UCLA Library Provenance Due Diligence Policy and Guidelines

A. Purpose:

This UCLA Library Provenance Due Diligence Policy and Guidelines establishes the Library's policy and guidelines for the provenance of manuscripts, rare books, incunabula, artwork, prints, archival collections, and other materials of historical, cultural, and scientific research value (collectively “Cultural Objects”). This policy and its guidelines apply to the Library's acquisition of Cultural Objects by purchase, gift, bequest, exchange, or other method, as well as to loans for exhibition or other purposes. This policy applies to prospective acquisitions and acquisitions described in Section D of this policy.

B. Statement of Principles:

• Educational Mission: The Library in serving its educational mission builds and stewards its collections by acquiring Cultural Objects in order to support UCLA's teaching, learning and research needs. The Library serves students, faculty, researchers of all disciplines, the public and is committed to diversity, inclusion, access, sustainable scholarship, collaboration, transparency, and intellectual freedom. The Library is a resource for local, national, and international research, discovery, and innovation.1

• Responsible Acquisition and Provenance Due Diligence: The Library is committed to the responsible acquisition of Cultural Objects. The Library acknowledges that provenance research is complex, multijurisdictional, interdisciplinary, and that applicable legislation governing cultural heritage differs by nation.2 The Library recognizes that comprehensive provenance may not be accessible for all Cultural Objects and that consideration should be given to unavoidable gaps or ambiguities in provenance in light of the passage of time and the circumstances of historical losses.3 The Library makes informed and responsible judgments about the appropriateness of acquiring Cultural Objects and seeks to satisfy the requirements set forth in the Provenance Guidelines, below. The Library seeks to meet the highest collection stewardship standards and practices for provenance due diligence associated with the acquisition and loan of Cultural Objects in the context of academic university, college, and research libraries.

• Illicit Cultural Objects: The Library deplores the unlawful and unethical trafficking of Cultural Objects and it supports the deterrence of the illicit trade in Cultural Objects.

• Free Exchange of Cultural Objects: The Library supports the free exchange of information and Cultural Objects, which, in turn, contributes to the advancement of knowledge and promotes appreciation of our shared cultural heritage. Pursuant to the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import and

1 UCLA Library Collections Policies, https://www.library.ucla.edu/about/policies/collections-policies
Export and Transfer of Ownership of Cultural Property⁴ and the 1983 Cultural Property Implementation Act (19 U.S.C. Sec. 1601 et seq.),⁵ the legal international transfer of Cultural Objects should be facilitated by all available means, including loans and sales. The Library encourages such licit transfers in the same manner as it fosters international exchanges between libraries.

- **Cultural Heritage Preservation**: The Library preserves cultural heritage on campus and online, making knowledge publicly accessible.

- **Fiduciary Obligations**: The Library holds its collections in the public trust. Its stewardship responsibilities to the public it serves requires that any decision to acquire, loan, deaccession, or repatriate/restitute Cultural Objects be undertaken only after completion of appropriate steps and careful consideration.

C. UCLA Library Provenance Guidelines:

1. **Research and Analysis**:

The Library shall diligently research the provenance of Cultural Objects prior to acquisition to determine if the Library may obtain clear title. Required research includes, but is not limited to, determining:

- The history of ownership and possession of the Cultural Object;
- The countries in which the Cultural Object has been located and when;
- The exhibition history of the Cultural Object, if any;
- The publication history of the Cultural Object, if any;
- Whether there are any claims of ownership to the Cultural Object;
- The authenticity of the Cultural Object; expert consultation may be warranted;⁶ and
- The circumstances under which the Cultural Object is being offered to the Library.

The Library shall document and preserve the above-referenced research results pursuant to the Record Retention Guidelines, Paragraph 6, below.

**Documents from Sellers, Donors, Estate Executors, and Others**:

The Library shall make a diligent effort to obtain from sellers, donors, estate executors, auction houses, dealers, and others who act as intermediaries and/or consignees for sellers, all available information and records that relate to the history of ownership and possession of the Cultural Object being considered for acquisition. Such records include, but are not limited to: Purchase contracts, invoices, insurance and appraisal documentation, auction catalogues, inventories, correspondence,

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⁴ [https://eca.state.gov/files/bureau/unesco01.pdf](https://eca.state.gov/files/bureau/unesco01.pdf)
⁶ Analysis of provenance generally requires consideration of authenticity, including analysis of the physical traits of the Cultural Object, for example, inscriptions, erasures, bookplates, brands, stamps, labels, shelfmarks, bindings, endpapers, spine materials and construction, front and rear paste-downs, and other physical indicia of authenticity, historical ownership and/or possession.

