

Guideline on Implementing Anti-Nepotism Policy

The following directions concerning implementation of the policy statement are established:

1. All University employees who have responsibility and authority with respect to personnel recommendations or decisions should have a copy of this policy.
2. The policy is to be publicized generally throughout the University community, to insure that all employees are aware of its requirements.
3. Appropriate personnel-action forms, designed to insure effective implementation of the policy, shall be used in screening applicants for appointment, for example:
 - a. For candidates for initial employment, the pertinent personnel-action form shall include an inquiry about whether the candidate is related, within the degrees specified in the policy statement, to any incumbent employee within the institution or to any other candidate for concurrent employment at the institution;
 - b. For candidates for promotion to a position having responsibility for supervision of other employees, the personnel-action form shall include an inquiry about whether the candidate is related, within the degrees specified in the policy statement, to any incumbent employee within the institution or to any other candidate for concurrent employment at the institution.
4. In any situation where two or more related persons are to be employed within the same academic department (or other comparable subdivision of institutional employment), the administrative official who has authority to give final approval to the employment shall obtain from the official recommending employment a certification to the effect that no other candidate for the position in question possesses qualifications superior to those of the relative candidate.
5. Consistent with the requirements of paragraph E of the policy, each chancellor's written report to the Board of Trustees shall treat all cases in which the nepotism question arose during the preceding year:
 - a. In all cases where an individual making written application for employment was denied employment because of the requirements of the anti-nepotism policy, the circumstances shall be set forth; for example, (1) the employment would have resulted in one relative supervising another, or (2) an unrelated candidate had demonstrably superior qualifications;
 - b. In all cases where concurrent employment of related persons was allowed, the justifying circumstances shall be set forth: for example, (1) the supervisory relationship was not "direct," or (2) there were no other candidates for the available position whose professional qualifications were demonstrably superior to those of the relative.

Interpretations of Substantive Policy

Note should be taken of the following points in connection with administration of the policy.

1. This policy applies only to EPA personnel; however, the policy of the State Personnel Board for SPA personnel is essentially identical in substance to the policy of the Board of Governors.

2. Section A.1. of the policy of the Board of Governors predicates its restriction on the concept of "responsibility for direct supervision." This phrase was adopted in the belief that, within the limits of basic guidelines, the policy ought to be so stated as to permit variety of treatment responsive to varying conditions at the campuses.

The question of "directness" or "indirectness" must be interpreted reasonably to accomplish the intent and spirit of the anti-nepotism policy. As a general rule of interpretation, no supervisory relationship between related persons should be permitted to exist where the supervisor effectively controls the terms and conditions of the relative's employment, including promotion opportunities, rates of compensation, work assignments and evaluation of performance. The terms "direct" and "immediate" may be essentially interchangeable, for purposes of evaluating certain types of relationships; however, in certain situations, because the term "immediate" may connote only "first line" supervision, it may be too restrictive a concept to serve as a reasonable guide.

Existence of the following types of relationships would appear, invariably, to violate the restriction against "direct supervision";

- a. Department chairman and a member of the instructional staff of the same department.
- b. Member of instructional or research faculty and his or her teaching or research assistant.
- c. Dean of a school and a chairman of a department included within the school.
- d. Chancellor and a vice chancellor.

With respect to other types of relationships, an exercise of discretion may be necessary, with the possibility of varying conclusions depending on the circumstances. In general, if the relationship between an employee and an official in the line of supervision is sufficiently remote to give rise to no substantial supervisory relationship, it may be appropriate to disregard the fact of family relationship.

In applying all aspects of the policy, the essential point, as articulated in the basic principles, is that no person shall, at any time, receive preferred treatment because of his or her relationship to another employee of the institution. The guidelines established in paragraph A.1. of the policy are designed to preclude situations in which there is a high risk of such subjective favoritism. Accordingly, any interpretation of the "direct supervision" restriction should be consistent with this underlying policy objective.

Of critical importance is the principle that administrative guidelines and practices shall operate consistently. For example, if the policy is invoked in one case to preclude employment of a faculty member because his or her relative is chairman of the department, the same result should apply with respect to all identical cases; conversely, if employment is allowed under certain factual circumstances, there should be consistent results achieved in all identical cases. In short, an ad hoc, case-by-case approach without the benefit of consistently applied guidelines, is likely to produce variations in result which could prompt charges of discrimination.

[This is a rewrite of Administrative Memorandum #14.]