

Technical Assistance - Nepotism

Prepared by the Division of Human Resources in the Department of Personnel & Administration. Revised July 2005.

GENERAL

The purpose of this technical assistance is to provide information on nepotism and the state personnel system. While there is no specific policy or rule, statute does address employment decisions involving spouses in terms of reporting relationships, access to confidential information, and the handling of monies (24-34-402(1)(h), C.R.S.). Departments and higher education institutions, may establish internal policies regarding direct reporting relationships involving relatives that are not limited to spouses.

In addition, this summary of an administrative law judge decision regarding nepotism (Court of Appeals Case 86CA 1547) is not necessarily binding but may be persuasive in future appeals.

The Colorado Court of Appeals affirmed a Personnel Board decision concerning nepotism. This case involved an employee who grieved an appointing authority's refusal to appoint him from an eligible list to a position where his father would supervise him. The Personnel Board upheld the appointing authority's decision not to appoint the employee and the employee subsequently appealed the Board's decision to the Court of Appeals.

In affirming the Board's decision, the Court rejected the employee's argument that his relationship with his father does not relate to his merit and fitness under the constitution and therefore constitutes a non-merit factor. The Court noted, "Considering the real problems that may be presented by the employment of close relatives, we conclude that a close familial relationship between an employment applicant and a prospective supervisor relates to that applicant's fitness for the position within the meaning of the Constitution."

The Court further found that if, as in this case, "...there is no showing that an appointing authority has applied a non-nepotism policy in an uneven or discriminatory manner, then an appointing authority may validly consider a familial relationship in determining which of the three highest applicants on an eligible list is to be selected for an available position. Moreover, the appointing authority may choose not to appoint an applicant whose close familial relationship to another employee could give rise to later charges of favoritism, irrespective of whether there is any evidence that the specific relative involved would in fact engage in such favoritism."

Every attempt is made to keep this information updated. For more information, refer to the *State Personnel Board Rules and Director's Administrative Procedures* or contact your department human resources office. Subsequent revisions to rule or law could cause conflicts in this information. In such a situation, the law and rule are the official source upon which to base a ruling or interpretation. This document is a guide, not a contract or legal advice.

**TECHNICAL ASSISTANCE
DHR APPROVAL FOR PUBLICATION**

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