



University of South Dakota

# **NATIONAL MUSIC MUSEUM**

## **Collections Management Policy**

Adopted 4-23-2016

Revised 9-23-2017

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## **MISSION STATEMENT**

The mission of the National Music Museum is to explore, enjoy, and preserve the world of musical instruments. (September 23, 2017)

## STATEMENT OF AUTHORITY

The National Music Museum functions as a partnership between the privately-funded, not-for-profit *National Music Museum: America's Shrine to Music, Inc.*, and the state-funded *University of South Dakota*. (The NMM's name was changed, effective in 2002, from its original name, *The Shrine to Music Museum*.)

The University of South Dakota is a member of the South Dakota regental system; the South Dakota Board of Regents has the constitutional authority to govern the system of public higher education in the State of South Dakota. BoR policies govern all USD operations and inform many NMM Inc. policies and practices.

### Board of Trustees

The Corporation is governed by a Board of Trustees. NMM by-laws allow a Board of up to 40 trustees, but typical numbers are in the 25-30 range. Officers and committees of the Board are outlined in the corporate by-laws. The functions and responsibilities of the Board include:

- Ensure the NMM's overall ability to actualize its mission and its multiple roles for a broad, diverse constituency.
- The Board of Trustees consults with USD in the selection and hiring of the NMM Director.
- Ensure effective organizational planning.
- Ensure that the NMM has adequate resources to fulfill its mission.
- Monitor the NMM's activities and programs.
- Adhere to the Articles of Incorporation, the By-laws, and other governing documents of the institution.
- Establish basic policies and objectives.
- Approve an annual budget, major fiscal undertakings, and initiatives of broad, institutional import.
- Solicit and develop funding sources to sustain the NMM's mission, programs, and projects.
- Lead major initiatives, as required, including facility expansion and modernization.
- Elect officers, members-at-large, and appoint such committees as needed for effective governance.
- Agree not to disclose confidential Board information, unless authorized by the Board or required to do so by law.

## **Shared Responsibilities with the University of South Dakota**

The relationship between USD and NMM is governed by working agreements identifying the responsibilities for each organization:

### **The University of South Dakota:**

- holds title to the Arne B. Larson Collection of musical instruments.
- provides facilities, utilities, and custodial and security services.
- provides a professional staff responsible for management, conservation, research, and teaching, along with the necessary supplies and materials.

### **The Board of Trustees:**

- holds title to all musical instruments, archives, and other artifacts, excluding the Arne B. Larson Collection.
- owns the display cases and exhibit materials.
- manages the endowment funds.
- provides funding and is responsible for acquisitions, public exhibitions and programs, and marketing the NMM.
- advocates for the continued public and private support of the NMM.
- provides additional staff to complement USD personnel.

## **Director of the National Music Museum**

The Director is the chief executive overseeing all NMM operations. The Director is an employee of the University of South Dakota, supervised by the Dean of the College of Fine Arts. As a State employee, the Director follows the dictates of the State of South Dakota, its Board of Regents, and the President of USD.

The Director is also responsible for executing the policies and directives of the Board of Trustees of NMM Inc., which delegates to the Director authority for managing its operational budget and supervising its staff. The Director, therefore, reports also to Chair of the Board of Trustees, in addition to the Dean of the USD College of Fine Arts.

Responsibility for the management of the NMM's collections lies ultimately with the Director who is informed by the NMM's institutional policies and procedures. Specific management responsibilities may be delegated to appropriate members of the staff.

## **Staff of the National Music Museum**

The NMM staff, whether employed by USD or NMM Inc., are likewise guided by the NMM's policies and procedures in their work with all collections. Specific responsibilities are outlined in job descriptions for each position.

The Curatorial Team is responsible for creating and maintaining detailed records of the collection and, in consultation with the Conservator, for insuring the physical well-being of the collection through regular evaluation, maintenance, and risk management. Curators provide expert input regarding the use of each object, balancing conservation and maintenance needs with providing access for the general public, through exhibitions, or for specialized researchers and performers.

### **Curatorial Team**

The Curatorial Team of the NMM is comprised of curators, the collections manager, conservator, and other staff as appointed by the Director or Senior Curator.

This Curatorial Team is guided by the policies and procedures outlined in this document. Its meetings provide a forum for discussing proposed acquisitions and deaccessions, loans, exchanges, and exhibits. The committee identifies collections-related matters that need to be brought to the attention of the Board of Trustees. The review and updating of this document is also the purview of this committee.

### **Collections Committee of NMM Inc.**

NMM Inc. by-laws stipulate a Collections Committee as a permanent, standing committee. Its members are appointed by the Chair of the Board. The authority of the Collections Committee extends specifically to collections purchased and owned by the NMM Inc., but this committee may also provide advice and recommendations related to the founding collection of the NMM, the Arne B. Larson Collection, which is the property of the State of South Dakota.

This committee evaluates recommendations from the Curatorial Team as outlined in the Acquisitions/Deaccessions policy of this document. The Collections Committee advances these recommendations, with its counsel and advice, to the Executive Committee or full board for final action.

### **Dean of the College of Fine Arts of the University of South Dakota**

The Dean of the USD College of Fine Arts is authorized, on behalf of the State of South Dakota, to oversee decisions specifically related to the founding collection of the NMM, the Arne B. Larson Collection, which is the property of the State of South Dakota. Generally, the Dean can expect advice and recommendations from the Curatorial Team and/or the Collections Committee regarding the ABL Collection, following the guidelines of the NMM's Collections Management Policy and Code of Ethics.

The Dean is also supervisor of the Director of the NMM. The Dean serves as an *ex-officio* member of the NMM Board of Trustees.

## **SCOPE OF COLLECTIONS**

The collections of the National Music Museum reflect the organization's mission by their emphasis on musical instruments "from the commonplace to the rare," accompanied by materials that relate to and support the musical instrument collection, including library and archival materials, images, music, and sound recordings. Objects are acquired by donation, purchase, bequest, or transfer. The NMM's philosophy of collecting and direction for future growth involves considering objects that provide information about instrument making, material culture, the development of instruments, and instrumental performance that is not otherwise represented in the collections, with consideration toward future exhibiting and research needs.

The NMM's collections shall be used for:

- Exhibition within the NMM
- Organological research and scholarly activity
- Teaching or interpretation in conjunction with tours, workshops, seminars, and related activities
- Study in conjunction with the NMM's Master of Music degree program
- Outgoing loans to appropriate non-profit institutions
- Performance and teaching (if appropriate and when possible)

## **HISTORY OF THE COLLECTION**

The Shrine to Music Museum, Inc. (renamed the National Music Museum, Inc. in 2002) was founded in July 1973, on the campus of the University of South Dakota, as a partner with the University, which provides a core staff and facilities for preservation, teaching, and research. The Board of Trustees of the NMM, a non-profit, 501(c)(3) corporation, is responsible for acquisitions, public exhibiting, programming, and supporting additional staff necessary to run the NMM and care for its collections. The Board of Trustees is totally dependent upon support from NMM members, individuals, corporations, foundations, and governmental units. From 1973 to the present day, the NMM, Inc. selectively purchases and accepts donations of musical instruments and related items, of which it is the owner and steward. In 2015, the number of musical instruments belonging to NMM, Inc. exceeded 14,500 objects.

