

Guide to Judiciary Policy

Vol 2: Ethics and Judicial Conduct

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§ 610 Statutory Texts on Gifts

The following statutes relate to gifts:

- Gifts to Superiors ([5 U.S.C. § 7351](#)); and
- Gifts to Federal Employees ([5 U.S.C. § 7353](#)).

§ 620 Judicial Conference Regulations on Gifts

§ 620.10 Authority

Ethics Reform Act of 1989, Pub. L. No. 101-194, §§ 301 and 303, 103 Stat. 1716, 1745-1747 (1989), as amended. These regulations are promulgated by the Judicial

Conference of the United States under the authorities of [5 U.S.C. §§ 7351\(c\), 7353\(b\)\(1\)](#), and [7353\(d\)\(1\)\(C\)](#).

§ 620.15 Purpose and Scope

- (a) These regulations implement [5 U.S.C. §§ 7351](#) and [7353](#), which prohibit the giving, solicitation, or acceptance of certain gifts by officers and employees of the judicial branch and provide for the establishment of such reasonable exceptions to those prohibitions as the Judicial Conference of the United States finds appropriate. The regulations do not proscribe all gifts but only those from certain persons and in certain circumstances, specifically defined below.
- (b) Nothing in these regulations alters any other requirements imposed by statutes, other regulations, or the Codes of Conduct adopted by the Judicial Conference of the United States, which may in certain circumstances prohibit or advise against acceptance of gifts not prohibited by these regulations.
- (c) Any violation of any provision of these regulations will make the officer or employee involved subject to appropriate disciplinary action.

§ 620.20 Definition of Judicial Officer or Employee

In these regulations, a “judicial officer or employee” means a United States circuit judge, district judge, judge of the Court of International Trade, judge of the Court of Federal Claims, judge and special trial judge of the Tax Court, judge of the Court of Appeals for Veterans Claims, bankruptcy judge, magistrate judge, commissioner of the Sentencing Commission, and any employee of the judicial branch other than an employee of the Supreme Court of the United States or the Federal Judicial Center.

§ 620.25 Definition of Gift

“Gift” means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other similar item having monetary value but does not include:

- (a) social hospitality based on personal relationships;
- (b) modest items, such as food and refreshments, offered as a matter of social hospitality;
- (c) greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;

- (d) loans from banks and other financial institutions on terms that are available based on factors other than judicial status;
- (e) opportunities and benefits, including favorable rates and commercial discounts, that are available based on factors other than judicial status;
- (f) rewards and prizes given to competitors in contests or events, including random drawings, that are open to the public and that are available based on factors other than judicial status;
- (g) scholarships or fellowships awarded on the same terms and based on the same criteria applied to other applicants and that are based on factors other than judicial status;
- (h) anything for which market value is paid by the judicial officer or employee; and
- (i) any payment, compensation, or reimbursement the acceptance of which is permitted by the Regulations of the Judicial Conference Concerning Outside Earned Income, Honoraria, and Outside Employment.

§ 620.30 Solicitation of Gifts by a Judicial Officer or Employee

A judicial officer or employee shall not solicit a gift from any person who is seeking official action from or doing business with the court or other entity served by the judicial officer or employee, or from any other person whose interests may be substantially affected by the performance or nonperformance of the judicial officer's or employee's official duties.

§ 620.35 Acceptance of Gifts by a Judicial Officer or Employee; Exceptions

- (a) A judicial officer or employee shall not accept a gift from anyone who is seeking official action from or doing business with the court or other entity served by the judicial officer or employee, or from any other person whose interests may be substantially affected by the performance or nonperformance of the judicial officer's or employee's official duties.
- (b) Notwithstanding this general rule, a judicial officer or employee may accept a gift from a donor identified above in the following circumstances:
 - (1) the gift is made incident to a public testimonial and is fairly commensurate with the occasion;

