

**SAN JOSE MUSEUM OF ART
CODE OF ETHICS
FOR TRUSTEES, STAFF AND VOLUNTEERS**
Approved June 23, 2010

Introduction

The San Jose Museum of Art (SJMA) has enacted this Code in recognition of its role as a steward of resources held in trust for the benefit of the public in furtherance of the institutional mission. The government's recognition of SJMA as an educational institution worthy of tax-exempt status reflects this public trust status.

All those who work on behalf of SJMA must clearly recognize their responsibility, individual and collective, to protect this public trust and act in furtherance of the mission. Public trust demands that SJMA trustees, staff, and volunteers act with integrity and in accordance with the most stringent ethical principles, as well as the highest standards of objectivity in all activities. Individuals who serve this institution should place its interests above their own.

The policies set forth in this Code of Ethics are intended to establish standards for the ethical conduct of trustees, staff, and volunteers and to provide guidance with respect to specific ethical issues.

All individuals who work on behalf of SJMA either as trustees, employees, or volunteers are entitled to engage in any personal or professional activities of their choosing, subject to the following general principles:

- Do not undertake any activities or make any commitments that might interfere with the fulfillment of responsibilities to SJMA.
- Act in accordance with principles of openness and transparency.
- Fully disclose and discuss instances in which using SJMA's name and reputation could be deemed to have resulted in personal gain or commercial benefit.
- Follow the letter and spirit of all applicable laws and regulations.
- Make every effort to act in a manner that will enhance the SJMA's reputation and goodwill.
- Trustees, members of Board committees and staff members may not engage in promotional activities in the commercial art market.

Conflict of Interests

Definition

Loyalty to the mission of SJMA and to the public it serves is the essence of museum work, whether volunteer or paid. Each trustee, staff member, and volunteer should fully and conscientiously fulfill the duties of his or her respective position with SJMA. A conflict of interest exists if one is in a position to exploit an affiliation with SJMA for

personal gain and therefore one's decisions about SJMA matters could be influenced by personal interests. If a conflict of interest arises – actual, potential, or perceived – the conflict must be disclosed. (See Duty to Disclose section below.) Each trustee, staff member, and volunteer must seek to avoid conflicts that could create any real, potential, or perceived conflict with the interests of SJMA.

Examples of Types of Conflicts of Interest

Affiliations

A trustee may be affiliated with other institutions (such as other museums) in varying capacities, including as a trustee. Trustees shall disclose any affiliations that may present a conflict of interest.

Commercial Art Galleries

SJMA may accept financial support from commercial art galleries if the support complies with the terms of SJMA Guidelines for Gift Acceptance and donor support and does not compromise or appear to compromise the curatorial integrity and artistic control of any program in any way.

Loans of Art Objects

Loans of art objects by SJMA trustees, staff members, or volunteers can be of great benefit to SJMA as can loans from donors. However, it should be acknowledged that any exhibition of such loans may enhance the value of the object(s) and great care must be taken to exercise objectivity in keeping with SJMA's mission. SJMA must maintain control over the content of all exhibitions. Neither a relationship with a lender of works of art nor any consultation with a lender shall compromise the curatorial integrity of any exhibition. Provisions of this Code relating to conflicts of interest shall apply to decisions regarding inclusions of loans in exhibitions.

In general, in order to avoid a conflict of interest or the appearance of a conflict, loans of art objects from trustees, staff members or volunteers shall be credited publically as such. However, if there are issues of concern to the lender such as security, then upon disclosure of the circumstances, the President of the Board and the Executive Director may craft an appropriate credit line.

SJMA must be transparent about the source of funding for exhibitions when a lender of art objects is also a funder of the exhibition. If SJMA receives a request for anonymity, the institution must avoid such anonymity if it would conceal or appear to conceal a conflict of interest.

SJMA trustees, staff members, or volunteers should not loan any art object(s) that he or she is actively planning to sell.

