

CITY COUNCIL REPORT

DATE: February 11, 2019

TO: Mayor and Councilmembers

CC: Department Directors

FROM: Jerene Watson, Interim City Manager

SUBJECT: Response to requests from Councilmembers Grijalva and Soto regarding the City's Policy on Nepotism

The report is in response to questions from Councilmembers Grijalva, Soto and Lindemann on the City's Nepotism policy, following the rules approved by City Council and a brief discussion.

DISCUSSION:

In the Council-Manager forms of municipal governments, Administrative Policies and Personnel Rules & Regulations are developed by staff and often adopted by city councils. Our City is no different. We do have those policies available. Specific to the question Councilmembers had, the following is found in the Personnel Rules & Regulations, a 41-page document, where "Rule IV. Recruitment" specifically covers Nepotism.

City of Douglas
Personnel Rules & Regulations
(Adopted by City Council March 16, 2018)

RULE IV. RECRUITMENT
SECTION 1. FILLING OF VACANCIES
SECTION 2. NOTICE
SECTION 3. SELECTION CRITERIA
SECTION 4. REGISTER
SECTION 5. CERTIFICATION
SECTION 6. HIRING OF RELATIVE-NEPOTISM

SECTION 6. HIRING OF RELATIVE-NEPOTISM

The City shall not permit permanent employees related within the third degree of consanguinity (blood) or affinity (marriage) to work within the city service where one employee exerts operational or supervisory control, or working in the same class within the same division, over the other employee. Spouses are subject to the same conditions as are unmarried couples who live together as though married. Should a marriage or equivalent partnership arrangement between employees result in one having operational or supervisory control over the other or result in working in the same class within the same division, intradepartmental or interdepartmental transfers must be made to the same or lower classification. If a transfer cannot be accomplished, one party must resign from the City service. (Rev 2008)

*For the purpose of this Rule, **persons related within the third degree shall include a spouse, child, parent, grandchild, grandparent, sister, brother, great grandchild, great grandparent, aunt, uncle, first cousin, niece, or nephew who are related to the employee by marriage (common law included) or blood.** (Rev 2008)*

No provisions of this rule shall exclude relatives of City Council or City appointed boards, commissions or committees, as herein defined, from entering City service.

Attached is a sampling of Nepotism policies from five cities across our state to provide you with further information for your review. As far as the Leadership Team is concerned, Directors report to the City Manager, while Managers report to Directors in most cases. Specifically as it relates to the two married Department Heads, Finance Director and Human Resources Manager, they both report to the City Manager, not to each other.

In bringing forward as much understanding and transparency to this explanation, I offer additional information connected to the question of Nepotism. In mid-December the employees of the Finance and Human Resources departments were provided a memo from the former City Manager, reminding employees working within these departments they have due process for any grievance or concern. If they do not wish to take a complaint to the Finance or Human Resources directors, they can take personnel matters to the City Manager as part of the Open Door policy and absolutely have recourse in speaking with their supervisor, the City Manager.

As in any work place circumstance, we expect professionalism and fairness in the work we carry out day to day, especially from our organizational leadership. Explaining our internal mechanisms to both elected officials and all employees helps build that confidence. In addition, both National Associations in the fields of Finance (GFOA) and Human Resource Management (IPMA) have Codes of Ethics which are taught in the trainings and at national and state conferences.

RECOMMENDATION / CONCLUSION:

This report is for information only.

SAMPLING OF NEPOTISM POLICIES

City of Benson

1.14 EMPLOYMENT OF A FAMILY MEMBER:

Full-time and part-time employees may be employed within the same department as an immediate family member, provided one family member does not supervise another immediate family member.

In the event two employees marry who are employed in the classified or management service of the same department, the City Manager may take any appropriate action, including transfer or layoff to avoid one family member supervising the other.

No member of the immediate family of any elected official of the City of Benson shall be appointed to the classified or management service.

GLOSSARY OF HUMAN RESOURCE ADMINISTRATIVE POLICIES TERMS

IMMEDIATE FAMILY – (for employment purposes) – Employee's spouse, son, daughter, mother, father, brother, sister, son-in-law, daughter-in-law, parent-in-law, brother-in-law, sister-in-law, grandparents, grandchild, step-mother, step-father, step-brother, step-sister, step-child, uncle, aunt, cousin, niece, nephew, or legal dependent.