The Arne B. Larson Collection of Musical Instruments was donated in April 1979 to the State of South Dakota, with the stipulation that it would be administered and cared for by the then Shrine to Music Museum, Inc. The Larson Collection, consisting of more than 3,000 musical instruments, is the NMM's founding collection and has substantial holdings in European, U.S., and non-Western instruments, with particular strength in American and European winds. The Larson Collection in its entirety can be best characterized as a representative global collection of musical instruments.

Following the 1979 donation of the Larson Collection, the NMM's primary collecting objective was to start to fill in gaps and strengthen the European collection, particularly in the areas of 16<sup>th</sup>-early 19<sup>th</sup>-century keyboards, woodwinds, brass, and, to a lesser degree, percussion instruments. In 1983, the NMM's Board of Trustees established the Arne B. & Jeanne F. Larson Acquisitions Fund with proceeds from the sale of the 160-acre Minnesota farm (where Arne was born), which had been owned by the Larson family for more than 100 years. The Larson Acquisitions Fund allowed the NMM to purchase numerous instruments, with a particular emphasis on 16<sup>th</sup>- to early 19<sup>th</sup>-century European instruments of all types. In 1984, additional funding was donated by Marjorie and Robert Rawlins for the acquisition of the Witten Collection of North Italian stringed instruments. The NMM's reputation spread during the 1980s-1990s resulting in the accession of numerous additional instruments and entire collections offered to the NMM as donations. Many of the NMM's acquisitions during the 1980s-2000s were the result of opportunities that presented themselves to the NMM rather than a selective acquisition of specific objects.

## **STRENGTHS OF THE MUSICAL INSTRUMENT COLLECTION**

**Keyboards:** The NMM's collection of more than 200 European and American keyboards includes clavichords, harpsichords, pianos, pipe organs, reed organs and electronic instruments dating from the early 16<sup>th</sup> – late 20<sup>th</sup> century.

**Woodwinds:** The NMM's collection of European and American woodwind includes instruments made between the 17th and 21st centuries. Some of the outstanding woodwind collections include the following:

- W. Wayne Sorensen Woodwind Collection (1982)
- Higbee-Abbott-Zylstra Woodwind Collection (1989)
- John Powers Saxophone Collection (1994)
- Cecil B. Leeson Saxophone Collection and Archives (1994)
- Rosario Mazzeo Clarinet Collection (1995)
- Bill Maynard Clarinet Collection and Archive (1996-2001)
- Margaret Martin Whistle Collection (1998)
- Leblanc Collection and Archive (2008)
- Roger Mather Flute Collection (2013-2014)
- Richard Hahn Flute Collection (2014)



**Bowed Stringed instruments:**

- The Witten-Rawlins Collection of early Italian stringed instruments crafted by Andrea Guarneri, three generations of the Amati family, and others (1984), is a particular strength of the NMM's collections, to which additional acquisitions have since been made, including five instruments by Antonio Stradivari.
- Meisel Family Violin Collection and Violin Making Workshop (1996-2013)
- Carleen Hutchins Collection, Violin Octet, and Archive (2003)
- James Christensen Collection of Stelzner Model Experimental Bowed Stringed Instruments (2008-2014)

**Plucked Stringed Instruments:**

- Canning Banjo Collection and Archive (1988-1990)
- D'Angelico, D'Aquisto, Gudelsky Workshop and Archive (2004)
- Paul and Jean Christian Collection and Archive (2006) includes a systematic collection of more than 600 zithers, along with 1,700 other Western and non-Western instruments of various sorts
- Eddie Peabody Collection (2012)
- Geoffrey Robert Rezek Ukulele Collection and Archive (2013-2015), consisting of more than 100 ukuleles and supporting materials

**Brass instruments:**

- Joe & Joella Utley Collection of High Brass Instruments (1999)
- Extensive holdings of brass instruments by 17th- and 18th-century Nürnberg makers, including members of the Ehe, Haas, and Steinmetz families, as well as Paul Hainlein, Johann Carl Kodisch, Michael Nagel, and Paulus Schmidt
- Particularly strong collection of instruments made in the U.S. during the 19<sup>th</sup>-20<sup>th</sup> centuries.
- More than 550 instruments made in the late-19th/early-20th centuries by the C. G. Conn Company in Elkhart, Indiana, combined with an extensive reconstructed Conn Company Archive is a resource unparalleled anywhere.
- Holton Company Collection and Archive (2008)
- Leblanc Collection and Archive (2008)
- The Arnold Ruskin Collection, consisting of 153 outstanding trumpets, cornets, and flugelhorn assembled to document the models produced by F. E. Olds of Los Angeles and Fullerton, California, was donated to the NMM in the fall of 2008.

**Free-reed instruments:** The comprehensive Alan G. Bates Harmonica Collection and Archives (2000) includes more than 2,500 harmonicas and supporting ephemera and research materials

**Percussion instruments:** The William F. Ludwig II Collection and Archive (2001), includes an outstanding collection of historic drums dating from the mid-19th to the mid-20th century, collected by father and son, William F. Ludwig Sr. and William F. Ludwig II, over the course of some ninety years.

**Electronic Instruments:** The Charles D. Stein Early Electronic Instrument Collection and Archive (1996) includes several theremins and emicons from the early 1930s.

### **WHAT THE NMM DOES NOT COLLECT**

Although the National Music Museum formerly collected a wide range of object types during its formative years, the institution does not now, in general, pursue collecting in the following categories, except in instances when such items are an integral part of or are related to an instrument acquisition and/or a collection of instruments, or are significant elements relating to the regional musical culture:

- Un-inventoried collections
- Music, unless it is related to the NMM's collections
- Equipment used in the printing of music, such as, but not limited to printing presses, musical typewriters, stamping equipment, etc.
- Sound recordings, unless they are related to the NMM's collection
- Phonograph players, tape players, radios, clocks, etc.
- Materials related to the performance and/or history of movies (except for musical instruments themselves), including but not limited to posters, soundtracks, soundies, films, videos, etc.
- Costumes, band uniforms, military uniforms, etc.
- Celebrity-related ephemera, including, but not limited to gold or platinum records, costumes, related apparel/personal items, autographs, photographs, portraits, cookbooks, press clippings, advertising materials, correspondence, etc.
- Miscellaneous paraphernalia associated with travelling musicians (non-celebrity), such as, but not limited to, steamer trunks, promotional materials
- Programs, playbills, backstage passes, and other performance-related ephemera
- Posters of musical events
- Postage stamps with musical themes
- Historic display cases (such as those formerly used by a violin dealer, for example)
- Empty musical instrument cases unless they are an exact fit for NMM instruments without cases
- Materials related to the performance and/or history of opera
- Homemade musical instruments, unless the instrument has some historic or experimental significance or utility for exhibition

- Musical instruments badly damaged
- Musical automata, including such items as roller organs, player pianos, music boxes and other mechanical musical instruments, except for display purposes
- Instruments marketed as toys, unless they have historical interest
- Instruments marketed toward the tourist trade unless they have historical interest
- Tools/machinery for making musical instruments, musical instrument molds, forms, and unfinished parts, unless they have historic interest and are not duplicative
- Accessories not integral to musical instruments, such as music stands, lyre holders, piano stools/benches, etc.
- Reproductions of musical instruments, except for playing purposes
- Books and periodicals related to general musical topics (not including topics relating to musical instruments)

# CATEGORIES OF COLLECTIONS

## 1. INSTRUMENT COLLECTION

### A. Musical Instrument Collection

The Musical Instrument Collection is the focal point of the NMM's collections.

