

JUDICIAL COUNCIL POLICY  
LIMITING THE  
ACCEPTANCE AND  
PURCHASING OF ART FOR  
COURT FACILITIES

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DATE: NOVEMBER 30, 2015

ADOPTED BY JUDICIAL COUNCIL ON:  
DECEMBER 11, 2015



JUDICIAL COUNCIL  
OF CALIFORNIA



## 1. Purpose and Scope of the Policy

This policy is intended to guide Judicial Council of California (Judicial Council or council) staff in acquiring art on behalf of the council for the council's capital projects and for both appellate and trial court facilities that the council manages. (The council will not acquire art for county-managed court facilities or for court facilities that are leased to non-court occupants.)

This policy does not apply to art that an individual court may acquire, unless the art will be affixed to a court facility. (Only the Judicial Council may acquire art that will be affixed to a court facility because, once affixed, the art becomes part of the court facility and a council responsibility.)<sup>1</sup>

This policy does not apply to or affect art that may be included or displayed in court facilities on the date that the Judicial Council approves this policy.

## 2. Goals and Principles Guiding Acquisition of Art

Incorporating art into court facilities is intended to improve the experience of all court users and court personnel, consistent with the design excellence principles that the Judicial Council has adopted for court facilities.<sup>2</sup>

## 3. Definitions

- 3.1. Acquire/Acquisition: To purchase or accept as a donation works of art for court facilities.
- 3.2. Affix: To attach, add to, or fasten on permanently, as a permanent fixture to a court facility.<sup>3</sup> (For example, framed art that may be hung on the wall of a court facility in a manner allowing it to be moved, although sufficiently secure to prevent theft or damage, generally is not considered to be permanently affixed to the facility.)
- 3.3. Art: A decorative or creative element to be added to the exterior or interior spaces of a newly constructed or existing court facility. (The term does not include provision for decorative or creative elements in an approved architectural design, for example, an ornamental iron staircase or security gate.)
- 3.4. Capital Project: New courthouse construction and major renovations or expansions to existing court facilities.
- 3.5. Court Facility: The definition provided in Government Code section 70301(d) is incorporated by reference and, as used in this policy, includes appellate court

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<sup>1</sup> Gov. Code, §§ 70301(d)(4), 70391.

<sup>2</sup> See Judicial Council of Cal., *California Trial Court Facilities Standards* (2010); Judicial Council of Cal., *Appellate Court Facilities Guidelines* (2002).

<sup>3</sup> See Black's Law Dict. (7th ed. 1999), p. 60, col. 2 (defining "affix"); *id.*, at p. 652, col. 1 (defining "fixture").

facilities. The term “courthouse” is an alternative and may be used interchangeably.

#### **4. Acquisition of Art**

- 4.1. Funds appropriated in the state Budget Act for courthouse construction, maintenance and repair (including funds deposited in the Court Facilities Trust Fund) may not be used to acquire art, unless the Judicial Council specifically allocates money for such a purpose.
- 4.2. The Judicial Council may acquire art for court facilities that it manages through private gifts (either of art or of funding for the purchase of art), provided that acceptance of such gifts, and any resulting displays, will not create an appearance of impropriety.<sup>4</sup>
- 4.3. Only the Judicial Council may accept a gift of art to be affixed to a court facility. The Administrative Director may accept such gifts on behalf of the Judicial Council, as provided in rule 10.102 of the California Rules of Court, subject to paragraph 5, below.
- 4.4. Pursuant to rule 10.102 of the California Rules of Court, the Administrative Director is designated to accept gifts of art, or funds for art, on behalf of the Judicial Council, subject to paragraph 5, below. If the art would be affixed to a court facility, it may only be accepted on execution of an agreement between the Judicial Council and the artist (and anyone else holding rights to the art) addressing rights of ownership and display.

#### **5. Approval of Art**

A gift of art will not be accepted for placement in a court if the donor is appearing before or is reasonably likely to appear before the receiving court in litigation as a party or attorney, or does or is seeking to do business with the receiving court.

The receiving court and the Administrative Director must both approve any art that would be subject to this policy before it is acquired (i.e., any art that the Judicial Council would acquire for display in a court facility and any art to be affixed to a court facility).

#### **6. Questions Regarding Acquisition, Ownership, Reproduction, or Installation of Art**

Judicial Council legal staff is available to assist with any issues regarding acquisition of art (e.g., contracts to commission or purchase art) or regarding intellectual property (e.g.,

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<sup>4</sup> See, e.g., *Trial Court Financial Policies and Procedures Manual* (7th ed. 2010) FIN 15.01, 6.2.2., para. 3, at p. 7 (A superior court should not accept a gift if the gift is conditioned on the court’s “use or display of the prospective donor’s name or logo”); see also Cal. Rules of Court, rule 10.102(b)(1) (Pursuant to delegation of authority from the Administrative Director of the Courts, a superior court executive officer may accept a gift for the court); Cal. Code Judicial Ethics, canon 4D(6) (limiting the ability of judges to accept gifts).

ownership rights and reproduction of art). Judicial Council facilities staff also is available to assist with the installation of art that is to be affixed to a court facility.