



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

MEMORANDUM
CSC No. 2016-04

GINA M. ROCCANOVA
PRESIDENT

KATE FAVETTI
VICE PRESIDENT

DOUGLAS S. CHAN
COMMISSIONER

F. X. CROWLEY
COMMISSIONER

SCOTT R. HELDFOND
COMMISSIONER

MICHAEL L. BROWN
EXECUTIVE OFFICER

Date: December 27, 2016
To: Department Heads
Department Personnel Officers
Employee Organization Representatives
From: Michael L. Brown
Executive Officer
Subject: **Notice of Posting: Proposed Revisions to the Policy on Family and Romantic Relationships at Work**

The Civil Service Commission acted on December 19, 2016 to accept the Executive Officer's and the Department of Human Resources' staff reports recommending revisions to the City's Policy on Family and Romantic Relationships at Work, and further directed the Executive Officer to post the proposed revisions for discussion with any interested stakeholders.

Please see the attached staff reports for a detailed description of the proposed policy revisions, applicable to all employees. Any employee organizations or other stakeholders interested in discussing the proposed policy revisions are invited to attend either or both of the following scheduled meetings:

Date: Friday, January 6, 2017
Time: 9:00 AM – 11:00 AM

Date: Tuesday, January 10, 2017
Time: 2:00 PM – 4:00 PM

The meeting will take place in the Civil Service Commission's Conference Room, located at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. Please contact Commission staff at CivilService@sfgov.org to RSVP for either or both meetings. You may also contact me at (415) 252-3247 or Michael.Brown@sfgov.org should you have any questions or wish to discuss the proposed policy revisions further.

Sincerely,

CIVIL SERVICE COMMISSION

MICHAEL L. BROWN
Executive Officer

Attachment



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

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MICHAEL L. BROWN
EXECUTIVE OFFICER

DATE: December 19, 2016

TO: The Honorable Civil Service Commission

FROM: Michael L. Brown, Executive Officer 
Civil Service Commission

SUBJECT: Policy on Family and Romantic Relationships at Work

Background

The Department of Human Resources took on the task of gathering a core group of interested departmental representatives to update the City's Policy regarding Family and Romantic Relationships at Work. The core group included representatives from the Ethics Commission, Controller's Office Whistleblower Program, the City Attorney's Office, the Civil Service Commission and various other City Departments. We have also jointly solicited input from the Committee on Policy and Rule Reform (COPAR) members and included the Police, Fire and Municipal Transportation Agency, (MTA) for valuable insight.

In the past few years there have been issues of favoritism and nepotism brought before the Civil Service Commission from SEIU 1021 and miscellaneous employees. The majority of the cases were not substantiated; however, the perception remains. Although the San Francisco Charter and the Campaign Governmental Conduct Code already cover issues of favoritism and nepotism, it has become apparent that there is a need for more training and guidance to prevent the perception of favoritism and nepotism. The attached draft policy update regarding Family and Romantic Relationships at Work captures in broad strokes the concepts that exist already in the Charter and Campaign and Governmental Conduct Code as well as the current policy as stated in the City Employee Handbook. The updated policy provides more clarity and instruction, and will apply to all City officers, elected officials, employees (including permanent civil service, exempt, temporary, full and part time, and provisional), interns, and volunteers.

Discussion

It was discussed and agreed that the best method to introduce this policy update was through the Civil Service Commission. The draft Policy is being presented to the Civil Service Commission for further discussion. Interested stakeholders will have the opportunity to meet and discuss the policy with the Executive Officer before adopting this policy. Once the policy is finalized before the Commission for adoption, the Department of Human Resources will begin rolling out a plan of action with written guidelines, training, counseling and support with available resources for Department Heads, managers, supervisors and employees on how to remain in compliance in a confidential and supportive environment. The policy does not prevent individuals from having a personal relationship with co-workers or other City employees, nor does it prevent relatives of City employees from working within the City and County of San Francisco. It is designed to encourage individuals to be transparent with their Human Resources professional to avoid the appearance of favoritism or nepotism.

