless authority to operate a library or museum is conferred by the charter of the museum or society and the library or museum operation meets the requirements of the Rules of the Board of Regents and the Regulations of the Commissioner of Education with respect to the operation and registration of a library or museum; provided that such prohibition with respect to the operation of a library shall not apply to collections of books and/or other materials maintained for reference use and not for public circulation.

**(g) Dissolution.**

A museum or historical society with collections shall comply with all applicable state statutes, rules and regulations relating to dissolution and distribution of assets, and shall not disband or dissolve, nor distribute, spend down or otherwise dispose of its assets, except as provided thereunder.

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