

This DOECAST summarizes the rules relating to contacting other Federal employees or other non-Federal entities (including contractors or other entities with relationships to the Department), to line up work for children or other relatives. It is not appropriate for a Federal employee to advocate to other Federal employees or contractors with regard to employment of a relative, including a child's summer internship. The penalties under the Nepotism statute can be severe for Federal employees and relatives. In some cases actions that violate the Nepotism statute can also violate other statutes that carry criminal sanctions. If your relative plans to seek employment with the Department, please consult your ethics counselor before taking any action.

To advocate for the employment of a relative to another DOE employee can be a violation of the Nepotism statute which could subject a Federal employee to disciplinary action, including removal from the Federal service and for the relative involved, the loss of the position. Further, if the child is a minor, a parent who participates in such activity is subject to the criminal provisions under title 18 of the United States Code. Furthermore, to contact any other party whether another Federal employee or a non-Federal party such as a contractor of DOE may be, at a minimum, misuse of position subject to disciplinary action up to removal of the employee from the Federal service.

Nepotism and Prohibited Personnel Practices

Many employees have a misconception that the Nepotism statute only prohibits the employment of relatives in the same DOE office (the same chain of command) in which the relative Federal employee is assigned. The statute actually prohibits Federal employees from misusing their position to advocate or advance the appointment, employment, promotion or advancement of a relative in any office of DOE. The restriction applies to all "public officials," including all DOE employees 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. Federal employees who hire employees and grant unauthorized preferences or advantages to any applicant for Federal employment, including defining the scope or manner of a competition to favor or disfavor one candidate, commit a prohibited personnel practice and are subject to disciplinary action which can include termination from Federal employment.

So while a relative may, by his or her own actions or even at the suggestion of a DOE relative, apply for a DOE position in any DOE office, the DOE employee who is the relative may not promote or advance that application, including dropping off a resume, affirmatively soliciting a position for the relative, or engaging in any action that advances the interests of the relative.

A "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. A public official who violates this prohibition may be subject to disciplinary action, including removal. Furthermore, a relative appointed, employed, promoted, or advanced in violation of these restrictions cannot be paid from the U.S. Treasury, and must reimburse the Government for any improper payments.

Misuse of Position

In addition, 5 C.F.R. 2635.702 states that "[a]n 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, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations." This restriction covers all DOE employees, including those who do not meet the "public official" definition in the nepotism prohibition.

Therefore, dropping off a resume of a relative with another Federal employee or contractor with whom the employee/relative engages in the course of official duties, without more, may not violate the Nepotism statute but may still be a misuse of position under the regulations. Finally, such actions may violate the provisions of Subpart E of 5 C.F.R. 2635 - Impartiality in Performing Official Duties, which addresses the "appearance" of a conflict of interest. The Standards of Ethical Conduct for Employees of the Executive Branch state that employees must "endeavor to avoid any actions creating the appearance that they are violating the law or the ethics standards."

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.