As stated under "Purpose" in the beginning of the policy, "The City and County of San Francisco (City) Civil Service Commission is committed to maintaining a professional work environment free of conflicts of interest, nepotism, and favoritism. A workplace where employees maintain clear boundaries between family, personal, and work relationships leads to an environment that:

- Is fair, equitable, and safe;
- Promotes high employee morale, and
- Ensures trust in the City's merit based employment system."

The Policy includes definitions of: "Employment Decision" (similar to what is found in the Campaign Government Code); "Related Person(s)"; "Direct Supervision"; "In-Direct Supervision"; and information on "Reporting and Compliance Procedures". The Policy also include a section on "Investigations and Penalties" with penalty recommendations for violators of the policy. It provides the full scope of discipline up to and including removal from employment. This range of discipline is already available under the Charter and is not a new concept.

Department Heads already have the ability to reassign employees within their Department and the Department of Human Resources is committed to working with City Agencies or Departments for transfer opportunities whenever deemed appropriate or applicable. Again, this is to reinforce what currently is available to Department Heads, Managers and Supervisors for remedy, placing the information for compliance in a training module for all employees to understand. The updated policy will also be included in the Employee Handbook and provided as part of the regular on-boarding process for all new employees.

Recommendation

The Executive Office is in agreement with the policy update proposed by the Department of Human of Resources. This policy update will also in part address and provide an affirmative message of acknowledgement to those employees presenting issues before the Civil Service Commission over the last few years, demonstrating our commitment to alleviate the perception of favoritism and nepotism in the workplace.

Therefore, the recommendation is for the Civil Service Commission to review, discuss and adopt the policy; provide further direction to the Executive Officer to meet and discuss with interested stakeholders; and report back to the Commission at a future meeting.

cc: Micki Callahan
Susan Gard

City and County of San Francisco



Department of Human Resources

Edwin M. Lee
Mayor

Micki Callahan
Human Resources Director

Date: Dec. 8, 2016
To: Honorable Civil Service Commission
Through: Micki Callahan
Human Resources Director
From: Susan Gard
Chief of Policy
Subject: Policy on Family and Romantic Relationships at Work

Background

The City and County of San Francisco (City) is committed to maintaining a professional work environment free of conflicts of interest, nepotism, and favoritism. A workplace where employees maintain clear boundaries between family, personal, and work relationships leads to an environment that:

- Is fair, equitable, and safe;
- Promotes high employee morale; and
- Ensures trust in the City's merit-based employment system.

The City's current policy on family and romantic relationships at work is located on page 45 of the Employee Handbook and states:

"You may not make, participate in making, or seek to influence any employment decision involving a person with whom you have a familial or romantic relationship. You must notify your supervisor if you are, or become related to or romantically involved with another employee in the workplace over whom you have the authority to impose or recommend an employment action. Supervisors and managers should avoid any appearance of favoritism or nepotism in the workplace."

In addition to the Employee Handbook, nepotism and favoritism are prohibited under the City Charter, the Campaign and Governmental Conduct Code, and Civil Service Commission rules (Attachment A).

The Civil Service Commission (CSC) receives and investigates complaints of nepotism and favoritism. Beginning in late 2015, SEIU Local 1021 brought a series of allegations related to nepotism and favoritism before the CSC. While the vast majority of those complaints were determined unfounded following investigation, it's clear that the perception of nepotism and favoritism in the workplace continues in some departments.

The Department of Human Resources (DHR) has also received requests from departments for more detail on operationalizing the existing policy. Departments lack clarity as to the policy's applicability, reporting requirements for employees, and appropriate department responses to policy violations. As a result, the CSC and DHR have partnered to update the City's policy to provide additional guidance to both employees and departments (Attachment B).