- (2) the gift consists of books, calendars, tapes, or other resource materials supplied on a complimentary basis for official use;
- (3) the gift consists of an invitation and travel expenses, including the cost of transportation, lodging, and meals for the officer or employee and a family member to attend a bar-related function, an educational activity, or an activity devoted to the improvement of the law, the legal system, or the administration of justice;
- (4) the gift is from a relative or friend, if the relative's or friend's appearance or interest in a matter would in any event require that the officer or employee take no official action with respect to the matter, or if the gift is made in connection with a special occasion, such as a wedding, anniversary, or birthday, and the gift is fairly commensurate with the occasion and the relationship;
- (5) the gift consists of meals, lodgings, transportation, and other benefits customarily provided by a prospective employer in connection with bona fide employment discussions, so long as conflicts of interest are avoided;
- (6) in the case of a judicial officer or employee who has obtained employment to commence after judicial employment ends, the gift consists of reimbursement of relocation and bar-related expenses customarily paid by the employer, so long as conflicts of interest are avoided;
- (7) the gift is incident to the business, profession or other separate activity of the officer or employee or the spouse or other family member of an officer or employee residing in the officer's or employee's household, including gifts for the use of both the spouse or other family member and the officer or employee (as spouse or family member), so long as the gift is of the type customarily provided to others in similar circumstances and is not offered or enhanced because of the judicial officer's or employee's official position; or
- (8) the gift (other than cash or investment interests) is to a judicial officer or employee other than a judge or a member of a judge's personal staff and has an aggregate market value of \$50 or less per occasion, provided that the aggregate market value of individual gifts accepted from any one person under the authority of this subsection shall not exceed \$100 in a calendar year.

§ 620.40 Solicitation and Acceptance of Gifts Among Judicial Officers and Employees

A judicial officer or employee shall not solicit a contribution from another officer or employee for a gift to an official superior, make a donation as a gift or give a gift to an official superior, or accept a gift from an officer or employee receiving less pay than himself or herself. This paragraph does not prohibit a judicial officer or employee from collecting voluntary contributions for a gift, or making a voluntary gift, to an official superior for a special occasion such as marriage, anniversary, birthday, retirement, illness, or under other circumstances in which gifts are traditionally given or exchanged.

§ 620.45 Additional Limitations

Notwithstanding the provisions of § 620.35, no gift may be accepted by a judicial officer or employee if a reasonable person would believe it was offered in return for being influenced in the performance of an official act or in violation of any statute or regulation, nor may a judicial officer or employee accept gifts from the same or different sources on a basis so frequent that a reasonable person would believe that the public office is being used for private gain.

§ 620.50 Disclosure Requirements

Judicial officers and employees subject to the Ethics in Government Act of 1978 and the instructions of the Financial Disclosure Committee of the Judicial Conference of the United States must comply with the Act and the instructions in disclosing gifts.

§ 620.55 Advisory Opinions

The Committee on Codes of Conduct of the Judicial Conference of the United States is authorized to render advisory opinions interpreting Title III of the Ethics Reform Act of 1989 ([5 U.S.C. §§ 7351](#) and [7353](#)) and these regulations ([JCUS-MAR 90](#), pp. 14-15). Any person covered by the Act and these regulations may request an advisory opinion by writing to:

Chairman of the Committee on Codes of Conduct
c/o Administrative Office of the United States Courts
One Columbus Circle, N.E.
Washington, D.C. 20544

§ 620.60 Disposition of Prohibited Gifts

- (a) A judicial officer or employee who has received a gift that cannot be accepted under these regulations should return any tangible item to the

donor, except that a perishable item may be given to an appropriate charity, shared within the recipient's office, or destroyed.

- (b) A judicial agency may authorize disposition or return of gifts at Government expense.