### B. Miscellaneous Artifacts

This collection includes instrument accessories and parts of instruments dating from the 18<sup>th</sup>-21<sup>st</sup> centuries, including mouthpieces, mutes, templates, violin bridges, tuning pegs, instrument-making tools, tuning devices, etc.

### C. Education Collection

The Education Collection consists of instruments and materials used for education programs and outreach. Items are acquired by donation, purchase, or transfer from the permanent collection. The Curator of Education is responsible for the movement of items in this collection.

## 2. ARCHIVES

The NMM preserves numerous archival collections including printed music, the papers of noted instrument researchers and instrument makers/manufacturers/dealers/collectors, posters, photographs, sound recordings, original art work images, historic band uniforms, and several collections of material relating specifically to USD and SD composers and musicians.

## 3. RESEARCH COLLECTION

### A. Library

The Library Collection in excess of 6,000 volumes consists of materials that have been acquired for use in the NMM's library for research and study by NMM staff, students, and visitors. Library materials are added to the online catalog of the University of South Dakota. This collection does not circulate except to NMM staff and graduate students. Visitors must make appointments to review library materials.

### B. Periodicals

The Periodical Collection consists of more than 26,000 issues that have been acquired for research by NMM staff, students, and visitors. This

collection does not circulate except to NMM staff and graduate students. Visitors must make appointments to review periodicals.

C. Musical Instrument Manufacturers Archive (MIMA)

This collection consists of more than 23,000 items including trade catalogs, price lists, educational materials, correspondence, technical drawings, etc. for more than 2,400 makers, manufacturers, retailers, and wholesalers worldwide, with a particular emphasis on American makers. These materials have been acquired for research by NMM staff, students, and visitors. This collection does not circulate except to NMM staff and graduate students. Visitors must make appointments to review this collection.

## ACQUISITIONING AND ACCESSIONING

Acquisitioning is the act of obtaining items which may or may not be accessioned. Examples of items that are acquired, but not accessioned, may include library materials, supplies, office equipment, shop tools, etc.

Accessioning is the formal act of legally accepting an object into the NMM's permanent collection, to be held in the public trust and administered according to its collections management policy. Accessioning involves assigning catalog numbers, creating and maintaining documentation pertaining to object entry, validation, manufacture, description, provenance, etc. Examples of accessioned items include musical instruments, artifacts, and archives. Newly accessioned items are reported in the semi-annual NMM Trustee Report.

The NMM's acquisitions will conform to the NMM's mission, and will enhance and strengthen the existing collections. Acceptable means of acquisition include donation, purchase, bequest, or transfer. All objects accepted into the collection become the NMM's exclusive property and, if unrestricted, may be displayed, loaned, retained, or disposed of in the best interests of the NMM.

The Director is responsible for ensuring that the NMM complies with applicable laws and ethical practices.

### **Curatorial Team**

The Curatorial Team is comprised of members of the curatorial staff, the Collections Manager, Conservator, and Director. The Director or Senior Curator may make further appointments as needed, depending on matters at hand.

The Curatorial Team is guided by the policies and procedures outlined in this document. Monthly meetings provide a forum for discussing topics such as proposed acquisitions and deaccessions, loans, and exhibits. The team identifies collections-related matters that need to be brought to the attention of the Director and the Board of Trustees.

### **Collections Committee of NMM Inc.**

NMM Inc. by-laws stipulate a Collections Committee as a permanent, standing committee. Its leadership is appointed by the Chair of the Board. This committee evaluates recommendations from the Curatorial Team for deaccessions, and for acquisitions in excess of \$5,000 when designated acquisition funds are available. The Collections Committee advances these recommendations, with its counsel and advice, to the Executive Committee or full board for final action.

## **CRITERIA FOR ACQUISITION**

In order to maintain the integrity of the NMM's collections and archives, the following guidelines have been established for the acquisition of musical instruments and archival materials. Objects shall not be accepted or otherwise acquired for the NMM's collections unless the following conditions are met:

1. All acquisitions must be obtained in an ethical manner consistent with the NMM's Code of Ethics.
2. The acquisition of the object or collection of objects furthers the mission and activities of the NMM, as stated in the Mission Statement.
3. The NMM can provide adequate storage, protection, and preservation for the objects under conditions that ensure their availability for NMM purposes.
4. The objects shall have permanency in the collections as long as they retain their physical integrity, their identity, and their authenticity, and as long as they remain useful for the purposes of the NMM.
5. Objects added to the NMM's collections will come to the NMM with free and clear title, with the exception of partial gifts (see Gifts).
6. The NMM shall not knowingly acquire an object that has been exported from its country of origin in violation of that country's laws or of the ethical guidelines defined by the 1970 UNESCO Convention, as recommended by the American Alliance of Museums; or has been collected in violation of federal or state antiquity laws.
7. Objects must be in a condition that does not require significant expense for treatment in order to consolidate and conserve them or make them relevant or useful unless funding for such purposes is provided by the donor or unless the curatorial team deems the objects to have historical significance.
8. The object does not duplicate objects already in the NMM's collections, unless the acquisition is intended to replace an object in poor condition or has a significant or compelling provenance that sets it apart from similar objects.
9. The purchase price is consistent with or lower than current market values.

## **GIFTS**

All objects acquired by donation or bequest will meet the Criteria for Acquisition and the NMM's Code of Ethics. The NMM does not accept acquisitions with restrictions such as use or future disposition unless the NMM Curatorial Team decides there is a compelling reason to do so. The benefits of restricted gifts must be weighed against the long-term impact the restrictions will have on the NMM's operations.

If objects are acquired with restrictions, the conditions will be stated clearly in an instrument of conveyance, will be made part of the accession records for the objects, and will be observed by the NMM to the extent feasible.

Partial or fractional gifts will be accepted only if a written contract or statement of intent requires the donor to transfer the remaining interest to the NMM within a specified period of time.

Deferred or promised donations will be allowed only under terms of a Promised Gift Agreement, which states the donor's intention and informs the NMM's strategic planning. Working with the area-specific Curator and Collections Manager/Senior Curator, a complete list of all objects promised for donation will be appended to the Promised Gift Agreement. If a large collection of objects or a single large object is to be considered, realistic estimates of space constraints must be discussed. Approval of promised gifts is subject to the Criteria for Acquisition.

Gifts to the NMM are tax deductible to the extent allowed by law. If a donor wishes to take a charitable deduction, it is the donor's responsibility to initiate the appropriate IRS Form for Noncash Charitable Contributions.

