Title	Acceptance of Gifts (amend Cal. Rules of Court, rule 989.7 and renumber it as rule 6.102)
Summary	The proposed amendments would give the Administrative Director of the Courts authority to accept gifts to the judicial branch if the gift and any terms and conditions are found to be in the best interest of the State. The amendments would authorize the Administrative Director to delegate the authority to accept gifts on behalf of each court to the court's executive officer or clerk/administrator, under guidelines established by the Administrative Office of the Courts.
Source	Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee
Staff	Susan R. Goins, Senior Attorney, 415-865-7990, susan.goins@jud.ca.gov
Discussion	The proposed amendments would clarify who possesses authority to accept gifts to a superior or appellate court. Current rule 989.7, by its plain language, governs the acceptance of gifts made by or in favor of "any" article VI entity, including superior and appellate courts. Superior courts on occasion receive offers of gifts. The former practice in some counties was to seek approval from the county governing body for gifts valued in excess of $10,000, under section 25355 of the Government Code. This code section, governing gifts made in favor of the *county*, no longer applies. Currently, a trial or appellate court has two options for handling gifts: (1) the court may request that the Chief Justice accept a specific gift on behalf of the court, or (2) the court may request that the Chief Justice appoint a designee who may act generally to accept gifts on behalf of the court. Rule 989.7 currently provides no criteria for determining who is the appropriate person to act as a designee authorized to accept gifts on behalf of a trial or appellate court. There are statutory and ethical constraints on the acceptance of gifts by judicial officers. Even when a judge accepts a gift on behalf of the court rather than on his or her own behalf, there is a risk of actual or apparent impropriety and a risk of later disqualifications. Delegating authority to the Administrative Director of the Courts to accept gifts and, under appropriate circumstances, authorizing the Administrative Director to delegate that authority to nonjudicial officers of individual

courts would reduce the risks of impropriety and possible disqualification of judicial officers arising from the acceptance of gifts.

The most suitable candidates for accepting gifts are superior court executive officers and clerk/administrators of the Courts of Appeal. Although the presiding judge of the trial court is ultimately responsible for all fiscal matters, as discussed above, the presiding judges are subject to both statutory and ethical constraints relating to the acceptance of gifts. All judicial officers are subject to these limitations.

The trial court's executive officer is the most appropriate candidate to serve as a designee under the rule. The executive officer is directly responsible for the court's fiscal management, including revenues and expenditures that derive from the acceptance and use of gifts made to the court. For the same reasons, a clerk of a Court of Appeal is a more appropriate designee than the administrative presiding justice, and the clerk of the Supreme Court is more appropriate than the Chief Justice.

The proposal amendments would make the rule applicable only to the courts, the Judicial Council and the Administrative Office of the Courts. Rule 989.7 currently provides that the Chief Justice may accept gifts on behalf of "any agency provided for in article VI of the Constitution." Article VI entities include—in addition to superior courts, Courts of Appeal, the Supreme Court, the Judicial Council, and the Administrative Office of the Courts—the Commission on Judicial Appointments (§ 7), the Commission on Judicial Performance (§ 8), and the State Bar of California (§ 9). The report recommending adoption of rule 989.7 did not address whether each of the article VI entities should be included or why all were included.

The Administrative Director of the Courts does not oversee or serve the Commission on Judicial Appointments, the Commission on Judicial Performance, or the State Bar, and thus these entities are not included in the amended rule. These entities are not the appropriate subject of regulation by the Judicial Council. They may develop their own policies or rules for the acceptance of gifts.

The text of the amended rule is attached at page 3.

Attachments

Rule 989.7 of the California Rules of Court is renumbered as rule 6.102 and amended, effective January 1, 2004, to read:

DIVISION 11
CHAPTER 1

Rule ~~989.7.~~ 6.102. Acceptance of gifts

(a) The ~~Chief Justice or the Chief Justice's designee~~Administrative Director of the Courts may accept on behalf of any~~agency provided for in article VI of the Constitution~~ entity listed in (b) any gift of real or personal property if the gift and any terms and conditions are found to be in the best interest of the State. Any applicable standards used by the Director of Finance under Government Code section 11005.1 may be considered in accepting gifts.

(b) The Administrative Director may delegate the authority to accept gifts to the following, under any guidelines established by the Administrative Office of the Courts:

(1) The executive officer of a superior court, for gifts to the superior court;

(2) The clerk/administrator of a Court of Appeal, for gifts to a Court of Appeal;

(3) The clerk of the Supreme Court, for gifts to the Supreme Court; and

(4) The Director of the Finance Division of the Administrative Office of the Courts, for gifts to the Judicial Council and the Administrative Office of the Courts.