

	<b>LOS ANGELES COMMUNITY COLLEGES HUMAN RESOURCES GUIDE</b>	<b>HR P-001</b>
		<b>NEPOTISM</b>
<b>ISSUE DATE:</b> June 16, 2016	<b>SERVICE:</b> <input checked="" type="checkbox"/> ACADEMIC <input checked="" type="checkbox"/> CLASSIFIED <input checked="" type="checkbox"/> UNCLASSIFIED	
<b>REPLACES:</b> • HR Guide dated January 13, 2015	<b>CHANGES:</b> Spelling error marital	

## I. POLICY

It is the policy of the District to seek the most qualified candidates for all positions through appropriate recruitment and selection procedures preceding each appointment and promotion and to not discriminate in its employment and/or personnel actions with respect to its employees and applicants on the basis of marital or familial status. This policy notwithstanding, the District retains the right to decline the appointment of a person to a position in the same department, division, or facility where the relationship of one employee to another employee has the potential for creating adverse impact on supervision, safety, security, morale, or involves a potential conflict of interest. The responsibility for disclosing kinship relationships to the District rests with supervisors, employees and applicants.

## II. DEFINITIONS

- **Authority** includes the ability to initiate or approve any personnel action or performance evaluation.
- **Discretionary Power** occurs when an individual makes a recommendation regarding the performance of a candidate or employee. This power is exercised when a District employee acts as a member of a screening, interview or evaluation committee or as a final decision maker in a personnel action or performance evaluation process.
- A member of the **Immediate Household** is any person residing in the same domicile who is not a tenant or a domestic employee.
- An attempt to **Influence** occurs when an employee not having formal authority or discretionary power in a process communicates with a person who has the formal authority or power.
- **Nepotism** is any act of an employee to use the authority, discretionary power, or influence of his or her position to obtain or secure the employment or promotion of a person living in the immediate household with the employee, except a roomer or household employee, or related to the employee by blood, marriage, adoption, domestic partnership, or other close personal relationship including co-habitation. **Nepotism** also includes any act of an employee to use the authority, discretionary power, or influence of his or her position to affect the outcome of any personnel action or performance evaluation for any person with a kinship or close personal relationship.

### III. REQUIREMENTS

A. **Applicability:** For purposes of this policy, a “relative” or “close personal relationship” or “kinship relationship” includes:

1. A **person related by blood or marriage** shall include mother, father, daughter, son, grandmother, grandfather, granddaughter, grandson, brother, sister, aunt, uncle, niece and nephew; husband and wife; spouse of a daughter, son, brother, sister, aunt, uncle, niece and nephew; stepmother, stepfather, stepdaughter, stepson, stepbrother, stepsister, and spouse of a stepdaughter, stepson, stepbrother and stepsister; a mother, father, son, daughter, brother and sister relationship by adoption; domestic partner; and, any other relative living in the immediate household of an employee.
2. **Relatives of domestic partners** shall be treated as relatives of spouses.
3. **Persons living together in conjugal relationships**, even though not legally married or registered as domestic partners, shall be considered “a close personal relationship.”

#### B. General Principles

1. Employees are always to be hired based on knowledge, skills, abilities and experience. When an individual interested in employment with the District has a kinship or closed personal relationship with an employee of the District, the individual interested in employment is required to apply through standard selection processes.
2. No District or college employee or officer shall engage in any activity that creates a conflict of interest between their official duties and any other interest or obligation. Conflict of interest requires all employees and offers to disclose the conflict of interest and disqualify themselves from participating in a decision when a financial or personal interest is present.
3. The following conditions do not serve as a basis to waive restrictions of this policy:
  - Source of Funding
  - Employee Service (academic, classified, or unclassified)
  - Employment Status (temporary, permanent, part-time, full-time, contractual)
4. Conformity with this policy requires supervisors and applicants to identify kinship or close personal relationships, and to ensure that employees with such relationships recuse themselves from participating in selection or promotional processes when the candidate for employment or promotion is a relative or has a close personal relationship.
5. **Policy Violations:** The Employer-Employee Relations Unit and the Office of General Counsel are available to assist administrators in determining whether a violation of the nepotism policy has occurred and with how best to address policy violations in a fair, equitable and consistent manner.
6. **Potential Compliance Claims:** Individuals should be aware that a consensual personal relationship of a sexual or romantic nature can result in a sexual harassment claim because voluntary consent may be questioned when a power differential exists between individuals in the relationship or when the relationship ends. If a sexual harassment claim is subsequently filed by one of the individuals in the relationship, the argument that the relationship was consensual is evaluated in the light of the power differential. See [Board Rule Chapter XV, Prohibited Discrimination and Harassment](#), for the District’s policy.

C. **Prohibited Activities:** In order to ensure employment decisions are free from conflicts of interest, reflect uncompromised objective judgment, facilitate the integrity of the District's work environment, do not adversely impact morale, and uphold the principles associated with working in the public not personal interest, employees as defined in Section III. A, Applicability, above, are prohibited from participating in any activity that includes, but is not necessarily limited to the following processes:

1. Preparing reference forms, appraisals of promotability, letters of reference, performance evaluations or any other evaluation process document related to the employment, retention, promotion, or approval of personnel actions.
2. Preparing employment criteria, examination materials, interview questions, or participating directly or indirectly in the screening or interviewing of candidates for employment or promotion.
3. Participating in evaluation or personnel action decisions.
4. Determining salary or salary placement.
5. Initiating or approving a personnel action in the district's computer system.
6. Participating in or influencing a selection process or a reporting relationship where:
  - a. One person would exercise authority, discretionary power, or influence regarding the working conditions, work assignment, evaluation of work, discipline, retention, promotion, or change of status of the other person.
  - b. Both persons would be assigned to the same department and/or under the same immediate supervisor.
7. Giving instructions and/or directives, evaluating performance, correcting behavior. Supervision can be direct or can be exercised indirectly through a "chain of command" of intermediate supervisors with the expectation that subordinate employees will carry out the instruction or directive.