The NMM's Curatorial Team assesses potential acquisitions. Final approval of gifts rests with the Director or the Director's designee in the event that decisions need to be made in the Director's absence.

The NMM may accept end-of-year gifts through the month of December. For an object to be considered a gift during the current calendar year, the donor must indicate in writing an intent to donate the object(s) before the end of that calendar year. Possession of the object itself must be released by the donor by the end of the year.

A Deed of Gift setting forth a description of the object(s) and the conditions of transfer will be signed by the donor and by a designee authorized by the NMM's Board of Trustees.

The date of acceptance is the date designated by the NMM on the Deed of Gift, which is assigned after the following conditions are met:

1. The NMM has received an offer for a donation from the donor
2. The NMM has decided to accept the offer
3. The NMM has possession of the object(s)

Unless otherwise requested, donors will be acknowledged in the object's label text (if the object is displayed) and the object's catalog record.

## **BEQUESTS**

The NMM is under no obligation to accept bequeathed gifts. All bequests must be accompanied by a copy of the relevant portion of the will and such other probate documentation as may be required by legal counsel. The NMM requests that potential donors contact the NMM at the time the will is filed. The NMM's Curatorial Team assesses bequests. Final approval of bequests rests with the Director.



## **PURCHASES**

All objects acquired by purchase will meet the Criteria for Acquisition and the NMM's Code of Ethics.

Unless funds were given anonymously, the source of funds used to purchase objects will be acknowledged in the object's label text (if the object is displayed) and the object's catalog record.

When acquisition funding is available, the Director or the Director's designee has the authority to approve purchases of single objects up to \$5,000 upon recommendation of the Curatorial Team. The Director, under the advisement of the Curatorial Team, may make purchase recommendations to the Collections Committee for objects valued at more than \$5,000.

Except for purchases made at auction houses and online auctions, a Purchase Agreement setting forth a description of the objects and the conditions of transfer will accompany all purchases. This document must be signed by the seller and either the Director or the Senior Curator as designees authorized by the NMM's Board of Trustees.

### **Auction Houses and Online Auctions**

It is understood that objects and archival material bought from auction houses and online auctions are sold "as is" and are subject to the particular Terms and Conditions of Sale established by the individual auction houses and online entities. The NMM does not therefore require auction houses and online entities to sign a Purchase Agreement. In cases where the effort and/or expense involved in viewing the object presents an undue burden, and with the approval of the Director, a trusted representative local to the auction venue may be asked to examine the object on behalf of NMM staff.

When acquisition funding is available, upon recommendation of the Curatorial Team, the Director or the Director's designee has the authority to bid at auctions for items valued up to \$5,000. For objects valued at more than \$5,000, authorization through the Collections Committee is required.

### **Undocumented objects**

If an object in the NMM does not have any documentation, the NMM curatorial staff will attempt to reconcile the object with NMM documentation (including objects identified as missing) and institutional memory. If the object cannot be reconciled it will be considered Found-In-Collections in which case the NMM staff will follow pertinent state and federal laws and regulations.

## DEACCESSIONING

The term “deaccessioning” refers to the process of legally removing accessioned objects from the collection. Museum collections are not static; they grow and change over time. Consequently, deaccessioning is a necessity for the viability and proper management of the collections and for ensuring they remain relevant to the NMM’s mission.

All NMM deaccessions will comply with all pertinent national and South Dakota state laws and regulations, and with the American Alliance of Museum’s *Code of Ethics for Museums*.

Pursuant to the Tax Reform Act of 1984, the NMM is required to notify donors and the IRS if certain donated property is sold, exchanged, or otherwise transferred within three years of the date of gift. If the NMM deaccessions an object the NMM has owned for more than three years, the NMM does not notify the donor(s) or their heirs unless the object has unusual significance or value, or unless the donor requested such notification.

The Curatorial Team may make recommendations for deaccession. The final authority for deaccession or disposal is as follows:

1. **Objects from the Arne B. Larson Collection.**  
This is the founding collection consisting, in 2015, of approximately 3,300 instruments. These objects are property of the State of South Dakota. The authority to deaccession objects from this collection rests with USD’s Dean of Fine Arts.
2. **Objects owned by NMM, Inc.**  
The NMM Executive Committee has the authority to deaccession objects owned by NMM, Inc. This includes accessioned objects from the Arne B. Larson **Estate**.
3. **Non-collection objects**  
With the exception of state-owned property, the Senior Curator has the authority to dispose of non-collection items such as library books and periodicals, office and museum equipment, and operational items not intended to be part of the permanent collection.
4. **Education Collection**  
The Curator of Education may dispose of items in the non-accessioned Education Collection with approval from the Senior Curator.

## Criteria for Deaccession

In order to maintain the integrity of the NMM's collections and archives, the following guidelines have been established for the deaccession of musical instruments and archival materials. The Curatorial Team will consider the deaccession of objects on a case-by-case basis, and may recommend deaccession if any of the following conditions apply:

1. The object is not relevant to the mission of the NMM or has little research potential in the NMM's collection.
2. The object is duplicative and is not necessary for research or study purposes.
3. The object is of lesser quality than other objects of the same type in the collection.
4. The object lacks historical importance to warrant retention.
5. The NMM determines that another entity is the rightful owner of the object, or the NMM determines that the return of the object is in the best interest of the NMM, or the NMM is ordered to return an object to its original owner by a court of law.
6. The NMM does not have the resources to properly care for or store the object.
7. The object is in substantially damaged or deteriorated condition beyond its research or historical value.
8. The object is subject to the Native American Graves and Repatriation Act of 1990 (NAGPRA).
9. The object is shown to be a forgery or its authenticity or attribution can be proven to be false or fraudulent and there is insufficient merit to warrant retention of the object, even for study purposes.
10. The object is hazardous to people and/or other objects in the collection.

The manner of disposal shall represent the best interests of the NMM, its constituents, and the public trust. The founding collection (Arne B. Larson Collection) is the property of the State of South Dakota. Disposal of items from this collection must follow USD guidelines. Acceptable methods for the disposal of non-state-owned property include:

1. Transfer to another museum, nonprofit institution, or educational organization.
2. Exchange for objects from another museum of nonprofit institution
3. Sale in a public venue (not the NMM's gift shop) such as eBay or auction houses
4. Donation to Civic Council, thrift shops, etc.
5. Destruction

NMM staff, hired consultants, board members, volunteers, and the immediate families of the aforementioned may not directly purchase or be given objects that have been deaccessioned.

In accordance with the AAM's *Code of Ethics for Museums*, the NMM does not monetize its collections to fund operations. All funds received from deaccessioned items shall be used to fund the purchase of other objects for the NMM's collection, except in extreme situations that require emergency treatment of collections, in which case the NMM takes guidance from the AAM's 2016 white paper, "Direct Care of Collections: Ethics, Guidelines, and Recommendations. Specifically, the use of the funds "makes physical or immediate impact on object(s) that increases or restores its cultural or scientific value, thus prolonging its life and usefulness," and, "the expense is not normally considered part of museum's operating budget." <sup>1</sup>

All deaccessions will be reported in the semi-annual NMM Trustee Report.