Presumed Conflicts of Interest

A trustee, employee, or volunteer is presumed to have a conflict of interest if he/she or a member of his/her immediate family: a) is a trustee, officer, director, or employee of an entity with which SJMA has a business relationship (defined as an ongoing arrangement with a commercial enterprise); b) directly or indirectly receives any compensation, income, loan, or gift from an entity with which SJMA has a business relationship; or c) holds an ownership interest in a closely held company or at least 5% ownership interest in a public company with which SJMA has a business relationship.

Duty to Disclose

Each trustee, full time staff member, and volunteer serving as a community member of a Board of Trustees committee or standing committee is obligated to complete a Conflict of Interest Disclosure Statement on an annual basis and has a continual duty to disclose any conflicts as soon as they arise in the spirit of public accountability and transparency. The disclosures for trustees and volunteers serving as community members of a Board of Trustee committee shall be reviewed by the secretary of the Board. The disclosures for staff shall be reviewed by the executive director. If conflicts are disclosed, the provisions of the Implementation section shall be followed. The persons disclosing the conflict must follow the Consequences section below.

Consequences

A trustee, staff member, or community member of a Board committee who has disclosed a conflict of interest (“interested party”) shall refrain from attempting to influence any decision of the Board, a Board committee, or staff on any matter that may involve a potential or actual conflict of interest and shall abstain from voting on any such matter.

An interested party must recuse himself/herself from any portion of a meeting in which the subject of discussion is a contract, transaction, or situation in which there may be a perceived or actual conflict of interest. The meeting should include discussion about whether the terms of the agreement or transaction are no less favorable to SJMA than is available on the open market.

Any minutes of a meeting in which an interested party abstained from voting due to an actual or potential conflict of interest shall reflect that the conflict was disclosed, that the interested party was not present during the discussion and/or vote, that the terms of the transaction were discussed in view of terms available in an “arm’s length” matter, and that the interested party did not participate in the decision or vote.

Confidential Information

SJMA trustees, staff members, or volunteers who acquire information about SJMA that is designated as confidential may not disclose the information and may not take advantage of the information to seek to use it for material personal gain. Staff members are responsible for maintaining the security of confidential records and information, as well as the privacy of individuals or groups who support SJMA. SJMA staff members are prohibited from using or disclosing any SJMA trade secrets both during and after

employment by SJMA. Financial information must always be considered confidential unless the information falls under legally mandated disclosure requirements.

Art Collection

Stewardship

Stewardship of SJMA's collection entails the highest public trust and carries with it the presumption of rightful ownership, permanence, care, documentation, and accessibility. SJMA's Collection Management Policy (CMP) shall detail the proper procedures for acquisition and disposal of objects.

Personal Collecting

Personal collecting advances the collector's knowledge and judgment and therefore the effectiveness of one's participation in SJMA affairs. However, the acquisition, maintenance, and management of a personal collection of modern or contemporary art by trustees, staff, or volunteers may present substantial risks of conflict of interest, or the appearance of conflict of interest. Therefore, extreme caution and discretion must be exercised whenever a trustee, employee, or volunteer collects objects that fall within the parameters of SJMA's collection.

No trustee, staff member, volunteer, or member of his/her immediate family or their representatives, may knowingly compete with SJMA for any art object, such as knowingly bidding against SJMA. Should a conflict develop between the needs of the individual and SJMA, those of SJMA will prevail.

If a trustee, staff member, or volunteer who is participating in a decision-making process about the exhibition schedule or acquisitions or deaccessions owns the particular work of art under consideration or owns other works of art by the same artist, he/she should recuse himself/herself from the room before the discussion, decision, or vote on the matter.

In the event that a staff member intends to, or does, purchase an art object valued at \$5,000 or more in an area in which SJMA collects, he/she is required to fully disclose all relevant information to the executive director and to the Collection Committee. SJMA then has sixty (60) days from the date of disclosure to exercise an option to acquire the piece. If the staff member has already purchased the art object and SJMA exercises its option to acquire, SJMA will reimburse all of the staff member's cost and related expenses.