City of Eager

2.7 Nepotism Prohibited

The Town personnel system is based on merit. Nepotism in any form is prohibited. Specific restrictions are listed below. "Relative" as used in this section means a person related by blood, marriage, or adoption in the following manner:

- Spouse, or an individual in a cohabitant relationship;
- Parent, step-parent, adopted parent;
- Grandparent, grandchild; step-grandchildren; adopted grandchildren
- Sibling, step-sibling, or half sibling;
- Child, step-child, adopted child;
- Father or mother-in-law;
- Son, or daughter-in-law;
- Brother, or daughter-in-law.

Under no circumstances is an employee of the Town permitted to make a hiring decision, or attempt to influence anyone else making a hiring decision, about the employee's relatives.

No relative of an employee of the Town who is a full-time employee shall work in the same department or report to one another, either directly or indirectly. Relatives of department heads are also restricted from working within the organization without specific prior permission from the Town Manager. Temporary or seasonal employees may be employed by the Town within the same department with prior authorization, but in no circumstance will a relative supervise an immediate family member. Part-time employees may be employed by the Town provided that a relative does not work within the same department.

In the event two employees that are employed within the same department marry or enter into a cohabitant relationship, one of the employees shall be transferred to a position in another department. One of the employees may be laid off if a similar position is not available. Exceptions may be made at the discretion of the Town Manager. If the situation involves a relative of the Town Manager, exceptions require the approval of the Town Council.

If a spouse or individual in a cohabitant relationship with an employee of the Town chooses to run for an elected town position and is successful in his/her election to office, the employee relative must resign or be removed from his/her position prior to the candidate taking his/her seat as an elected Town official.

City of Goodyear (see attached; it would not allow copying/pasting so I am attaching)

City of Safford

Nepotism

Date: November 13, 2017

PURPOSE

Establishing procedures involving the employment of relatives related within the 3rd degree of consanguinity or affinity to one another (in compliance with and any revisions to A.R.S. 38-481).

It is the practice of the City of Safford to hire, promote, manage and treat employees in a non-discriminatory manner and on the basis of individual merit while avoiding any appearance of favoritism based on family relations.

DEFINITIONS

Consanguinity - Relationship by Blood (Includes biological, step and adopted.)

1st Degree - Father, Mother, Son, Daughter

2nd Degree – Grandfather, Grandmother, Brother, Sister, Grandson, Granddaughter.

3rd Degree – Uncle, Aunt, Great-Grandfather, Great-Grandmother, Great-Grandson, Great- Granddaughter, Niece, Nephew

Affinity – Relationship by Marriage (Includes domestic partnerships and civil unions.)

1st Degree – Spouse, domestic partner, Prefix "In law"Father, Mother, Son, Daughter

2nd Degree – Prefix "In law"Grandfather, Grandmother, Brother, Sister, Grandson, Granddaughter.

3rd Degree – Prefix "In law"Uncle, Aunt, Great-Grandfather, Great-Grandmother, Great-Grandson, Great-Granddaughter, Niece, Nephew

DIRECTIVES

Relatives of the City Manager or Human Resources Officer via affinity or consanguinity within the 3rd degree will not be considered for employment with the City of Safford during their tenure of these positions. Relatives of Department Heads or Directors via affinity or consanguinity within the 3rd degree will not be considered for employment within the same department during their tenure of their position.

All other employees related via affinity or consanguinity within the 3rd degree shall be permitted to work together within the same department or division provided; one does not directly supervise the other; nor will they have input regarding hiring, firing, performance reviews, promotions, demotions, pay increases/decreases or disciplinary sanctions involving one another.

If a staffing change or the establishment of a relationship results in a relative being placed under the direct supervision of the other; one of the affected employees must submit a request to Human Resources to transfer or demote to a vacant position of the same or lower classification. The employee requesting the transfer

or demotion must be found qualified for that position by Human Resources, and will have their pay adjusted accordingly to the pay status of that position. The transfer or demotion request must be received immediately upon the qualifying event. If a transfer or demotion cannot be accommodated, one of the affected employees must resign their position. If a voluntary resignation is not received, the City shall independently select the employee of their choice to terminate employment. As a good faith effort, the City will provide up to but not to exceed six (6) month grace period to allow the affected employee to seek other employment alternatives once notification is received.