#### **Deaccession of Objects with Restrictions.**

The NMM staff will consult with its legal counsel before proceeding with the deaccession of an object that was donated with restrictions.

#### **Missing Objects**

The records of objects considered missing will be updated with the last known location and the date the item was identified as missing. If an object is identified as missing in two consecutive inventories, the item may be considered for deaccession and reported to the NMM Executive Committee.

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<sup>1</sup> [Direct Care of Collections: Ethics, Guidelines and Recommendations](#) (Washington, DC: American Alliance of Museums, April 2016), p. 10.

# LOANS

The NMM loans objects from its collections to qualified borrowers, and may request loans from other organizations or individuals. Requests for all loans, outgoing and incoming, are reviewed by the Curatorial Team on a case-by-case basis. The Senior Curator oversees loan processing, documentation, and insurance.

## OUTGOING LOANS

### 1. INSTITUTIONAL LOANS

Loans may be made for the purposes of exhibition, education, research, and performance to educational institutions, non-profit organizations, and institutions with similar missions and activities. Institutional loans must be approved by the Director with input from the Curatorial Team.

### 2. INDIVIDUAL LOANS

Loans of instruments may be made to individuals at the discretion of the Senior Curator with input from the Curatorial Team for the purposes of research, presentation, practice and performance. The NMM may require proof of insurance from the borrower.

NMM staff will determine on a case-by-case basis what type of courier is needed, and whether NMM staff need to be present during installation and de-installation at the borrowing institution.

### **Outgoing loans are contingent upon the following criteria:**

1. The loan will be in keeping with the mission of the NMM. If loaned for exhibition, objects must be presented in a way that preserves their structural and contextual integrity.
2. The object must be owned by the NMM.
3. The object must be able to withstand the intended use while on loan including the ordinary strains of handling, packing, travel, and exhibition. If loaned for exhibition purposes, the object must be in good condition, both structurally and cosmetically.
4. The proposed conditions do not present unreasonable risks to the objects.

5. The transportation of the object does not present any conflicts with respect to local, state, federal, or international laws or regulations.
6. The object is not needed by the NMM during the requested loan period.
7. Other factors the NMM will consider include the time involved to prepare the object and its display and shipping requirements; the appropriateness of the venue; the scholarly and/or educational worthiness of the exhibition; the borrower's loan history; and the value and uniqueness of the object. Any special conditions, requests, or restrictions must be discussed with NMM curatorial staff in advance and must be documented on the Loan Agreement.

### **Requirements and Obligations for Borrowers**

1. All outgoing loans will require a written agreement between the borrower and the National Music Museum. Requests must outline the reason for the request and the dates of the proposed loan. Institutional borrowers must complete a facility report which indicates the environmental and other building-related conditions under which the object is to be used/displayed. Requests made less than six months before the loan period will be considered only if staff is available to meet the request without affecting projects already scheduled.
2. The borrower's ability to care for the objects, including exhibition and storage facilities, transportation methods, security, and climate control, must meet the NMM's standards.
3. Before objects are loaned, outgoing condition reports and photographs will be produced by the NMM. Institutional borrowers must complete a written condition report upon receipt of loaned objects (unless the objects were delivered by NMM staff), with an additional condition report completed immediately prior to return of the object which will be verified by NMM staff when the loan is packed at the borrowing institution (unless other arrangements have been made) and unpacked at the NMM.
4. The borrowing institution must not perform any conservation, cleaning, marking, or other action that alters an object in any way without the written approval of the NMM. In the event an object is damaged while in the possession of the borrower, the borrower must report any damages to the NMM Director immediately. The borrowing institution may be required to

pay all conservation costs necessary to repair the damage. Such conservation is to be performed by a conservator who has been approved by the NMM. Technical examination of objects (such as the taking of measurements, CT scans, etc.) is not allowed without permission of the NMM.

5. Unless otherwise negotiated, the borrowing institution assumes all expenses incurred by the loan, including packing, shipping, conservation, condition reporting, preparation, research, appraisals, insurance, courier expenses, and administrative costs. The NMM must approve all arrangements, and the NMM will forward a cost estimate for all charges to the borrowing institution.
6. Unless otherwise negotiated, the borrowing institution or individual assumes full responsibility for any damage to the instrument during the period the instrument is not in the NMM's possession. The NMM may require proof of wall-to-wall insurance covering the loaned items at the value established by the National Music Museum.
7. The borrower may not photograph a loaned object without permission of the NMM, except for condition reporting and informal social media purposes. Any reproduction for the purposes of sale may occur only with the written approval of the NMM.
8. Objects must be packed in accordance with professional standards. Returned loans must be re-packed as they were received unless a change in packing is approved by the NMM.
9. Approved, long-term loans may be renewed annually.
10. The borrower must give appropriate credit to the NMM. Exhibit labels must include, at a minimum, the name of the object, the credit line, the NMM catalog number, and the name of the NMM.

The NMM has the right to recall a loan if the contract terms are violated or if the borrower provides inadequate security or inadequate care for the loan.

## **INCOMING LOANS**

1. Incoming loans will be considered in accordance with the mission of the NMM, and shall be for the purposes of exhibition, research, and performance.
2. Requests for loans to the NMM are reviewed by the Curatorial Team, with final approval by the Director. Each request will be evaluated according to the following criteria:
  - A. Relevance to the NMM's Mission Statement
  - B. Consideration of the object's provenance
  - C. Condition of the object(s)
  - D. Clarity of ownership
  - E. Presence of any lender-imposed restrictions
  - F. Costs associated with the loan
3. The NMM does not accept permanent loans.
4. All incoming loans will require a written agreement between the lender and the NMM. The agreement will specify the duration of the loan and all other conditions including transportation and insurance.
5. Except in an emergency, the NMM staff does not conserve, repair, or otherwise alter objects it has received on loan without written consent from the owner.



## TEMPORARY CUSTODY

Temporary Custody applies to objects submitted to the NMM for gift/purchase consideration, examination, and identification. It does not apply to a transfer of title, loans made to the NMM, or to personal items, including musical instruments temporarily left by visitors in the library or in coat-check type storage areas.

Before an object may be placed in temporary custody, permission must first be granted to the owner/depositor by a member of the NMM Curatorial Team. A Temporary Custody Receipt for all objects taken into temporary custody will be issued to the owner/depositor. The NMM will retain all documentation pertaining to objects in temporary custody.

Objects in temporary custody shall receive the same care given to comparable objects owned by the NMM. No repairs, alterations, or conservation treatment of these items shall be undertaken. An incoming condition assessment will be completed at the time of deposit by NMM staff and will be used for comparative purposes upon return to the owner/depositor. Evidence of damage while in the NMM's custody will be documented and immediately reported to the owner/depositor. Any objects left in temporary custody are left at the owner's/depositor's risk; the NMM accepts no liability for objects in temporary custody, and the owner/depositor is responsible for insurance coverage.

The NMM does not supply written evaluations and does not make statements regarding the monetary value of objects to the owner/depositor of items left in temporary custody.