§ 620.65 Commentary on Regulations

- (a) All officers and employees of the judicial branch hold appointive positions. Title III of the Ethics Reform Act of 1989 ([5 U.S.C. §§ 7351](#) and [7353](#)) thus applies to all officers and employees of the judicial branch. However, the Judicial Conference has delegated its administrative and enforcement authority under the Act for officers and employees of the Supreme Court of the United States to the Chief Justice of the United States and for employees of the Federal Judicial Center to its Board. For this reason, the definition of “judicial officer or employee” does not include every judicial officer or employee whose conduct is governed by Title III. For purposes of Title III and these regulations, employees of the Tax Court and the Court of Appeals for Veterans Claims are employees of the judicial branch.
- (b) Several provisions in the regulations refer to persons seeking official action from or doing business with a judge’s court. A judge’s court encompasses, in the case of an appellate judge, any case coming before the court in which the judge personally participates in the decision of the court; in the case of a trial court, the judge’s court encompasses only cases on the particular judge’s docket and not cases before another judge of the same court.
- (c) These regulations do not repeal the gift provisions of the Codes of Conduct heretofore promulgated by the Judicial Conference. The scope of the gift provisions of the Codes exceeds that of these regulations and the statute, however, in that they impose certain responsibilities on an officer or employee with respect to the acceptance of gifts by members of the officer's or employee's family residing in his or her household. Guide, Vol 2C, § 620.35 is based upon former Canon 5C(4) of the Code of Conduct for United States Judges.
- (d) Guide, Vol 2C, § 620.35(b)(3) permits acceptance of travel expenses for a judicial officer or employee and one family member to attend bar-related, educational, and law-related functions. Where due to infirmity or disability the judicial officer or employee requires an accompanying personal or medical assistant in order to attend, payment or reimbursement of the assistant’s travel expenses is considered a component of the gift to the

judicial officer or employee, which may properly be accepted under this section.

- (e) A judge covered by the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 ([28 U.S.C. §§ 332\(d\)\(1\), 351 to 364](#)) who violates these regulations shall be subject to discipline as provided in that Act. Any other judicial officer or employee who violates these regulations shall be subject to discipline in accordance with existing customary practices.

§ 620.70 Notes on Regulations

- (a) The “Regulations of the Judicial Conference of the United States Under Title III of the Ethics Reform Act of 1989 Concerning Gifts” were adopted on May 18, 1990, by the Judicial Conference, through its Executive Committee ([JCUS-SEP 90](#), p. 60).
- (b) On August 15, 1990, the Judicial Conference, through its Executive Committee, amended these regulations to implement the prohibition against gifts to superiors as required by the Ethics Reform Act of 1989, [5 U.S.C. § 7351](#).
- (c) At its March 1991 session, the Judicial Conference amended these regulations to include procedures for requesting advisory opinions from the Committee on Codes of Conduct interpreting Title III and these regulations ([JCUS-MAR 91](#), p. 14).
- (d) These regulations were amended by the Judicial Conference at its September 1991 session to cover the Tax Court and the Sentencing Commission and make certain minor technical corrections ([JCUS-SEP 91](#), p. 54).
- (e) The Judicial Conference amended these regulations at its March 1992 session to cover judges and employees of the Court of Appeals for Veterans Claims ([JCUS-MAR 92](#), pp. 16-17).
- (f) At its September 1994 session, the Judicial Conference renumbered these regulations and revised them to include a new definition of the term “gift;” a new section 4(a) prohibiting the solicitation of gifts; revised sections 4(b), 5(b), and 6 incorporating general limitations on the acceptance of gifts; a new section 5(h) permitting most employees to accept gifts of minimal value; and a new section 9 regarding the return or disposal of gifts that may not properly be accepted ([JCUS-SEP 94](#), p. 46).

- (g) The Judicial Conference amended these regulations at its March 1997 session to add a new subsection (i) (the existing subsection (i) was renumbered (j)) ([JCUS-MAR 97](#), pp. 14-15).
- (h) The Judicial Conference adopted revised and renumbered regulations in September 2003. The revisions did not, except in a few modest respects, alter the substantive standards embodied in the former regulations as they had previously been interpreted and applied ([JCUS-SEP 03](#), pp. 11-12).