



Approved:

City of Commerce, California
Human Resources Policy and Procedure Manual

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SUBJECT: NEPOTISM

PURPOSE:

To provide guidelines concerning the employment of relatives.

DEFINITIONS:

Relatives - Within the first degree (immediate family) by blood or marriage or registered domestic partnership shall include the following:

Spouse
Children/Stepchildren
Daughter-In-Law
Son-In-Law
Parents/Stepparents
Spouse's Parents
Sisters
Spouse's Sister
Brothers
Spouse's Brother
Grandchildren
Grandparents

Relatives shall also include persons who fall into the above categories by a previous marriage or adoption.

Marital status - Defined as an individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state for the purpose of this policy.

Spouse - Defined as a partner in marriage as defined in California Family Code Section 300.

Registered Domestic Partner - Two individuals who are registered as domestic partners with a local domestic partner registry as defined in California Family Code Section 297.

POLICY:

New Employees:

No person shall be appointed to a full, part-time or temporary position under the City government who is a relative by blood or marriage within the first degree of any one or more of the members of the City Council, Mayor or City Administrator.

Nor shall any Department Head or employee recommend appointment to the City Administrator, any person who within their chain-of-command, is his/her relative by blood or marriage within the first degree."

Existing Employees:

Although hiring of relatives as defined above is prohibited by this Rule, the City recognizes that prior to adoption of this Policy, there are situations where relatives have already commenced employment with the City and that present employees may become related in the future. In such cases, no employee shall have direct supervision or control over, initiate, or participate in the following personnel actions which include, but are not limited to, appointment, transfer, promotion, demotion, layoff, suspension, termination, recall, work assignments, performance evaluations, time keeping, merit increase, grievance adjustment, training, or any other personnel action that may affect another City employee who is a relative as specified above.

As to existing employees, and those existing employees who become related in the future, the City of Commerce retains the right:

1. To refuse to place a party to a relationship under the direct supervision of a relative where such has the potential for creating adverse impact on supervision, safety, security, or morale.
2. To refuse to place relatives in the same department, division, or facility where such has the potential for creating adverse impact on supervision, safety, security, or morale, or involves potential conflicts of interest.
3. To transfer/reassign the employment of an employee whose post employment relationships/marital status, is indicative of the adverse impacts described above.
4. To accept a resignation or terminate the employee should the employee refuse the transfer/reassignment or if no transfer/reassignment is available.

The implementation of subsections 1, 2, 3 and/or 4 above requires a case-by case consideration and individualized assessment of the particular work situation for existing employees. The City Administrator having appointive power, shall determine whether, based upon relationships/marital status existing prior to adoption of this Policy or which are created after an employee is hired by the City, the continuing employment or promotion of an employee has the potential for creating adverse impact on supervision, safety, security, morale or involves potential conflicts of interest.

If the City Administrator determines that any of the situations described in subsections 1, 2, 3 and/or 4 above apply, the person may be transferred, reassigned, dismissed or may resign (or be disqualified from seeking promotion, transfer or reassignment) for that reason(s) and notified in writing by the City Administrator.

In addition to the above subsections 1, 2, 3 and 4, all of the following qualifying conditions, shall be met for employees seeking a transfer, promotion, or demotion, who

held employment with the City of Commerce preceding the time a member of his/her family member is elected to the City Council:

1. Employee must have been employed (hire date) by the City of Commerce a minimum of 60 consecutive months by the date of application.
2. Employee must have at least two current satisfactory performance evaluations on file in Human Resources Department. Should current evaluations not be in the employee's personnel file, this qualifying condition shall not apply.
3. Employee must meet the minimum job qualifications.
4. Employee must place in Band 1 of any combined written, performance and outside interview test to be eligible.
5. When a City Council's relative is included in Band I and selected for a final interview, the final interview panel will be confidentially selected by the Director of Human Resources. The interview panel shall consist of all outside panel members from other Cities. The outside panel shall not contain raters from the first outside interview. No internal rater shall sit on the final interview. The Department Head shall present to the Director of Human Resources, the qualities, skills and abilities they are seeking in the final candidate. This information will be provided to the outside interview panel. The candidate selected by the outside panel as the most qualified person for the position shall be recommended for appointment to the Department Head and City Administrator by the Director of Human Resources or designee. If the position is located in the Human Resources Department, then the City Administrator or designee shall arrange the outside interview panel.

Any existing employee dismissed by application of this Policy shall be entitled to challenge the dismissal by means of existing grievance procedures. However, the singular issue in the hearing shall be whether or not the dismissed employee(s) is related to another employee.

Should the City Administrator determine that none of the situations described in subsections 1, 2, 3 and/or 4 above apply, the employee may continue their employment status quo or be considered eligible for the transfer or promotion.

City Sponsored Special Events

This policy shall not apply to employees in a temporary assignment such as one-day special events and/or programs. The Department Director and/or designee will closely monitor the special event to avoid any adverse impact on the department. Upon conclusion of the special event, the staff shall return to their previous duties in which they were originally hired or promoted to ensure compliance with the Nepotism Policy as described above.

Where situations currently exist that may be in conflict with this policy, every effort shall be made to reasonably address the situation so as to avoid any future conflict.

PROCEDURE:

Responsibility	Action
Department Head	<ol style="list-style-type: none">1. Effectively communicates the intent and content of this policy to all management and supervisory personnel.2. Ensures that employees throughout the Department are made aware of the existence of the Nepotism Policy.3. Monitors the implementation of the Nepotism Policy and resolves on a case-by-case basis any conflicts with the policy that may exist upon implementation or arise subsequent to its implementation.4. Consults with the City Administrator, City Attorney, or Director of Human Resources as needed to resolve any conflicts or discrepancies that may occur.
Director of Human Resources	<ol style="list-style-type: none">5. Ensures that the policy is in conformance with applicable federal, state, and local laws and regulations.6. Effectively communicates the contents of the policy to the public and employees.7. Works with departments to resolve any conflicts that may occur.8. Brings to the attention of the department head initially or the City Administrator any conflicts with the policy that are not resolved.
Supervisor and Department Head	<ol style="list-style-type: none">9. Reviews the policy and applies it to employees under his or her chain-of-command. Identifies any conflicts that may exist.10. Verifies conflicts with the policy by a review of the employee's or prospective employee's application, or by discussing the potential conflict with the employee privately and confidentially.

11. Arrives at alternatives to attempt to reasonably address the potential conflict by undertaking a case-by-case review and individualized assessment of the work situation.
12. Consults with the City Administrator to arrive at an accommodation or resolution of the conflict based upon consultation where necessary with the Human Resources Department or City Attorney's Office.