The NMM will review objects in temporary custody in a timely manner. Objects left for the purpose of gift/purchase consideration will be reviewed using the same criteria specified in the NMM's Acquisitions Policy. If declined as a gift/purchase, the NMM will notify the owner/depositor who must reclaim the object at the owner's/depositor's expense within 30 days unless otherwise negotiated. If the owner/depositor fails to reclaim the object within 90 days, the NMM may dispose of the item at the discretion of the Senior Curator. The NMM is not obligated to accession objects left in temporary custody.

If an object is dropped off or sent through the mail, the Curatorial Team will review the object within 60 days of receipt. Unwanted, unsolicited objects will be disposed of at the discretion of the Senior Curator.

## ACCESS AND USE

The National Music Museum may grant access to its collections to researchers, students, performers, instrument builders, and other interested individuals. Anyone desiring to conduct research at the NMM must make an appointment at least two weeks in advance by completing the *Request for Permission to Conduct Research at the NMM*. This allows time for staff scheduling and instruments to be moved, if necessary. Any use of the NMM's collections and data in publications must be credited. The NMM does not warrant or guarantee the accuracy of collection information.

Requests to make use of the NMM's resources will be handled on a case-by-case basis. The NMM reserves the right to require contractual agreements for compensation of staff time, use of equipment, etc.

The NMM will evaluate requests for access on the following criteria:

1. The request is consistent with the mission of the NMM.
2. The request respects the physical integrity of the objects and associated collection information.
3. The degree to which the NMM's staff and facilities can accommodate the request.
4. The person requesting access is qualified and competent to conduct research as demonstrated by professional training and experience, affiliation with peer institutions, publications, references, etc.

The Senior Curator, with input from the curatorial staff, has the authority to approve access to collections and collection records.

The NMM's internal documents such as donor information, appraisals, purchase price, insurance, and any other sensitive material are not part of the public archives and therefore are restricted.

Instruments may not be handled except under the supervision of NMM staff. Measuring tools must be approved by a member of the NMM Curatorial Team. Instruments that have already been measured will not be measured again unless there are compelling reasons to do so. No instrument may be played or disassembled without permission of a member of the NMM Curatorial Team.

Copies of all technical data accumulated during a research visit must be left with the NMM at the conclusion of the visit and will be considered part of the instrument's public documentation. A copy of any published information based on the collection or its associated information must be given to the NMM for deposit in its archives. Prior to their visit, researchers must acquaint themselves with the NMM's *Access to the Musical*

*Instruments, and Guidelines for Patrons Using the Library and/or the Sally Fantle Archival Research Center at the NMM.*

**Access to Storage**

Access to storage may be granted for research purposes. A member of the NMM staff must supervise students, visiting researchers, USD facilities workers, contractors, etc., in the study-storage areas.

**Sampling**

The purpose of any sampling must be in keeping with the NMM's mission. Requests for sampling must be provided in writing with a sufficient level of detail to allow the Curatorial Team to evaluate the merits of the proposal.

The criteria used for approval:

1. The sampling will not compromise the future utility of the object
2. There are no alternative means of obtaining the needed data
3. The expected information gain justifies the sampling
4. The competence of the researcher making the request is demonstrated through professional training, affiliation with another institution, references, etc.

**Public spaces**

The NMM's facilities may be used for purposes such as meetings, receptions, etc., subject to the approval of the Director.

No food or drink is permitted in the galleries. No use or activity shall take priority over the care and safety of the objects.

Visitors may not take backpacks, musical instruments/cases, tripods, or other large items into the galleries without permission. The NMM does not allow the use of selfie sticks in the museum.

Professional media personnel must have permission to photograph/record in the galleries. The use of high-temperature lighting such as halogen is not permitted in the museum.

The NMM does not assume any liability for personal items, such as musical instruments, cameras, laptops, etc., left anywhere in the museum including coat-check type storage areas.

Except for service and emotional-support animals, pets are not allowed in the museum. Visitors who wish to bring a service or emotional-support animal into the museum will be asked if the animal performs a task for the visitor.

# APPRAISALS AND RESEARCH SERVICES

## APPRAISALS

No NMM staff members, students, or volunteers may provide appraisals or formal authentication for objects other than those owned by the NMM, with the exception of providing informal advice to peer non-profit institutions such as other museums and government entities. In no way shall such advice be considered a formal authentication or appraisal.

When an item is donated to the NMM, the NMM's staff and board members do not make, arrange, or pay for appraisals on the donor's behalf. Internal appraisals are not shared with donors. Donors may be given the names of two or more appraisers without preference.

Musical instruments and other items are assigned in-house values for accounting and insurance purposes, based on any combination of purchase price, outside appraisal, or estimate of market value.

The NMM may use appraisals internally for situations where the value of the object is in question, there are varying valuations for an object, when considering damage evaluations, for insurance purposes, for loan purposes, when there is no previous valuation, and when evaluating an object for deaccessioning and disposal.

## RESEARCH SERVICES

### **Off-site Research Inquiries**

NMM staff will endeavor to answer the public's basic research questions concerning the NMM's collections and archives. Responses to in-depth collections inquiries by the public will be handled on a case-by-case basis. Curatorial research services are afforded to NMM Members based upon their category of membership. Any additional, general, and brief research assistance, including the identification of instruments and related items, may be provided to the public at the discretion of the NMM staff, as time permits. Only research inquiries that are emailed, faxed, mailed, or made in person by appointment, can be answered. NMM staff members are not required to answer research inquiries over the phone.

### **Research Photography**

Photography taken by the public of the NMM's collections on display is allowed. Such photography may only be used for personal study and/or may be shared on social media. However, public photography may not be used for publication without written permission from the Senior Curator.

Professional images of instruments or other items owned by the NMM and taken by the NMM Photographer may be obtained for personal study or educational classroom use. Requests for new photography by the NMM Photographer will be considered on a case-by-case basis. NMM images may not be reproduced, published, sold, or distributed in any format or used for commercial gain without specific written permission from the National Music Museum (the form *Request for Permission to Publish Digital Images* must be submitted to obtain licenses for publication). The NMM reserves the right to determine whether or not its staff can accommodate any photographic request. All NMM images are copyrighted by NMM, Inc.

The NMM grants publication permission only for digital photography obtained directly from the NMM. The NMM does not issue permission for publication of images taken from books, postcards, color prints, 35mm slides, digital photography, the Internet, or any other previously published materials.

# CARE OF COLLECTIONS

The NMM is committed to providing proper care of its collections within the limits of its resources on behalf of present and future generations.

## STAFF RESPONSIBILITIES

The Collections Manager and the Conservator are responsible for overseeing the care of collections, with input from curatorial staff. It is the responsibility of all NMM staff to inform students, interns, volunteers, and researchers about NMM policies and procedures, and to ensure they are followed.