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photographs, and for any acquisition that entered the United States from abroad the Library shall obtain all import and export documentation, to the extent reasonably accessible.

**Databases:**
The Library shall determine prior to acquisition whether the Cultural Object appears in relevant databases, in order to determine whether an object has been stolen, illegally exported, or may otherwise result in defective title after acquisition. For example:

- Interpol Stolen Works of Art Database
- F.B.I. National Stolen Art File
- Missing Books Register, International League of Antiquarian Booksellers
- Theft Report Updates, Rare Books and Manuscripts Section, Association of College & Research Libraries, American Library Association
- The Art Loss Register
- Italian Comando Carabinieri per la Tutela del Patrimonio Culturale Database
- Databases and resources for Nazi-era provenance research:
  - International Resources for Holocaust-Era Assets Research, U.S. National Archives and Records Administration
  - Research Databases, Claims Conference WJRO, Looted Art and Cultural Property Initiative
  - Lost Art Database, German Lost Art Foundation
  - The Central Registry of Information on Looted Cultural Property 1933-1945

**2. The Library Catalog, Publication, and Transparency:**

For all new acquisitions of Cultural Objects, the Library shall make detailed provenance information publicly accessible and transparent through its online catalog. This information shall be input into a dedicated catalog field clearly marked "provenance" and shall include:

- Historical owners;
- Historical possessors and intermediaries, including, but not limited to, booksellers and auction houses;
- Dates and locations of transfer, if reasonable accessible;
- Inscriptions;
- Bookplates; and
- All references to other indicia of prior ownership and/or possession visible anywhere on or in the physical Cultural Object, such as brands, stamps, labels, shelfmarks, visible erasures, and other physical indicia of authenticity, historical ownership and/or possession.

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9 [https://missingbooksregister.org/](https://missingbooksregister.org/)
10 [https://rbms.info/theft-reports/category/new-incidents/](https://rbms.info/theft-reports/category/new-incidents/)
11 [https://www.artloss.com](https://www.artloss.com)
12 [https://www.carabinieri.it/in-vostro-aiuto/servizi/banche-dati](https://www.carabinieri.it/in-vostro-aiuto/servizi/banche-dati)
13 [https://www.archives.gov/research/holocaust/international-resources](https://www.archives.gov/research/holocaust/international-resources)
14 [https://art.claimscon.org/resources/overview-of-worldwide-looted-art-and-provenance-research-databases/](https://art.claimscon.org/resources/overview-of-worldwide-looted-art-and-provenance-research-databases/)
15 [https://www.lostart.de/en/](https://www.lostart.de/en/)
16 [https://www.lootedart.com/search2.php](https://www.lootedart.com/search2.php)
Provenance data in MARC records is tagged as 317 in UNIMARC and 561 in MARC21. These measures shall be carried out as soon as practicable after acquisition.

3. Acquisitions and Incomplete Provenance:

The Library recognizes that even after duly diligent provenance research some Cultural Objects will have gaps in their provenance history. The Library may make an informed judgment to acquire such a Cultural Object if after diligent provenance research the cumulative facts and circumstances known to the Library provide a reasonable basis to do so. Such facts and circumstances include, but are not limited to:

- The ownership and custodial history of the Cultural Object;
- The number, place, and circumstances of independent exhibition of the Cultural Object;
- The number, type, and circulation of publication(s) regarding the Cultural Object;
- The length of time and place of public display(s) of the Cultural Object; and
- The result of consultation with parties who may provide relevant information and/or documentation.

The Library shall not knowingly acquire a Cultural Object if there is evidence of illegal appropriation without subsequent restitution or other satisfactory resolution of title.

