

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

PD-26 (rev. 7), "NEPOTISM"

MARCH 1, 2020

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Attachment A: Nepotism Chart (03/20)

Attachment B: PERS 581, Notification of Nepotism Violation (03/20)



TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

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SUPERSEDES: PD-26 (rev. 6)
June 1, 2016

EXECUTIVE DIRECTIVE

SUBJECT: NEPOTISM

AUTHORITY: Tex. Gov't Code §§ 492.003, 493.001, 493.006(b), 493.007, 493.008, 573.001-.084; Tex. Fam. Code § 2.401; BP-02.08, "Statement of Internal Controls"

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

EMPLOYMENT AT WILL CLAUSE:

This directive **does not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of this directive at any time.

Nothing in this directive limits the executive director's authority to establish or revise human resources policy. This directive guides the operations of the TDCJ and **does not** create a legally enforceable interest for employees or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

POLICY:

The TDCJ administers this directive to ensure the workplace is not disrupted by nepotism. The provisions of this directive will be administered without regard to race, color, religion, sex (gender), national origin, age, disability, or genetic information. The TDCJ has zero tolerance for all forms of employment discrimination. No employee or applicant for employment will be subjected to retaliation for opposing or reporting employment discrimination.

DEFINITIONS:

The following terms are defined for the purpose of this policy and are not intended to be applicable to other policies or procedures.

"Affinity" means relationship by marriage. A married couple is related to each other in the first degree by affinity. A married couple is also related by affinity to individuals related to their spouse by consanguinity. The degree of relationship by affinity is the same as the degree of the underlying relationship by consanguinity. The ending of a marriage by divorce or death ends

relationships created by that marriage unless a child of the marriage is living, in which case, for the purpose of nepotism, the marriage is considered to continue as long as a child of that marriage lives.

“Chain of Supervision” means an employee’s immediate or successive supervisor up to the executive director. An employee who supervises a position on an intermittent or a temporary basis due to an unplanned or unscheduled event is not included in the position’s chain of supervision, such as a duty captain or an employee acting as temporary supervisor or warden due to the supervisor’s or warden’s illness or unavoidable absence.

“Consanguinity” means relationship by blood. Two individuals are related to each other by consanguinity if one is a descendant of the other or they share a common ancestor. For the purpose of nepotism, an adopted child is considered a child of the adoptive parent(s). The degree of relationship by consanguinity may be determined by the following: (1) the number of generations between an individual and the individual’s ancestor; (2) the number of generations between an individual and the individual’s descendant; or (3) the total of the number of generations between an individual and the nearest ancestor of both the individual and the relative in question, plus the number of generations between that common ancestor and the relative in question.

“Employee” is any person employed by the TDCJ on a full-time, part-time, or temporary basis and contract employees.

“Marriage” includes “ceremonial marriage” and “informal marriage,” which are the two types of marriage recognized by the state of Texas and are defined as follows:

- a. “Ceremonial Marriage” is a marriage documented by: (1) a marriage license recorded with a county clerk; and (2) a marriage certificate issued by the county clerk.
- b. “Informal Marriage,” previously known as common law, is a marriage that is not necessarily documented through a county clerk, but is valid when a couple agree to be married and after that agreement live together in the state of Texas as a married couple and represent to others they are married. An employee who claims to be married via an informal marriage for health insurance or any other benefit entitlement will be considered married via informal marriage for the purpose of a nepotism violation.

“Nepotism” is the employment of relatives within the third degree by consanguinity or within the second degree by affinity.

“Relatives” are individuals who are related by affinity to the second degree or consanguinity to the third degree as indicated on the Nepotism Chart (Attachment A).

DISCUSSION:

The provisions within this directive are established to prevent disruptions to the workplace, conflicts of interest, and appearances of impropriety. The employment of relatives in positions in which one relative is in the chain of supervision of another relative may result in a conflict of interest, may lower employees' morale by creating tension, disharmony, and perceptions of favoritism within the workplace, and may interfere with the ability of employees to effectively perform their duties.

PROCEDURES:

I. Nepotism

A. General Provisions

1. Employees shall report any nepotism violation or potential nepotism violation as soon as they are aware of such a violation or potential violation.
2. An applicant for employment or an employee who is applying for promotion or requesting a lateral transfer, voluntary demotion, shift change, or reassignment shall not be considered for any position resulting in a nepotism violation.
3. The selection or assignment of an individual to a position shall be voided if it is determined a supervisor or the selected or assigned individual knowingly violated this directive. Individuals knowingly violating the provisions of this directive by omitting or falsifying information shall be subject to disciplinary action in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."
4. An employee shall not participate in the selection of a supervisor for the employee's relative.
5. Adherence to this directive shall be a stated or implied requirement for all contracts with the TDCJ. Contracting entities shall reassign a contract employee who is in violation of this directive.