D. **Compliance**

1. Compliance with the District's nepotism policy is achieved by structuring the conditions of employment and the association of related parties to avoid or eliminate prohibited activities or to avoid the relationship that leads to prohibited activities.
2. **Consultation:** Members of the District community who are in personal relationships with each other and who are likely to be placed in positions that influence the employment of their relatives as defined above, must consult with the appropriate administrator to seek guidance about eliminating and avoiding existing and potential conflicts arising from the relationships. The purpose of the consultation is to ensure that:
  - a. Arrangements are made to eliminate and avoid conflicts of interest and compromised objective judgment.
  - b. The individuals involved do not hire, promote, supervise, evaluate, determine salary, grade, advise, or otherwise directly influence each other's employment.

- c. The arrangements made to eliminate and avoid conflicts of interest do not unreasonably disadvantage either party, particularly a subordinate in the employment association.
    - d. The arrangements are disclosed as necessary and appropriate to the administrators who need to know about them in order to implement the District's nepotism policy and, if appropriate, to structure the adjustments described below.
  3. Structuring employment or association must be done in consultation with an appropriate administrator and in a manner that provides safeguards designed to ensure decisions made by or about either of the parties are made impartially.
    - a. Under this policy, an appropriate administrator is defined as a supervisor, department head, supervising administrator, College President or Educational Services Center (ESC) equivalent, Employer-Employee-Relations representative, or compliance officer.
    - b. Structuring of employment responsibilities must be done after appropriate consultation and must not unreasonably disadvantage either District employee.
    - c. When a power disparity exists in the employment of the individuals involved in the personal relationship, the employment interests of the subordinate must be protected when structuring the association to avoid the prohibited activities described above.
    - d. The administrator consulted pursuant to this policy shall take the following steps in a timely manner:
      - i. Discuss with each individual in the relationship the employment relationship, existing and potential conflicts of interest, and the steps to be taken to eliminate and avoid compromised objective judgment.
      - ii. Document the steps to be taken to eliminate and avoid compromised objective judgment and existing or potential conflicts of interest.
      - iii. Protect the privacy of the individuals involved and, if appropriate, the security of the documentation created during the consultation.
  4. **Exclusion or Exception to Nepotism Policy:** An exclusion or exception to the nepotism policy described in prohibited activities may be granted under the conditions listed below. If an exclusion exception is granted, safeguards must be implemented to help ensure that any employment decision regarding the involved individuals is made impartially.
    - a. An **exclusion** to one or more prohibited activities may be granted when eliminating the prohibited activity would *unreasonably disadvantage* one or both of the individuals involved in a personal relationship.
    - b. An **exception** may be permitted to the above requirements if all of the following conditions are met:
      - i. The person is determined to be eligible for appointment following customary selection procedures for the position.
      - ii. A comparable assignment in another department cannot be offered to the individual.

- iii. The person is determined to be an appropriate candidate for the position by the College President or the Vice Chancellor for Human Resources.
- iv. The candidacy of the person is determined to be in the best interest of the District by the Vice Chancellor for Human Resources.
- c. If an exclusion or exception to the prohibited activities is made, the following actions shall be taken.
  - i. When an employee having authority or discretionary power in a personnel action becomes aware of the candidacy of a relative or a person living in their household, they shall refrain from engaging or participating in any of the recruitment, selection, evaluation, or personnel action processes. A substitute should be obtained to perform the duties that would normally be considered a nepotistic conflict whenever possible.
  - ii. As soon as a vacancy occurs anywhere in the district for the job affected, the employee shall be notified of the opportunity to be voluntarily transferred or reassigned to the vacancy. Such employee shall be allowed up to five working days to decide whether he or she will accept transfer or reassignment to the vacancy. If the employee should refuse the voluntary transfer or reassignment to the vacancy and that employee was regularly employed in the District for a shorter period of time than the related employee, the employee with the least seniority shall be transferred or reassigned in accordance with the provisions of the appropriate collective bargaining agreement.
  - iii. The employee to be transferred or reassigned shall be provided a written notification of the transfer or reassignment at least 15 days prior to the effective date or as specified in the collective bargaining agreement. The employee's supervisor shall personally meet with the employee and discuss the reason for the transfer or reassignment at least 15 days prior to the effective date.
  - iv. The employee to be transferred or reassigned under provisions of the District's nepotism policy can be the subordinate, supervisor or coworker in the nepotism situation.
  - v. If a like or comparable employment in the District does not exist for the employees involved, the assignments of the employees shall remain in effect so long as the work of the District is not compromised.
- E. **Disciplinary Action:** A violation of the District's nepotism policy is subject to disciplinary action, including termination of employment. Participation in and adherence to the "consultation," "exception," and/or the "substitution" processes described above are required in order to avoid disciplinary action.

LOS ANGELES COMMUNITY COLLEGES HUMAN RESOURCES GUIDE	HR P-001
	NEPOTISM

IV. **ADDITIONAL SOURCES**

**LACCD BOARD RULES**

Chapter X, Human Resources; Article I, Personnel Services

Article I, Personnel Services, [10108 Nepotism](#)

Article XIII, Affirmative Action , [101301 Affirmative Action Policy](#)  
[Chapter XV Prohibited Discrimination and Harassment](#)

**LACCD HUMAN RESOURCES GUIDES**

[P-000 General Policy on Personnel Actions](#)

[R-000 Recruitment, Selection, and Employment](#)

**PERSONNEL COMMISSION RULES**

[720 Nepotism](#)