DHR began the process by researching the issues, reviewing other government and private entity policies, and then convening a working group of representatives from a wide range of City departments beginning in August 2016. Representatives were chosen for their expertise in the policy area, their related work, the perceived problem of nepotism or favoritism in their departments, and their eventual role in policy implementation. The working group consisted of both management and rank and file representatives from the following departments:

- City Attorney's Office
- Civil Service Commission
- Controller's Office Human Resources and Whistleblower Units
- Department of Public Health
- DHR Policy, EEO, and Client Services Divisions
- District Attorney's Office
- Ethics Commission
- Human Services Agency
- Public Utilities Commission
- San Francisco International Airport

The working group met five times over three months to carefully consider the impact of this policy update. The goal of the update is not to prohibit or discourage people in family or romantic relationships from working for the City: The goals are to clarify when those relationships can pose problems, either through real or perceived nepotism or favoritism, and what to do when the issue arises. The working group engaged in intensive discussions and provided detailed feedback on multiple policy drafts. The working group included the City Attorney's Office to ensure the City can enforce and defend policy update. The working group also included the Ethics Commission to ensure the policy aligns with Ethics Regulations. The resulting policy includes practical language that protects employees and is manageable for departments.

Conclusion and Recommendation

Both DHR and the CSC deeply care about merit hiring practices and the wellbeing of City employees. The implementation of this policy update will help visibly ensure the integrity of the merit system, promote high employee morale, and foster a work environment that is fair, equitable, and safe.

DHR believes the policy is properly housed at the Civil Service Commission because the Charter provides the CSC with authority to establish procedures and an inspection service to investigate complaints of nepotism and favoritism. DHR plans to support the implementation of the policy through outreach and training, as well as creation of model management plans and other documents. DHR expects the first few months following policy adoption will require intensive communications and change management, and has created a plan to address these issues.

The Department of Human Resources respectfully requests that the Civil Service Commission accept this report on Family and Romantic Relationships at Work. DHR also recommends that, should the CSC adopt the policy, a grace period for compliance be given until July 1, 2017, during which time the CSC and DHR can help departments make any changes needed to be in compliance with the policy.

Attachments:

Attachment A: Legal Authority Excerpts

Attachment B: Proposed Family and Romantic Relationships at Work Policy

ATTACHMENT A

Legal Authority Excerpts

Charter:

SEC. 10.101. GENERAL POWERS AND DUTIES. (Civil Service Commission)

... The Commission shall by rule establish procedures to review and resolve allegations of discrimination as defined in Article XVII of this Charter or otherwise prohibited nepotism or favoritism appealed to it pursuant to this section. The determination reached under Commission procedures shall be final and shall forthwith be enforced by every employee and officer.

SEC. 10.103. HUMAN RESOURCES DIRECTOR.

... The Human Resources Director shall review and resolve allegations of discrimination as defined in Article XVII of this Charter against employees or applicants, or otherwise prohibited nepotism or favoritism. Notwithstanding any other provisions of this Charter except the fiscal provisions hereof, the decision of the Human Resources Director shall forthwith be enforced by every employee and officer, unless the decision is appealed to the Commission in accordance with Section 10.101.

ARTICLE XVII: DEFINITIONS

"Discrimination" shall mean violations of civil rights on account of race, color, religion, creed, sex, national origin, ethnicity, age, disability or medical condition, political affiliation, sexual orientation, ancestry, marital or domestic partners status, gender identity, parental status, other non-merit factors, or any category provided for by ordinance.

Civil Service Rules:

Sec. 101.3 Merit System Principles

As applied to employee classifications under the competitive civil service selection, appointment and removal procedures. The principles of the City and County's merit system include:

- 1) Recruitment, employment, retention, and promotion of employees on the basis of qualifications and performance; and,
 - 2) High performance and ethical standards, consistent with hiring qualified individuals who have successfully completed the examination process, been placed on an eligible list and completed the probationary period.
- Further, it is the goal and policy of the Civil Service Commission to provide fair treatment of applicants in all aspects of employment without regard to race, religion, national origin, ethnicity, age, disability, gender identity, political affiliation, sexual orientation, ancestry, marital or domestic partnership status, parental status, color, medical condition, and otherwise prohibited nepotism or favoritism.

113.1.2 Policy

Selection of employees from eligible lists shall be based on merit and fitness without regard to relationship, race, religion, gender, national origin, ethnicity, age, disability, gender identity, political affiliation, sexual orientation, ancestry, marital status, color, medical condition or other non-merit factors or otherwise prohibited nepotism or favoritism. Appointing officers and their designees shall be responsible for establishing non-discriminatory selection procedures which may include by way of example but not limitation, scheduling each interested eligible for interview, reviewing application materials, conducting interviews by a diverse panel, and asking job-related questions. Appointing officers/designees shall also be responsible for maintaining documentation of selection criteria. Departments shall make reports as requested by the Civil Service Commission on merit system issues such as recruitment, examination, and certification and selection procedures.