B. Nepotism Violations

1. Relatives of Texas Board of Criminal Justice (TBCJ) Members or the Executive Director

Except as provided by statute, the TDCJ may not employ a relative of a TBCJ member or a relative of the executive director.

2. Relatives in the Chain of Supervision for a Position

Except as provided in Section III of this directive, an individual shall not be selected for or assigned to a position:

- a. When the individual's relative is in the chain of supervision for the position; or
- b. If the selection of the individual would place the individual in the relative's chain of supervision for a position.

II. Resolution of a Nepotism Violation

The following procedures apply when a nepotism violation or potential nepotism violation occurs.

A. Action by Related Employees

When it is discovered the work assignments of employees who are related to each other or who have become related by marriage are in violation of this directive, the warden or department head shall notify the affected employees in writing by completing a PERS 581, Notification of Nepotism Violation (Attachment B). Within 90 calendar days from the date the notification is received, the related employees may resolve the matter by:

1. Requesting and receiving a lateral transfer, voluntary demotion, shift change, or reassignment;
2. Applying for and receiving a promotion; or
3. Taking other appropriate action to resolve the nepotism violation, such as voluntary resignation.

B. Action by Warden, Department Head, or Higher Level of Authority

If the related employees do not resolve the nepotism violation within 90 calendar days, the warden, department head, or higher level of authority shall take action to resolve the violation. The needs of the TDCJ will determine what action is to be taken to resolve the violation. This action may include administrative reassignment or realignment of functions.

The warden or department head shall initiate the action to be taken and submit the proposed action to the appropriate official for approval. If the warden, department head, or higher level of authority is one of the related employees, the next level of supervision shall initiate the action to be taken.

Administrative separation from employment will be recommended only if no other solution is acceptable. If administrative separation from employment is

necessary, the employee with the least seniority, calculated by total months of TDCJ employment, will be administratively separated from employment. The employee shall be notified in writing of the approved action.

III. Exceptions – No Other Qualified Eligible Applicants

If there are no other qualified eligible applicants for a position, consideration may be given to a qualified applicant whose selection would result in a nepotism violation. However, prior to such employment consideration, the selection reviewer shall submit a decision memorandum (DM) requesting a nepotism exception through the chain of supervision for the position to the appropriate division director, human resources director, deputy executive director, and executive director for approval. If the DM is approved, the original DM shall be filed in the employee's unit or department human resources file. A copy of the approved DM shall be attached to the TDCJ Payroll/Personnel System Payroll Status Change Update screen print and filed in the selection packet.

Bryan Collier
Executive Director

**Texas Department of Criminal Justice
Nepotism Chart**

Consanguinity Kinship Relationship by Blood			Affinity Kinship Relationship by Marriage	
First Degree	Second Degree	Third Degree	First Degree	Second Degree
Father Mother Son Daughter	Grandfather Grandmother Grandson Granddaughter Brother Sister	Great-Grandfather Great-Grandmother Great-Grandson Great-Granddaughter Uncle Aunt Nephew Niece	Spouse Father-in-law Mother-in-law Son-in-law Daughter-in-law Stepfather Stepmother Stepson Stepdaughter	Stepbrother Stepbrother's Spouse Brother's Spouse Stepsister Stepsister's Spouse Sister's Spouse Step-Grandfather Step-Grandmother Step-Grandson Step-Granddaughter Spouse's Sister Spouse's Stepsister Spouse's Brother Spouse's Stepbrother Spouse's Grandfather Spouse's Step-Grandfather Spouse's Grandmother Spouse's Step-Grandmother Spouse's Grandson Spouse's Step-Grandson Spouse's Granddaughter Spouse's Step-Granddaughter

Half-blood relationships fall within the same degree as those of full blood.

Step relationships by affinity (marriage) fall within the same degree as those by consanguinity (blood). For example, a stepson would be considered the same as a son.

An adopted child is considered the child of the adoptive parents.

In cases where a marriage has ended by divorce, an employee continues to be related by affinity to the former spouse and the former spouse's relatives indicated on this chart as long as a natural or adopted child of the former marriage is living. In cases where a marriage has ended by death of a spouse, an employee continues to be related by affinity to the deceased spouse's relatives indicated on this chart as long as a natural or adopted child of the former marriage is living. If the employee remarries, these rules continue to apply for all former marriages.

An employee who claims to be married via an informal marriage for health insurance or any other benefit entitlement will be considered married via informal marriage for the purpose of a nepotism violation.

