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Sent: Friday, April 14, 2006 4:13 PM

To: ORO Federal Employees; OSTI Data Control; PNSO Federal Employees; TJSO Distribution List

Subject: Ethics In Brief - Nepotism

ETHICS IN BRIEF - NEPOTISM

When appropriate, the Office of the Assistant General Counsel for General Law (GC-77) issues notices summarizing or discussing standards-of-conduct issues and related topics. As the onset of summer employment initiatives begin, please be reminded that there are rules and regulations that apply to summer employment and other student employment programs. Below you will find some commonly asked questions addressing the appropriate role for a Federal employee in supporting a son, daughter, or other individual's summer employment activities.

What exactly does the "nepotism statute" prohibit?

The nepotism statute (5 U.S.C. 3110) prohibits public officials of the government from appointing, employing, promoting, advancing, or advocating the appointment, employment, promotion, or advancement of a relative in the agency in which the official is serving or over which the official exercises jurisdiction or control. It prohibits the appointment, employment, promotion, or advancement of an individual in or to a civilian position in an agency, if a relative of the individual who is a public official serving in or exercising jurisdiction or control over the agency has advocated such action.

I just saw an announcement for student intern positions at DOE. My daughter is looking for a job, but I was under the impression that she could not be hired at DOE because I work here. May she be employed at my agency?

Contrary to some popular understanding, the nepotism statute does not prohibit any and all employment of relatives of a Federal employee from working at the employee's agency. It only prohibits public officials from taking certain actions related to the employment of relatives. As long as you are not the official responsible for your daughter's appointment or employment, and you do not advocate such appointment or employment, the nepotism statute does not prohibit your daughter from being hired by your agency.

May I make my son-in-law aware of a new position recently posted at my agency?

Sure you can; however, you may not have a role in the decision to fill the position, nor may you advocate that he be selected for the position.

I have often heard there are nepotism concerns that may arise when two employees of the same agency get married. Does this violate the nepotism statute?

The marriage itself would not violate the statute; however, it could result in a situation that might place one of the employees in a position to take an action prohibited by the statute. In other words, nepotism concerns would be raised if an employee were in a position to appoint, employ, promote, advance, or advocate such action on behalf of his or her spouse.

What do you mean by "public official?"

As used in this statute, the term "public official" means an officer, including the President and a member of Congress, a member of the uniformed service, an employee and any other individual, in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement, in connection with employment in an agency.

Who is included as a "relative" under this statute?

"Relative" means 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.

I've read the definition above and I really don't think that I am a "public official." Does that mean that the nepotism restrictions do not apply to me?

In addition to the nepotism statute, the Standards of Ethical Conduct for Employees of the Executive Branch establish rules to ensure that Federal employees, including DOE employees, avoid any appearance of misuse of official position. The regulations provide that "an employee shall not use his public office for his own private gain . . . or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity"

Therefore, whether or not the nepotism statute is specifically applicable, a DOE employee should be careful to avoid any appearance that he or she is using his/her position to influence an official to hire or promote a relative or friend.

What is the penalty for violation of the nepotism statute?

A public official who violates this prohibition may be subject to disciplinary action, including removal. Also, a relative appointed, employed, promoted, or advanced in violation of these restrictions may not be paid for such employment.

Where can I find the nepotism statute and related rules?

The nepotism prohibitions can be found in 5 U.S.C. 3110 and 5 C.F.R. part 310 and are also incorporated into the list of prohibited personnel practices at 5 U.S.C. 2302(b)(7). The applicable portion of the Standards of Ethical Conduct for Employees of the Executive Branch is 5 C.F.R. 2635.702.

I often hear "nepotism accusations" regarding actions taken by public officials that affect their relatives who are employees of agency contractors, but the statute seems to only apply to situations involving two federal employees who are relatives. Am I missing something here?

It is correct that the nepotism statute only applies to actions involving two related federal employees; however, there are other restrictions, including the Standards of Ethical Conduct for Employees of the Executive Branch, that apply to actions taken by public officials that affect the non-government employment interests of their relatives.

Who should I call if I have more questions on this topic?

DOE Headquarters non-NNSA employees should contact Ethics Counsel on (202)586-1522 or may e-mail questions to StandardsofConduct@hq.doe.gov <<mailto:StandardsofConduct@hq.doe.gov>>. NNSA headquarters employees should contact the NNSA Office of General Counsel at (202)586-8514. Field employees should contact their respective Office of Chief Counsel.