4. Nazi Era Provenance:

The Library is guided by the 1998 Washington Conference Principles on Nazi-Confiscated Art, the Report of the Association of Art Museum Directors’ Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945), and the American Alliance of Museums’ Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era. When the Library is considering the acquisition of a Cultural Object that was transferred during the Nazi era (1933-1945) in Germany, its annexed, occupied, or allied territories or countries, the Library shall ask sellers, donors, estate executors, and others to provide information and records regarding Nazi-era provenance. When Nazi-era provenance is incomplete or uncertain, the Library shall consult available records and databases, pursuant to this policy, in order to confirm provenance, if possible. When relying on provenance documentation, the Library shall make every effort to verify the authenticity of it. In the absence of evidence of illegal appropriation, the Cultural Object will be presumed not to have been illegally appropriated and the acquisition may proceed. The Library shall not acquire a Cultural Object if there is evidence of illegal appropriation without subsequent restitution or other satisfactory resolution of title.

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17 See e.g., [https://www.cerl.org/resources/provenance/marc](https://www.cerl.org/resources/provenance/marc). Principle 4 provides, "In establishing that a work of art had been confiscated by the Nazis and not subsequently restituted, consideration should be given to unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era."

18 [https://www.state.gov/washington-conference-principles-on-nazi-confiscated-art/](https://www.state.gov/washington-conference-principles-on-nazi-confiscated-art/). Principle 4 provides, "In establishing that a work of art had been confiscated by the Nazis and not subsequently restituted, consideration should be given to unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era."


5. Representations and Warranties:

All agreements to acquire or loan a Cultural Object shall include a representation and warranty of good title and that the Cultural Object is free from any liens, claims, and encumbrances and, as appropriate, authority to export to the United States, with supporting documentation. The Library shall seek indemnification in the event of a breach.

6. Record Retention Guidelines -- Acquisition and Provenance Research:

All records related to acquisition and provenance due diligence research shall be permanently preserved either in hard copy or digitally and shall be readily retrievable.

   a. UC Acquisition Record Retention Schedule, Records Code No. 0017A2*:
   Acquisition records are essential for provenance research and should be retained under the University of California (UC) Record Retention Schedule, Records Code No. 0017A2*. Under this schedule acquisition records for archival collections, rare manuscripts, and artifacts include, "Document activities related to obtaining items for the libraries’ collections. These records also document the procurement, subscriptions, or donations of library/archives materials to the University....” These records may include, but are not limited to: Licensing agreements and amendments or addendums; deeds of gift; order forms; and purchasing records for physical materials.”
   Retention Period: Permanent. (approved 2020-05-08)21

   b. UCLA Record Repositories:
   Records related to acquisition and provenance research may be located in various UCLA repositories including, but not limited to:
   - Library Special Collections
   - UCLA Office of Gifts Administration
   - Library Business Services
   - Resources and Metadata Services
   - UCLA Development/External Affairs
   - Digital Library and Digital Initiatives & Technology Team (who preserve and make accessible prior online catalogs and other archived databases that contain relevant records retention information)

7. Legal Considerations:

Library acquisitions shall comply with all applicable local, state, federal, and international laws, including but not limited to those governing Cultural Objects, such as the National Stolen Property Act22 and the Cultural Property Implementation Act.23 Since the status of Cultural Objects under foreign law may bear on its legal status under U.S. law, when appropriate the Library shall review relevant foreign cultural heritage laws24 prior to acquisition and/or seek expert consultation, if needed.

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21 https://recordsretention.ucop.edu/
warranted. The Library shall not acquire any Cultural Object that is known to have been stolen or illegally appropriated (without subsequent restitution), exported from its country of origin in violation of such country's laws at the time of its export, or imported into the U.S. in violation of U.S. law at the time of its importation.

8. Loans:

The Library requires that all outgoing and incoming loans for exhibition or other purposes are legally acquired, in compliance with local, state, and federal laws. The Library reserves the right to request from the lender specific details and proof of provenance. The Library may terminate any loan of a Library Cultural Object in the event reasonable concerns regarding provenance arise. All agreements to borrow a Cultural Object must include a warranty of title without encumbrance and, as appropriate, authority to export to the United States.

**Immunity from Seizure:** For all incoming loans to the Library from foreign lenders coming from abroad for temporary exhibition, the Library shall seek determinations from the U.S. Department of State that the loans are of cultural significance and that their temporary display in the United States is in the national interest, and will further request that there be publication to that effect in the Federal Register prior to importation of the loans, pursuant to 22 U.S.C. Sec. 2459.25 The Library shall consult the Department of State's Sample Application Language and Sample Contract Language,26 and the Application Procedure and Checklist.27 For all outgoing loans from the Library to foreign borrowers for temporary exhibition, for those countries that provide immunity from seizure, this protection shall be secured by the borrower; the Library shall seek immunity from seizure, if possible, from all foreign borrowers for outgoing loans.