## THE NMM'S CARE OF THE COLLECTION STRIVES TO:

- Provide a stable environment for the collection that meets appropriate environmental standards. (See Environment below.) Control of relative humidity and temperature is critical because unacceptable levels contribute significantly to the breakdown of materials. The Conservator and Collections Manager will routinely monitor environmental conditions.
- Provide safe and secure exhibit and storage areas for the collection, consistent with currently accepted best practices.
- Use inert shelving and archival materials for collection storage.
- Maintain a risk assessment program to ensure the agents of deterioration that affect NMM collections are detected, avoided, blocked, and mitigated.
- Maintain an integrated pest-management program

## CONSERVATION

The NMM embraces the *Code of Ethics and Guidelines of Practice* of the American Institute for the Conservation of Historic and Artistic Works, specifically affirming the concepts of: respecting the integrity of the object, establishing the suitability of treatment, and maintaining the principle of reversibility. Through the following means the NMM seeks to preserve the object in its original form or at its present level of stability:

1. Preventive conservation involves taking all reasonable precautions to prevent and minimize damage to the collections due to agents of deterioration such as changes in temperature and relative humidity, visible light and ultra-violet radiation, pests such as insects and rodents, water, flood, fire or other natural disaster, airborne pollutants and contaminants, accidents due to physical forces such as handling, packing and in transit, vandalism and intentional damage, neglect and theft.
2. Remedial conservation seeks to stop any damaging/degradation process and/or to reinforce the structure/surface of the object.

3. Restoration is an action taken to facilitate an object's appreciation, understanding, and on some occasions the playability of a musical instrument.

Priority of conservation shall be based on the following considerations: condition, historical significance, recommendations of staff, technical feasibility, request for exhibition, and financial resources.

Repairs or conservation treatments shall be performed by museum/instrument professionals or those under their supervision. On rare occasion an instrument may be restored to playing condition, for example, when the restoration requires minimal intervention, or when previous work is inconsistent with museum conservation standards. All conservation treatments will be documented in a Conservation Report.

### **HANDLING**

Professional standards outlined in the NMM's *Best Practices for Handling Museum Objects* will be implemented under the supervision of the Collections Manager and the Conservator. Anyone handling museum objects including staff, students, volunteers, and visiting researchers shall review the NMM's *Best Practices for Handling Museum Objects*, and will be supervised by NMM staff.

### **INVENTORY**

Periodic inventories of the collection enables NMM staff to reconcile records and documentation with objects, and also provides the opportunity to review the physical integrity of the NMM's collections. A full inventory of the instrument collection is conducted every ten years under the direction of the Collections Manager. The inventory confirms the object's location. If an object cannot be located, the object's location will be changed to "location unknown". Object numbers of any missing or deaccessioned items are not reused.

### **ENVIRONMENT**

Because musical instruments are often made of composite materials, it is not always possible to have dedicated spaces and environmental parameters for each material/collection (wood, metal, paper, films, textiles, etc). The NMM strives to maintain temperature between 65-75° and relative humidity between 40-55% depending on the primary material the object is made of. Environmental parameters are recorded and are kept for a minimum of three years.

### **INTEGRATED PEST MANAGEMENT PLAN**

Recognizing that no single method of controlling pests in museums can be fully effective, under the direction of the Conservator, the NMM utilizes the following methods:

- Prevent pests from entering buildings and collections areas
- Monitor early signs of pest activities

- Employ non-chemical control methods to eliminate active infestations; pesticides will be used only after all other less toxic approaches have been exhausted.



# RISK MANAGEMENT AND INSURANCE

## RISK MANAGEMENT

All NMM staff share the responsibility to eliminate or minimize hazards to the collections to the extent possible within available resources. An internal Risk Assessment was conducted in 2014 by the NMM's Emergency Preparedness Team utilizing the Ten Agents of Deterioration outlined by the Canadian Conservation Institute, and the Risk Prioritization Worksheet developed by the Heritage Preservation. A result of this work was the development of the NMM's Emergency Response Plan which pertains primarily to human safety and evacuation. All staff, students, and volunteers are required to be familiar with this plan. Additional procedures address emergency contact lists, salvage priorities, and supply lists. The NMM staff must note and communicate to the Collections Manager situations that create the potential for damage or loss to collections, personal injury, or legal liability.

The NMM provides the following measures to help ensure the wellbeing of visitors, staff, and the collection:

- a. The NMM observes the public policies and procedures of the University of South Dakota with regard to fire and other emergency situations.
- b. Staff participates in periodic fire drills.
- c. Staff receives training of fire extinguisher use.
- d. Restrictions on food and beverages are observed. No food, drink, or living plants are permitted in the galleries or in areas that are solely dedicated to storage.
- e. Access to non-public areas must be supervised by NMM staff.
- f. Disaster response supplies are located in designated areas.
- g. The NMM's disaster preparedness plan will be evaluated and revised at least every five years.

## INSURANCE

As part of its overall risk-management program, the NMM maintains a mandatory collections insurance policy procured and administered by the Director. Musical instruments loaned to other institutions, as well as to individuals, shall be covered by the borrower's insurance, unless otherwise negotiated with the NMM. Additional insurance riders may be required, if necessary, for loans of high value instruments. Insurance proceeds from the settlement of claims for damage to NMM collections will be used only for the purpose of direct care and purchase of collections. (The NMM currently takes guidance from the AAM's 2016 white paper, "Direct Care of Collections: Ethics, Guidelines, and Recommendations.") Curatorial staff members provide up-to-date insurance values for objects in the collections as needed. Independent appraisals may be sought prior to the loan or performance use of musical instruments of significant rarity and value, if existing independent appraisals are more than 3 years old.

# DOCUMENTATION AND COLLECTIONS RECORDS

The creation and maintenance of accurate, up-to-date, permanent records relating to the collections and their management is a major responsibility of the NMM, and one of the primary means by which the NMM demonstrates and maintains intellectual control over its holdings. To that end, the NMM is committed to the fundamental objective of effective use of its collections by recording collections information and images in computerized databases, implementing professional documentation standards, and sharing collections information.

Categories of collection records include the following:

## 1. ACCESSION RECORDS

Accession documentation includes the object name, maker, date, model, accessories, method of acquisition, name and address of donor/seller, purchase price, insurance value, date of acceptance, and a sequential catalog number. The Senior Curator is responsible for creating and maintaining Accession records. New acquisitions are reported in the semi-annual NMM Trustee Report.

## 2. VALIDIATION RECORDS

The original Deeds of Gift, Bills of Sale, Appraisals, etc. are stored in the NMM's fire safe. Scanned copies of these documents are stored on USD's server. The Senior Curator is responsible for maintaining Validation records.

## 3. CATALOG RECORDS

Cataloging data includes geography, classification, signatures, marks, physical description, dimensions, provenance, use, exhibition, research and performance history, storage location, bibliography, etc. NMM curators are responsible for recording pertinent data and for maintaining catalog records.

## 4. LOAN RECORDS

The Senior Curator creates and maintains loan documentation that includes signed copies of the NMM's Official Loan Form, facilities reports, shipping/transport documents, certificate of insurance from borrowing institution, and borrower's receipt. Condition Reports are written for instruments that are loaned by the NMM.

## 5. DEACCESSION RECORDS

Deaccessioning documentation includes the reason for deaccession, method of disposal, photography, and income from any sales of objects. The Collection Manager is responsible for maintaining permanent deaccession records. Deaccessions are reported in the semi-annual NMM Trustee Report.

