

INDIAN AFFAIRS MANUAL

- 1.1 Purpose.** The purpose of this policy is to provide guidance to Indian Affairs (IA) employees, supervisors, and managers regarding the prohibited personnel practice of nepotism, including defining which relationships constitute nepotism; describing how to avoid situations involving nepotism or even the appearance of nepotism; and providing direction on how to resolve situations where nepotism exists.
- 1.2 Scope.** This policy applies to all employees, supervisors, and managers within the offices of the Assistant Secretary - Indian Affairs (AS-IA), 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's policy that all employees, supervisors, and managers refrain from engaging in nepotism and 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, Employment of relatives; restrictions
 - 3) 5 CFR § 230.402, Agency authority to make emergency-indefinite appointments in a national emergency
 - 4) 5 CFR 310, Employment of Relatives
- B. Handbooks.**
- 1) 28 1AM 335-H: Indian Affairs Merit Promotion and Placement and Excepted Service Handbook
- 1.5 Responsibilities.**
- A. IA Deputy Assistant Secretary – Management (DAS-M)** oversees the IA Office of Human Capital Management (OHCM), and facilitates IA's compliance with HCM initiatives, policies, procedures, laws, and regulations.

INDIAN AFFAIRS MANUAL

- B. Director, OHCM, DAS-M** is responsible for overall policy and direction to IA bureaus and offices with regard to effective human resources (HR) management, including providing guidance and direction to employees, supervisors, and managers regarding the prohibited personnel practice of nepotism.
- C. Directors, BIA, and BIE** are responsible for:
- 1) implementing and supporting IA's nepotism policy; and
 - 2) working with their Servicing Human Resources Office (SHRO) to ensure the recruitment, selection, and advancement of employees is based on merit after fair and open competition, and in compliance with Indian Preference guidance and other applicable laws and regulations.
- D. IA Supervisors/Managers** are responsible for ensuring the selection, placement and advancement of employees is consistent with the nepotism policy, merit principles, Indian Preference law, and other applicable laws and regulations. They must also avoid situations which have the potential for, or appearance of, being in violation of nepotism requirements.
- E. Servicing Human Resources Office (SHRO)** is responsible for:
- 1) implementing, overseeing, and ensuring fair and equitable application of the nepotism policy;
 - 2) providing technical assistance and guidance to managers, supervisors, and employees on the policy; and
 - 3) referring any circumstances that they believe may constitute nepotism to their supervisor for resolution, in consultation with the Office of the Solicitor (SOL) as appropriate.
- F. Employees** are responsible for:
- 1) completing an Optional Form (OF) 306: Declaration for Employment when applying for a Federal Government position, and listing any relatives that work for the Federal Government; and
 - 2) reporting any potential or existing employment circumstance involving nepotism to the SHRO 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 from 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 should 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; 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 (i.e., Federal Government 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-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 Standards, Requirements, and 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. Preventing/Resolving Nepotism Situations

- 1) When an existing employment situation has been identified and referred to the appropriate SHRO, a resolution will be implemented whereby one or both parties is reassigned so that neither has jurisdictional or supervisory control over the other. This reassignment action will be documented in a Standard Form (SF)-50 and filed in the employee's electronic official personnel folder (EOPF). The SHRO is encouraged to seek counsel from the servicing SOL where resolution is not straightforward or may be challenged by either or both parties.
- 2) 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 1.7 B. 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.
- 3) If the selectee for a vacant position who meets the definition of "relative" was selected on a certificate of veterans' preference eligibility furnished under 5 U.S.C. § 3317(a), and otherwise would result in the selection for appointment of an

INDIAN AFFAIRS MANUAL

individual who is not 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. 1) of this policy.

B. 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 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). 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.

1.8 Reports and Forms.

The forms mentioned throughout this policy are Office of Personnel Management (OPM) forms, and can be located on their website here: <https://www.opm.gov/forms/>.

Approval

JASON
FREIHAGE

Digitally signed by JASON
FREIHAGE
Date: 2024.09.10 08:42:29
-04'00'

Jason Freihage
Deputy Assistant Secretary – Management

Date