9. Balance of Interests:

The Library shall carefully balance the possible financial and reputational harm of acquiring or borrowing a Cultural Object against the benefit of collecting, preserving, and making the Cultural Object accessible for the educational benefit of current and future generations.

D. Library Discoveries in Existing Collections and Third Party Claims:

1. Discovery of Evidence of Unlawfully Appropriated Cultural Objects:

If, after a Cultural Object has been acquired, the Library discovers credible evidence that the object in its collection was unlawfully appropriated without subsequent restitution, the Library shall make expeditious efforts to achieve a just and fair solution based on the facts and circumstances. As appropriate, the Library shall provide notice to the donor, seller, or estate executor, if reasonably accessible.

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2. Third Party Claims:

In the event that a third-party claims ownership of a Cultural Object after the Library has acquired the object, the Library shall promptly review the claim. The Library shall request from the claimant evidence of ownership and loss in order to verify the basis of the claim. The Library shall also conduct its own research, if warranted, to confirm the third-party's claimed ownership and circumstances of loss. If after consultation with the claimant, research, and analysis, the Library determines that the Cultural Object was unlawfully appropriated without subsequent restitution the Library shall take expeditious steps to achieve a just and fair solution based on the facts and circumstances. As appropriate, the Library shall provide notice to the object's donor, seller, or estate executor, if reasonably accessible.

3. Consultation:

In the event of the discovery of an unlawfully appropriated Cultural Object or a third-party claim, Library staff shall consult with the University Librarian, the Associate University Librarian, Campus Counsel and, if necessary, the Office of General Counsel.

The Library shall preserve records associated with ownership challenges pursuant to the Record Retention Guidelines, Paragraph 6, above.

E. Restitution, Digitization, and Update of the Library Online Catalog:

If the Library restitutes a Cultural Object, a high-resolution digitized copy of the Cultural Object shall be made and uploaded to the HathiTrust Digital Library for preservation purposes and for the advancement of public knowledge.

After a restitution, the Library online catalog shall be updated to reflect:

- That a restitution of the physical Cultural Object has been made,
- The date of transfer,
- The name of the party to whom the Cultural Object was transferred, and
- The HathiTrust Digital Library online citation.

Format: "Deaccessioned. Restitution [insert date] to [insert name], HathiTrust: [insert link]."

Resources:

- International Council of Museums (ICOM)
  - ICOM Standards on Accessioning of the International Council of Museums (2020)\textsuperscript{28}
  - ICOM Code of Ethics (2017)\textsuperscript{29}
  - ICOM Guidance for Restitution and Return of Items from University Museums and Collections (2021)\textsuperscript{30}
- Smithsonian Institution Collection Management Policy (2022)\textsuperscript{31}

\textsuperscript{28} https://icom.museum/wp-content/uploads/2022/03/Accessioning-standards_EN.pdf
\textsuperscript{29} https://icom.museum/en/resources/standards-guidelines/code-of-ethics/
\textsuperscript{31} https://www.si.edu/content/pdf/about/sd/SD600.pdf
• 1983 Cultural Property Implementation Act (19 U.S.C. Sec. 1601 et seq.)
• 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property
• 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict
• Association of Art Museum Directors' (AAMD) Standards and Practices, including, but not limited to, Guidance on Art from Colonized Areas (Oct. 2022) and the Report of the AAMD Task Force on the Spoliation of Art During the Nazi/World War II Era (1933-1945) (1998, 2001)
• 1998 Washington Conference Principles on Nazi-Confiscated Art
• American Alliance of Museums' Ethics, Standards, and Professional Practices, including, but not limited to, Unlawful Appropriation of Objects During the Nazi Era (1999, 2001)
• British Library: Heritage Acquisition Policy and Ethical Acquisitions Policy
• Germany: Provenance Research Manual to Identify Cultural Property Seized Due to Persecution During the National Socialist Era (2019)
• Germany: Guidelines on Dealing with Collections from Colonial Contexts (2018)

35 https://aamd.org/standards-and-practices
38 https://www.state.gov/washington-conference-principles-on-nazi-confiscated-art/
40 https://www.bl.uk/about-us/freedom-of-information/5-our-policies-and-procedures