Dealing

Some staff members are in a position to influence public opinion concerning art, artists, and the art market. These individuals must take care to ensure that this influence is not used for personal gain of any individual and is directed entirely toward the function of SJMA and toward serving the general public.

No staff member may act as a dealer, engage in the promotion of a dealer, or be employed by a dealer, or retain a financial interest in the business of commercial art sales.

Involvement by a prospective trustee in the business of commercial art sales is prohibited except in instances in which the Board of Trustees has by resolution expressly authorized such affiliation after reviewing appropriate disclosures by the prospective trustee.

No member of the staff may serve as a paid professional advisor to a collector, dealer, art consultant, artist's agent, auction house, or be compensated in any manner for these services. Staff members must not work, whether paid or unpaid, for dealers or auction houses to endorse or appear to endorse artists, or to promote or appear to promote the sale of particular works, thus enhancing the value of the objects or of collections. Staff members, with the advance written approval of the executive director, may participate in scholarly endeavors in the commercial art world, provided that the activities are primarily scholarly, not promotional in nature.

Appraisals

Staff members may perform appraisals for internal valuations only, e.g. for SJMA insurance purposes. No SJMA staff member may perform appraisals for donors, or any other individual or entity outside of SJMA, for any purposes whatsoever.

Opinions on identification, authenticity, and condition are permissible if not provided for a fee.

Programs

Truth in Presentation

It is the responsibility of museum professionals to develop collections, exhibitions, and educational programs in the furtherance of an institutional mission. Intellectual honesty and objectivity in the presentation of objects is the duty of every professional at SJMA. The attribution of works must reflect the thorough investigation of the curators and must yield promptly to change with the advent of new facts or analysis.

SJMA may address a wide variety of social, political, artistic, or cultural issues. All issues should be approached objectively and without prejudice or censorship. The programs of SJMA should reflect the breadth of current scholarship and maintain intellectual integrity.

Trustee, Staff or Volunteer Artists

Art objects created by trustees, staff, or volunteers or their immediate family members may not be included in exhibitions.

Objects created by trustees, staff, or volunteers may be sold in the Museum Store provided that the trustee, staff member, or volunteer, does not participate in the Museum Store's buying decisions.

Fundraising

Fundraising is a vital component of the financial health of any non-profit organization, and it is a process that involves a great deal of public interface. All fundraising shall be in furtherance of SJMA's mission. All donor solicitations, development activities, and processes shall be in accordance with this Code, all SJMA Guidelines for Gift Acceptance, and any policies for sponsorship and donor support. Trustees, staff members, and volunteers are encouraged to support fundraising efforts but must coordinate all activities with the development department.

Trustees, staff, or volunteers must not receive compensation for fundraising on a commission basis, or receive a portion of contributed funds.

Donor information must be handled with the utmost discretion. Other than in the course of meeting legally mandated disclosure requirements, proprietary and confidential information concerning donors can only be communicated to persons affiliated with SJMA and with a "need to know."

Security

All trustees, staff and volunteers must abide by all SJMA security procedures and policies.

Political Participation

Internal Revenue Code Section 501(c)(3) sets forth strict guidelines for non-profit organizations with regard to political activity. As a result, SJMA must avoid the appearance of supporting, favoring, or opposing an individual candidate or political party.

SJMA trustees, staff members, or volunteers who are involved in any way with the electoral or legislative process or who speak out on any public issue unrelated to SJMA must make clear that they are acting in an individual capacity only. No trustee, staff member, or volunteer may participate in any political campaign on behalf of SJMA or engage in any other activity that would lead the public to believe that SJMA is supporting or opposing a candidate for public office. Trustees, staff member, or volunteers who participate in political campaigns in their individual capacities must do so on their own time and without any use of SJMA resources such as phone, email, fax, copier or office space.

If the name of an individual is well known in the community and closely associated with SJMA, such as the executive director, that individual should not allow even his/her name to be used by any political campaign to avoid the appearance of an institutional endorsement.

Since the City of San Jose is a major donor to SJMA, trustees and staff are discouraged from participating as individuals in San Jose City Council or mayoral campaigns.