While these directives are not all encompassing, if there is a relationship similar in nature and circumstances to those described above, i.e., loco parentis, it is at the discretion of the City Manager or Human Resources Officer to deem the relationship a conflict of interest and exercise appropriate measures.

City of Tolleson

Recruitment and Selection Procedures:

4.8 Nepotism. Any of the following relatives will ordinarily not be permitted to work in the same department in which a relative is already employed: spouse, daughter, son, grandparent, grandchild, sister, brother, aunt, uncle, niece, nephew, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law. However, in the interest of the City service, the City Manager, with the approval of the City Council, may authorize the appointment of a relative of an employee to the same department.

ADMINISTRATIVE GUIDELINES

Subject: Nepotism and Personal Relationships

Origination date: 04/01/01

Revision date: 4/01/10

Guideline number: 390

Purpose

The purpose of these guidelines is to clarify the City's process for the hiring and retention of relatives of current employees and personal relationships between employees. In all cases, professional standards and expectations should be discussed during a credible selection process and if conflicts arise during employment, they should be dealt with promptly.

Policy Communication

The policy establishing the City's direction related to Employment can be found in Policy #300.

Guidelines

A. State Statute

The following is the State Statute A.R.S. 38-481 governs nepotism:

Employment of relatives; violation; classification; definition

A. It is unlawful, unless otherwise expressly provided by law, for an executive, legislative, ministerial or judicial officer to appoint or vote for appointment of any person related to him by affinity or consanguinity within the third degree to any clerkship, office, position, employment or duty in any department of the state, district, county, city or municipal government of which such executive, legislative, ministerial or judicial officer is a member, when the salary, wages or compensation of such appointee is to be paid from public funds or fees of such office, or to appoint, vote for or agree to appoint, or to work for, suggest, arrange or be a party to the appointment of any person in consideration of the appointment of a person related to him within the degree provided by this section.

B. Any executive, legislative, ministerial or judicial officer who violates any provision of this section is guilty of a class 2 misdemeanor.

C. The designation executive, legislative, ministerial or judicial officer includes all officials of the state, or of any county or incorporated city within the state, holding office either by election or appointment, and the heads of the departments of state, county or incorporated cities, officers and boards or managers of the universities.

B. City Policy Definition/Clarification

Appointed official is defined as the City Manager, Deputy City Manager, City Attorney, Municipal Judge, other similar appointed positions in the future, Department Directors, and Planning and Zoning Commission members. Elected official is defined as the Mayor and Council Members.

Chain of Command is defined as a position that has influence over the other's employment, promotion, salary administration, or for relevant management or personnel considerations.

C. Immediate Family Members

Immediate family members can work for the City in the same department except for the following:

- Immediate family members cannot work for the same immediate supervisor (excludes seasonal aquatic and seasonal spring training positions); and
- Immediate family members cannot be employed in a position that reports directly to their family member or where a family member would be in their chain of command within the department

Immediate family members of elected and appointed officials cannot be hired by the City.

D. Marriage between Employees

In the event of marriage between two employees of the City creating a relationship in which one of the employees supervises the other employee or is in the same chain of command of that employee or they work for the same immediate supervisor, then one of the affected employees must resign their City position unless one of the affected employees, through the normal recruitment process, obtains another position in the City. If one of the affected employees refuses to resign or is unable obtain another position in the City, then the affected employee with the least amount of seniority with the City shall be terminated.

E. Personal Relationships

The City has no desire to become involved in the personal lives of employees. Employee personal relationships, whether involving other employees, family members, or other individuals, on their personal time and off City property are outside the City's area of responsibility. However the City will become involved and will take appropriate action if:

1. Problems resulting from such relationships manifest themselves on the job; or
2. A supervisor engages in such a relationship with a subordinate who reports directly and immediately to him/her, or the involved supervisor has influence over the other's employment, promotion, salary administration, or other relevant management or personnel considerations.

As a minimum, reassignment will probably result from those instances involving two or more employees. Depending on the circumstances, other actions, such as demotion, termination, or disciplinary action may be necessary.

In all cases of employment with the City, the City reserves the right to transfer or reassign any employee at any time with cause or without cause.

