

Fair Political Practices Commission

MEMORANDUM

To: Chair Miadich and Commissioners Cardenas, Hatch, and Hayward.

From: Loressa Hon, Acting Executive Director
John Feser, Senior Legal Counsel

Subject: FPPC Anti-Nepotism Policy

Date: May 6, 2019

Purpose

The Fair Political Practices Commission's ("FPPC") Anti-Nepotism Policy ("Policy") is intended to uphold the merit principle of civil service by preventing preferential and unfair treatment of FPPC employees based on considerations of family or personal relationships.

Definitions

Nepotism: The practice of an employee using his/her influence or power to aid or hinder another employee in the workplace because they have a personal relationship or are related.

Personal Relationships: Include, but are not limited to, domestic partner, cohabitants, housemates, former spouse, relatives, and romantic or sexual relationships. Relatives include all the following, whether by blood, marriage (step family), or adoption: father, mother, son, daughter, brother, sister, grandparent, grandchild, uncle, aunt, cousin, nephew, niece, spouse and in-laws. Personal relationships beyond this general definition should be discussed between the involved employees' manager(s) and their division management to ensure adequate safeguards are in place to eliminate a nepotistic situation, or even the perception of one, in the workplace.

Employees: Include employees of all classifications, FPPC Commissioners, retired annuitants, unpaid interns, students, volunteers, and persons providing services under contract.

Employment Actions

Employees are prohibited from making or influencing an employment action based on a personal relationship. Employment actions include promotions, demotions, probation decisions, terminations, and transfers, as well as hiring activities such selecting candidates, interviewing, examining, developing exams or interview questions, and making hiring decisions. Violation of this prohibition may result in disciplinary action.

Supervisors considering hiring decisions, promotions, transfers, or reassignments that raise concerns about possible nepotism shall bring the concern to the attention of the appropriate division chief or the Executive Director and the Administration Division Chief, in writing, prior to making any employment decision.

Generally Prohibited Working Relationships

Employees who have a personal relationship are generally prohibited from the following working relationships:

- Working in a small unit in close association.
- Working for the same supervisor.
- Having a direct or indirect supervisor/subordinate relationship.
- Where one employee is in the position to grant special privileges to the other or to influence the appointment, promotion, work assignment, discipline or corrective action of the employee.

Employees may continue a generally prohibited working relationships if it would not adversely affect the workplace, would promote FPPC interests, and would not create the appearance or risk of favoritism or inequity. In determining whether the working relationship would adversely affect the workplace, the FPPC should consider production of the unit, as well as the safety, security, and morale of the employees in the unit.

An employee who has a personal relationship with another employee must submit a completed FPPC Anti-Nepotism Policy Self-Reporting Form (Anti-Nepotism Form) to his/her supervisor. An employee who has a personal relationship with another employee is responsible for completing the Anti-Nepotism Form) each time he/she becomes aware of a change in a position or work assignment that may create a generally prohibited working relationship.

Upon receiving a completed Anti-Nepotism Form, the employee's supervisor or division chief will determine if the relationship falls under one of the four working relationships identified above. If it does, the supervisor will prepare a memorandum with a proposed resolution that either proposes an alternate reporting and/or working relationship, or provides adequate justification for a Policy exception. That proposal and the completed Anti-Nepotism Form will be sent to the Executive Director for review and approval. The Executive Director may approve, reject, or modify the proposed resolution and shall provide a final written resolution to the appropriate division chief, the involved employees, and the Administration Division Chief.

The Executive Director may modify a resolution as needed. Supervisors are responsible for monitoring a resolution and reporting relevant facts and changes in circumstances relating to an approved resolution to his/her division chief, who will consult with the Executive Director to determine if any necessary adjustments need to be made to the originally approved resolution. Any modifications to a written resolution shall be made in writing and distributed in the same manner as the initial resolution.

A generally prohibited working relationship shall be addressed through the process described above within 60 days after it is identified. Where a resolution is contemplated and involves an employee represented by a bargaining unit, the proposed action will conform to the applicable bargaining unit agreement.

Complaint Procedure

An employee who asserts that this Policy has been violated, or who claims to be adversely affected by a violation of this Policy, shall use the complaint procedure outlined below or the merit issue complaint process.

Employees who believe there has been unlawful conduct in violation of this Policy have an obligation to report the incident(s) as soon as possible using the procedures set forth below. Additionally, all employees have an obligation to: adhere to this Policy; refrain from engaging in or condoning conduct that violates this Policy; report suspected violations of this Policy to a supervisor, manager, or the EEO Officer; and cooperate with any investigation regarding suspected Policy violations.

Informal Complaint Process

An employee or applicant may informally report a violation of this Policy to an immediate supervisor or the EEO Officer. If the immediate supervisor is involved, then the employee or applicant should report the complaint to the EEO Officer. The FPPC will take immediate appropriate action based on the particular circumstances.

Formal Complaint Process

To make a formal complaint, an employee or applicant must file it with the EEO Officer or the Administration Division Chief within 365 days of the alleged violation. Notwithstanding this limitation, it is imperative for the employee to submit a formal complaint as soon as possible after the alleged conduct has occurred to give the FPPC the opportunity to take prompt and appropriate action to stop the conduct and prevent future violations of this Policy.

A formal complaint must be in writing and provide details of the conduct that is in violation of this Policy and the person(s) involved. The employee or applicant should provide specific facts that support the belief that the conduct occurred because of a personal relationship, or that a prohibited working relationship existed. This information will provide the FPPC with notice of the allegations and enable it to investigate and take appropriate action.

If an FPPC employee submits a written complaint to the EEO Officer or the Administration Division Chief that describes facts which, if true, indicate a violation of this Policy occurred, then the Administration Division will accept the complaint, which becomes filed on the date of acceptance.

After a formal complaint is accepted, the EEO Officer or the Administration Division Chief will promptly initiate an impartial investigation by a qualified investigator. The investigation will fully and fairly examine the alleged conduct. The investigation will include notice to both the complainant and the subject(s) of the investigation and provide all parties involved an opportunity to give relevant information to the investigator. The FPPC's goal is to complete the investigation within 90 days after the complaint is accepted, and it will use all reasonable efforts to do so. However, the time needed to conduct a full and fair investigation may vary based on the nature of the complaint, the number of individuals involved, and other circumstances that must be considered.

After the investigation is completed, the Executive Director will issue a written decision. The decision will be based on the evidence collected and whether the preponderance of the evidence supports a finding that there was a violation of the Policy.

The complaint will be kept confidential to the extent possible.

The complaining employee or job applicant and all other employees, supervisors and managers are expected to cooperate fully with any investigation and will not be retaliated against for complaining or participating in an investigation.

If the FPPC determines that its Policy has been violated, the FPPC will take appropriate corrective action, including disciplinary action against employees who violate the Policy.

CONTACT INFORMATION

Questions regarding this Policy should be directed to the EEO Officer at 916-323-2937.