#### 6. TEMPORARY CUSTODY

The NMM will retain all documentation pertaining to objects in temporary custody. The Senior Curator is responsible for maintaining Temporary Custody documentation.

#### 7. CONDITION REPORTS / CONSERVATION TREATMENTS

The Conservator maintains condition records and ensures that any conservation proposals and treatments are recorded.

#### 8. PHOTOGRAPHY

The NMM strives to photograph all objects in the instrument collection. The photographer is responsible for photography and image management.

# INTELLECTUAL PROPERTY RIGHTS

## PRINCIPLES

The National Music Museum, Inc. (NMM) is both a holder and a user of intellectual property. The NMM strives to protect the intellectual integrity of its collections/archives, while promoting the dissemination of knowledge through public access to its collections/archives for research, performance, and educational purposes. At the same time, the NMM strives to protect the intellectual property rights of the persons whose work is preserved in its collections/archives, as well as any intellectual property owners, including the NMM itself as a rights holder.

Many parts of the NMM's holdings are protected by copyright, that is, a form of protection provided by the laws of the United States (17 U.S.C.), to the authors of "original works of authorship," including literary, dramatic, musical, artistic, and certain other intellectual works. Section 106 of the 1976 Copyright Act generally gives the owner of copyright the exclusive rights to the following:

- the right of reproduction;
- the right of adaptation;
- the right of distribution;
- if the work is of such nature, the right of performance; and
- if the work is of such nature, the right of display.

## POLICIES

### General

The NMM does not knowingly permit infringement of intellectual property rights. The NMM makes a good faith effort to protect the intellectual property rights of the creators, as well as intellectual property owners, including NMM, Inc. itself as rights holder.

The NMM Curatorial Staff strives to seek and obtain exclusive or non-exclusive copyright license for any objects/items/materials added to and/or already in the NMM's collections/archives, whether through purchase, gift, transfer, or exchange:

- Donors to the NMM are asked to transfer to the NMM all title and interest, including copyright, trademark, and related interest. In instances when the donor does not own the copyright, or when the copyright ownership cannot be documented, the NMM does not grant rights to reproduce those objects in the collection for any purpose, other than that allowed under the fair use provisions of federal copyright law.
- The Curatorial Team, in consultation with the Director and legal counsel (when warranted), endeavors to obtain copyright for existing collections/archives ("copyright clearance policies").

The NMM abides by the Visual Artists Rights Act of 1990 (VARA) that amended section 106A of the U.S. Copyright Act. VARA provides artists with a claim for “moral rights,” in particular, the wrongful destruction, mutilation, or alteration of their works of art, as well as for incorrect attribution. VARA applies only to ‘works of visual art.’ Under VARA, a ‘work of visual art’ is a painting, drawing, print, sculpture, or photograph produced for exhibition purposes only. The work must exist in a single copy or in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author. The statutory definition excludes posters, applied art, motion pictures, audio visual work, electronic publication, books, advertising material, and work for hire.

### **Archival Items**

NMM, Inc. does not currently hold copyright, trademark, or other IP property rights for most of the materials in the NMM Archives. Intellectual property rights, including copyright, personal rights, the right to publicity, and right to privacy, may need to be cleared before the NMM can make copies available. The user must provide the NMM with written permission from the owner of the rights before copies can be produced. The NMM does not assume any (rather, the researcher assumes all) legal responsibility for any infringement of literary, copyright, or publication rights belonging to the author or composer, heirs, or assigns and does not surrender its own rights to thereafter publish materials or grant others permission to publish it. If a work of art or original musical composition is considered to be an “orphan” work, the NMM may apply a copyright credit line to the image as a good faith measure.

### **Establishing Copyright**

- The Senior Curator, in consultation with the Curatorial Team, the Director, and legal counsel (if warranted), is responsible for determining the copyright status of collections/archival materials when requests are made for use in published material. If the copyright or license is held by another party, the NMM requires written permission from the copyright owner to reproduce the object/archival item before a copy of the image is made available. The NMM does not act on behalf of a requester; the requester alone is responsible for obtaining permission from a copyright owner in order to reproduce items or materials in the NMM’s collections.
- The copyright of photographs of NMM collections is held by NMM, Inc., unless a contract states otherwise.

### **Photography / Reproduction Rights**

Use of images of NMM objects for research, exhibit, publication, programming, education, and publicity purposes is a common practice and when used appropriately such images serve to share the NMM’s collections more widely.

- Requests for the right to reproduce images of items in the NMM’s collections will be directed to the Senior Curator, who is responsible for managing all

requests and permissions for reproduction, including the charging and remittal of fees.

- Individuals and/or organizations are expected to follow the policies and procedures established by the NMM regarding applications and conditions of use, including payment of fees, if applicable.
- Photography by the public of NMM's collections on display is allowed. Such photography may only be used for personal study and sharing on social media. However, public photography may not be used for publication without written permission from the NMM.
- If a professional photographer other than the NMM's photographer or news media photographers takes images for a print, electronic, or any other type of publication, then all images shall become the property of NMM, Inc., unless otherwise negotiated. The NMM and the name of the photographer must be credited in every instance where photographs or any other reproductions of instruments in the NMM's collections/archive are used.

### **Electronic Uses**

Text and image files, audio and video clips, and other content on the NMM's website or other virtual NMM publications are the property of NMM, Inc. and may be protected by copyright and other restrictions as well. Copyrights and other proprietary rights in the content and design of the NMM website may also be owned by individuals and entities other than, and in addition to, the NMM and the University of South Dakota. The NMM expressly prohibits the copying of any protected materials on its website, except for the purposes of fair use as defined in the copyright law as described below.

### **Fair Use**

"Fair use" refers to the legal right of individuals to use copyrighted materials for certain purposes without infringing on the copyright protections associated with those items. Section 107 of the U.S. Copyright Act outlines four factors that must be considered when determining whether or not a specific use of a work is protected under fair use. Below is the actual text of Section 107 that lists these factors:

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use, the factors to be considered shall include:

1. The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit 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 fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

**Liability Disclaimer**

Use by others of the text, images, or content of the NMM's collections or website may constitute an infringement of copyright, trademark, patent, trade secret, publicity, privacy, or related rights of third parties not affiliated with the NMM. The NMM is not liable for any such infringement.

**Digital Millennium Copyright Act**

Claims of copyright infringement regarding content on the NMM's website must be presented in writing and addressed to the Senior Curator. All claims will be forwarded to the NMM's legal counsel for review.

## **POLICY REVIEW AND REVISION**

The Collections Manager and Senior Curator, with input from NMM staff, monitor the NMM's compliance with the Collections Management Policy. Exceptions to stated policies and procedures may be made at the discretion of the Director in consultation with NMM professional staff. Anyone affected by the provisions of this document may at any time direct comments, suggestions, and criticisms to the Senior Curator, who may recommend a review of the Collections Management Policy when circumstances warrant action. In considering changes to the policy, the NMM will be guided by current AAM guidelines. The Senior Curator will submit any proposed revisions to the Director, who is authorized to present them to the full NMM Board of Trustees for final approval.