It is important to distinguish between personal and organizational political issues. In the service of its civic responsibility, SJMA representatives may on occasion speak out on issues of importance to the institution. The Board of Trustees and the executive director are responsible for developing SJMA's position on relevant legislative and regulatory issues.

Facility Rentals

SJMA may agree to facility rentals to a political campaign for election activities if the principles of being "hands off" and "even handed" are observed. When the event occurs, no one formally connected to SJMA may introduce the candidate or otherwise be a part of the event. SJMA must rent the facility on its standard terms. If the opposing candidate(s) request(s) to use the facility, the terms must be exactly the same.

SJMA's usual and customary policy is not to allow museum rentals which are fundraisers for other non-profit institutions unless such activities are collaborative.

Trustees

Informed Policy and Prudent Oversight

The Board of Trustees has the ultimate fiduciary responsibility for SJMA. The Board will approve policies that are required for the effective governance of the institution such as collection management, fiscal, endowment, investment and gift acceptance policies. These policies must conform to the highest professional standards in all areas of operations.

Oversight of Executive Director

It is the responsibility of the Board of Trustees to select the executive director, the institution's chief executive. It is the Board's further obligation to use due diligence in supervising the executive director's actions. The Board must ensure that institutional policies are implemented in a manner that advances the interests of the institution and must delegate the authority to do so to the executive director defining the rights, powers, and duties of that position. The relationship between the Board of Trustees and the executive director should be open, mutually supportive, and based on a clear understanding of their respective responsibilities. The relationship between the executive director and the Board must reflect the primacy of institutional goals over all personal or interpersonal considerations.

The executive director has an obligation to bring before the Board of Trustees any issues of policy that need to be examined or resolved and to keep the Board informed in a timely manner about all significant matters related to the governance and operations of SJMA. The executive director must carry out the policies established by the Board of Trustees to the best of his/her abilities and adhere to the budget approved by the Board.

Whenever it is necessary to deviate from established policies or to reconsider budget guidelines, the executive director should notify the Board in advance and request appropriate approval. The executive director shall be notified of, and should regularly attend – or designate another staff member to attend -- meetings of the Board of Trustees, Executive Committee, Finance Committee and all subsidiary groups and committees in order to advise and make recommendations for deliberation and decisions.

Staff

Professionalism

SJMA selects each staff member for his or her unique professional value, knowledge, and ability. Staff members should treat one another with the utmost respect and professionalism in the carrying out their duties. SJMA’s management should incorporate the opinions and professional judgments of relevant staff members in the decision making process. Ultimate responsibility for management decisions rests with the executive director. Each staff member should support these management decisions, policies, and actions.

Personnel Practices

SJMA’s standard for staff selection must be based on ability. In these matters, as well as that of granting volunteer opportunities, decisions may not reflect discriminatory factors such as race, color, religious creed or religion, national origin, ancestry, sex, age, disability, or sexual orientation.

SJMA recognizes the importance of diversity to the Museum and to the local community. SJMA therefore encourages employment opportunities and accessibility for all persons.

Compliance with the Law

Staff members are not expected to be familiar with every state and federal law, regulation, or proprietary principle applicable to SJMA. Staff members are, however, expected to be familiar with pertinent legal issues in their respective areas of expertise. It is the responsibility of staff members to consult with their immediate supervisor or the executive director whenever they have a question about a situation.

Financial Accountability

Staff members must adhere to the highest standards of honesty and openness in reporting and monitoring all financial transactions. All staff members must follow all accounting practices, procedures, and controls to ensure complete and accurate reports and to guard against fraud and dishonesty. Any staff member who becomes aware or suspects any improper use of SJMA’s resources may report those concerns anonymously in accordance with SJMA’s Financial Misconduct Complaint Policy (the “Whistleblower Protection Policy.”)

Museum Records

To adhere to standard of public accountability, SJMA must retain appropriate records and documentation. All SJMA staff must follow SJMA's Record Retention and Document Destruction Policy.

