

# INDIAN AFFAIRS MANUAL

- 1.1 Purpose.** The purpose of this policy is to provide guidance to employees and managers regarding the prohibited personnel practice of nepotism, including defining which relationships constitute nepotism; describing how to avoid situations involving the appearance of nepotism, or hiring or assignment of relatives within a supervisory chain of command; and providing direction on how to resolve situations where nepotism exists. This policy supersedes all other Indian Affairs (IA) bureau/office policies and bulletins on nepotism.
- 1.2 Scope.** This policy applies to all employees, supervisors, and managers within the offices of the Assistant Secretary - Indian Affairs (ASIA), the Bureau of Indian Affairs (BIA), and the Bureau of Indian Education (BIE) who are involved in the recruitment and selection process of applicants, or placement of existing employees.
- 1.3 Policy.** It is IA policy that all employees and managers will refrain from engaging in nepotism, and will strive to avoid creating or maintaining circumstances which have the potential for, or appearance of, being in violation of nepotism requirements.
- 1.4 Authority.**
- A. Statutes and Regulations.**
- 1) 5 U.S.C. § 2302(b)(7) - Prohibited personnel practices
  - 2) 5 U.S.C. § 3110(a)(3) and (b) - Employment of relatives; restrictions
  - 3) 5 CFR 310 - Employment of Relatives
  - 4) 5 CFR § 230.402(a)(1), Agency authority to make emergency-indefinite appointments in a national emergency
- B. Handbooks.**
- 1) 28 IAM 335-H: Indian Affairs Merit Promotion and Placement and Excepted Service Handbook, March 2016
- 1.5 Responsibilities.**
- A. Deputy Assistant Secretary – Indian Affairs (Management) (DAS-M)** is responsible for the overall management and administration of IA Office of Human Capital Management (OHCM) policy.

# INDIAN AFFAIRS MANUAL

- B. IA OHCM** is responsible for overall policy and direction to bureaus and offices with regard to effective human resources management, and as it relates to this policy, providing guidance and direction to employees and managers regarding the prohibited personnel practice of nepotism.
- C. Directors, BIA and BIE** are responsible for implementing and supporting the nepotism policy and ensuring the recruitment, selection, and advancement of employees is based on merit, after fair and open competition, and is in compliance with Indian Preference guidance.
- D. IA Management** is responsible for ensuring the selection and placement process is consistent with the nepotism policy, merit principles, Indian Preference law, and other applicable laws and regulations. Managers must avoid situations which have the potential for, or appearance of, being in violation of nepotism requirements.
- E. Human Resources (HR) Professionals** are responsible for implementing, overseeing, and ensuring fair and equitable application of the nepotism policy; providing technical assistance and guidance to managers, supervisors, and employees on the policy; and referring any circumstances that they believe may constitute nepotism to their supervisor for resolution, in consultation with the Office of the Solicitor as appropriate.
- F. Employees** are responsible for reporting any potential or existing employment circumstance involving nepotism to the servicing HR Office for resolution. An employee who fails to disclose his or her personal relationship, when it is covered by this policy, will be subject to disciplinary action up to and including removal of employment.

## 1.6 Definitions.

- A. Nepotism** is the prohibited personnel practice of granting improper preference, assistance, or advancement to an employee or applicant related by blood or marriage. An employee shall not hire, promote, or advocate the hiring or promotion of a relative. A family member may not be employed in the same organizational unit where another family member would have supervision over the other, or have the potential to influence the benefits or working conditions of the other's employment, or would otherwise result in circumstances that reflect adversely upon the Department of the Interior.
- B. Relative** means, with respect to a public official (federal employee), an individual who is related to the public official as: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-

## INDIAN AFFAIRS MANUAL

law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother or half-sister (5 U.S.C. § 3110(a)(3)).

### 1.7 Procedures.

The following describes the steps necessary to prevent a violation of nepotism policy, and to resolve a situation where nepotism has been identified.

- A. When an existing employment situation has been identified and referred to the appropriate HR Director (i.e., OHCM Director, BIA HR Director, or BIE HR Director), a written resolution will be made by reassigning one or both parties so that neither has jurisdictional or supervisory control over the other. The HR Director is encouraged to seek counsel from the servicing Office of the Solicitor where resolution is not straightforward, or may be challenged by either or both parties.
- B. If it is determined that a selectee for a vacant position meets the definition of “relative,” and the position for which they were selected would result in a relationship that violates this policy, the selecting official will be notified that they will be required to make an alternate selection due to nepotism restrictions, unless paragraph C. of this section applies (see below). If a job offer was issued in error prior to the nepotism issue becoming evident, the job offer must be rescinded.
- C. If the selectee for a vacant position who meets the definition of “relative” was selected on a certificate of veteran preference eligibility furnished under 5 U.S.C. § 3317(a) and otherwise would result in the selection for appointment of an individual who is not a veterans preference eligible, then there is no prohibition on appointment of that individual. However, the employment situation must be addressed in accordance with 1.7 A. of this policy.

### 1.8 Exceptions.

When necessary, in order to meet urgent needs resulting from an emergency posing an immediate threat to life or property, or a national emergency (such as forest fires, floods, earthquakes, etc.) as defined in 5 CFR § 230.402(a)(1), a public official may employ relatives to meet those needs without regard to the restrictions on the employment of relatives in 5 U.S.C. § 3110. Such appointments are temporary and may not exceed 30 days, but the agency may extend such an appointment for one additional 30-day period if the emergency need still exists at the time of the extension (5 CFR § 310.102).

# INDIAN AFFAIRS MANUAL

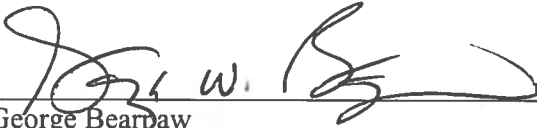
Part 28  
Chapter 5

Human Capital Management  
Nepotism

Page 4

Exceptions in these emergencies may be made with the approval of the head of the bureau or his/her designated representative (5 U.S.C. § 3110, 5 CFR 310). In such cases, a recusal agreement is required for any issue or matter that involves the employment interest or personnel matter of a relative.

## Approval



George Bearpaw

Acting Deputy Assistant Secretary – Indian Affairs (Management)

5/1/18  
Date