Volunteer Activities

Staff members are encouraged to participate in voluntary outside activities with community groups or public-service organizations. However, if the staff member could appear to be acting in an official SJMA capacity, he/she must disclose that to, and seek prior approval from, the executive director to avoid possible misrepresentation or conflict of interest. As in all activities, staff members should conduct themselves so that their actions do not reflect adversely on the reputation or integrity of SJMA, or contradict SJMA's mission, purpose, or goals.

Approval of Outside Employment

Certain types of outside employment—including teaching, lecturing, writing, and consulting—can benefit both the Museum and the staff member by stimulating personal professional development and promoting the Museum within professional circles. Staff members engaged in outside activities similar to those they perform for SJMA are often perceived as representatives of SJMA, even though the outside work may be wholly independent of the Museum. For that reason, full-time staff must seek prior approval from the executive director for any planned outside employment or professional volunteer activity that in any way resembles or relates to the duties they perform for SJMA. An employee need not disclose a small business or activity entirely unrelated to the work he or she performs for SJMA. However, full time staff members should remain mindful that their primary professional responsibility remains with SJMA. Any outside project employment should not interfere with the staff member's regular duties at SJMA, nor should it compromise the professional integrity of the staff member or the reputation of SJMA in any way. Staff members need to avoid any appearance of institutional validation of outside projects.

Compensation for Approved Outside Employment

Non-exempt, hourly employees, who have clocked out at SJMA, may accept compensation for outside work. Since the professional exempt staff members are often expected to perform job duties outside of routine hours, these staff may keep the compensation received for outside employment. Such staff members, however, are encouraged to waive any honoraria for modest projects for local peer organizations to promote community goodwill.

Ownership of Scholarly Material

Any and all materials or items developed, written, designed, drawn, painted, constructed or installed by staff members while carrying out their responsibilities as SJMA employees are considered to be the property of SJMA. Thus, SJMA shall own all copyrights, as well as any applicable trademarks or patents, to such materials *except as noted below*:

SJMA will allow staff authors to retain solely throughout the world in perpetuity all right, title and interest in *individual essays*, including without limitation all copyrights, patents, trademarks, publicity rights, privacy rights and other proprietary rights, if the staff member grants and assigns in perpetuity to SJMA all rights to publish the particular essay throughout the world in all forms, languages, and media, now known or later developed. These rights would include, but are not limited to, the right to publish by distributing copies of or excerpts from the essay by electronic transmission via SJMA's website and the right to publish the essay in other SJMA publications or compilations. This license would be exclusive during the time period in which the publication containing the essay (for example a catalogue) remains in print or until two (2) years after the close of the applicable exhibition and its tour, whichever time period is longer. The staff member has to agree not to reprint the essay during the period of this exclusive license. After the exclusive license has expired as set forth above, it shall be deemed non-exclusive but shall be otherwise unlimited and not subject to additional license fees. The executive director may agree to the publication of an excerpt of the essay, or an article that makes use of the scholarly work, during the time period of SJMA's exclusive license.

Staff members retaining the right, title and interest in individual essays must agree to cite SJMA as the organizer of the pertinent exhibition and publisher of the pertinent publication containing the essay.

Staff members may not duplicate materials developed at SJMA by themselves, other staff members, or SJMA contractors for the purpose of resale or personal profit. This provision applies, but is not limited, to the following: artwork; written materials; graphics; three-dimensional design; electronic or mechanical design; audiovisuals; and/or computer software.

Professional Relationships and Business Transactions

Staff members in all dealings with other organizations, artists, donors, consultants, vendors or dealers, etc., shall uphold and promote the highest professional standards and ethical principles. Any SJMA staff member authorized to spend SJMA funds shall do so with impartiality, honesty, and regard to the best interests of SJMA.

Gifts to Staff

Reasonable minimal personal entertainment, such as a meal, may be accepted by staff members from a Trustee, donor, collector, vendor, or dealer, etc. [Minimal value is defined as having a fair market value of \$500 or less.] Meals while on official business may be accepted only where the acceptance of such services will not compromise or appear to compromise the professional judgment of the staff member or the reputation of SJMA.

Gifts, personal benefits, or entertainment offered to an SJMA staff member of other than minimal value must be disclosed to the executive director, who will then determine

whether the gift or personal benefit must be declined. Gifts, personal benefits or entertainment offered to the executive director of other than minimal value must be disclosed to the President of the Board of Trustees, who will then determine whether the gift or personal benefit must be declined.

Any travel offered to a staff member by affiliated persons, such as any Trustee, donor, collector, vendor, or dealer, must be approved in advance by the executive director, or, in the case of travel offered to the executive director, by the President of the Board.

Gifts of art to staff members must be disclosed to the executive director and the Collections Committee which will then review the potential gift and determine whether the gift may be accepted or must be declined.

Referrals

When a staff member is asked in the performance of his or her official duties to suggest sources for objects, materials or services such as conservation, appraisal or the transportation of art objects, he/she should name at least two qualified, competent sources (where possible) in order to avoid the appearance of official SJMA endorsement or favoritism.

Museum Store and Other Commercial Activities

The Museum Store and all SJMA commercial activities should be conducted in a manner consistent with SJMA's mission and its service of the public. Thus, all commercial activities and related publicity should be relevant to, and not compromise, SJMA's mission, and should be consistent with SJMA's basic educational purposes.

Volunteers

The participation of volunteers is integral to the success of SJMA. The working relationships between trustees, staff, and volunteers shall be based on mutual respect. Volunteers occupy a privileged position by virtue of the access they enjoy to the facility, exhibitions, and collection and to confidential information about the Museum's collections, programs, finances, and operations. Volunteers shall respect the responsibilities and requirements of confidentiality that result from such access. Volunteers with access to materials prepared and utilized for fundraising efforts shall respect the confidentiality of such materials and shall not disseminate or share any information, list or document.

Volunteers have a responsibility to conduct themselves in a manner that is professional and helps achieve the institutional mission.

Implementation

The president of the Board and the executive director are responsible for the implementation of this Code and the conflict of interest policy incorporated within,

The secretary of the Board shall report to the president of the Board any disclosures of conflicts of interest for trustees or community members of committees of the Board of Trustees along with recommendations. Recommendations may include but are not limited to the following: that no action be taken; that the individual recuse him/herself at the appropriate point in the decision making process; that the individual be requested to resolve the conflict to the satisfaction of SJMA; that disciplinary action be taken, etc. The executive director will determine the appropriate course of action for staff conflicts of interest, in consultation with the Board President.

As part of its commitment to ethical and legal conduct, SJMA expects its trustees and employees to bring to the attention of the president of the Board and the executive director information regarding suspected improper conduct under this Code without regard for the identity or position of the suspected offender. There will be no reprisals for good faith reporting of actual or possible violations of the Code, i.e. reports which are sincere and made without a deliberate intention to mislead. Whenever possible, the identity of the person making the report will be kept confidential.

All reported violations of the Code will be promptly investigated and will be treated confidentially to the extent consistent with the Museum's interests and legal obligations. All investigations by the Museum of wrongdoing shall be directed by the president of the Board for trustee or volunteer matters and by the executive director for staff matters. If the president of the Board concludes that conduct inconsistent with the Code has occurred, he/she shall refer the matter to the Executive Committee. The Executive Committee shall decide what corrective steps it should take to rectify the problem or what disciplinary actions to undertake. The Executive Committee's recommendation shall then be forwarded to the Board for final approval. The executive director shall determine the corrective course of action or disciplinary actions with respect to staff conduct inconsistent with the Code and shall report to the Executive Committee.

Disciplinary or corrective actions may be taken for authorization or participation in actions that violate the Code, failure to report a violation, failure to cooperate in an investigation, or retaliation against an individual for reporting a violation or possible violation of the Code. Disciplinary action, may, when appropriate, include dismissal from employment, a request that a trustee resign, or dismissal from Board or volunteer service.

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