Campaign and Governmental Conduct Code:

CHAPTER 2

CONFLICT OF INTEREST AND OTHER PROHIBITED ACTIVITIES

SEC. 3.200. FINDINGS AND PURPOSE.

(a) The people of the City and County of San Francisco declare that public office is a public trust and all officers and employees of the City and County shall exercise their public duties in a manner consistent with this trust. To assure that the governmental processes of the City and County promote fairness and equity for all residents and to maintain public trust in governmental institutions, the people of the City and County declare that they have a compelling interest in creating laws regulating conflicts of interest and outside activities of City officers and employees.

(c) In order to maintain the public's confidence in the integrity of governmental decisions related to the appointment and discipline of public officers and employees, public officers and employees must not give or receive anything of value in consideration of their appointment or accept anything of value from their subordinates, and must not participate in decisions related to their own character or conduct or that of their family members.

SEC. 3.212. DECISIONS INVOLVING FAMILY MEMBERS.

(a) **Prohibition.** No officer or employee of the City and County may make, participate in making, or otherwise seek to influence a decision of the City and County regarding an employment action involving a relative. Nothing in this Section shall prohibit an officer or employee from acting as a personal reference or providing a letter of reference for a relative who is seeking appointment to a position in any City department, board, commission or agency other than the officer or employee's department, board, commission or agency or under the control of any such department, board, commission or agency.

(b) **Delegation.** A Department Head who is prohibited under Subsection (a) from participating in an employment action involving a relative shall delegate in writing to an employee within the department any decisions regarding such employment action.

(c) **Definitions.** For purposes of this Section, the term "employment action" shall be limited to hiring, promotion, or discipline, and the term "relative" shall mean a spouse, domestic partner, parent, grandparent, child, sibling, parent-in-law, aunt, uncle, niece, nephew, first cousin, and includes any similar step relationship or relationship created by adoption.

SEC. 3.214. DISCLOSURE OF PERSONAL, PROFESSIONAL AND BUSINESS RELATIONSHIPS.

(a) **Disclosure.** A City officer or employee shall disclose on the public record any personal, professional or business relationship with any individual who is the subject of or has an ownership or financial interest in the subject of a governmental decision being made by the officer or employee where as a result of the relationship, the ability of the officer or employee to act for the benefit of the public could reasonably be questioned. For the purposes of this Section, the minutes of a public meeting at which the governmental decision is being made, or if the governmental decision is not being made in a public meeting, a memorandum kept on file at the offices of the City officer or employee's department, board, commission or agency shall constitute the public record.

(b) **Penalties.** A court may void any governmental decision made by a City officer or employee who fails to disclose a relationship as required by Subsection (a) if the court determines that: (1) the failure to disclose was willful; and (2) the City officer or employee failed to render his or her decision with disinterested skill, zeal, and diligence and primarily for the benefit of the City. No other penalties shall apply to a violation of this Section, provided that nothing in this Section shall prohibit an appointing authority from imposing discipline for a violation of this Section.

(c) **Regulations.** The Ethics Commission may adopt regulations setting forth the types of personal, professional and business relationships that must be disclosed pursuant to this Section.

ATTACHMENT B

City and County of San Francisco Civil Service Commission Policy Regarding Family and Romantic Relationships at Work

I. Purpose

The City and County of San Francisco (City) Civil Service Commission is committed to maintaining a professional work environment free of conflicts of interest, nepotism, and favoritism. A workplace where employees maintain clear boundaries between family, personal, and work relationships leads to an environment that:

- Is fair, equitable, and safe;
- Promotes high employee morale; and
- Ensures trust in the City's merit-based employment system.

With over 30,000 employees, it is not surprising that members of the same family and people in romantic relationships may work for the City. In general, these relationships do not pose workplace problems. The purpose of this policy is to explain when family and romantic relationships may cause problems, or the appearance of problems, related to nepotism, favoritism, or conflicts of interest at work. This policy also establishes standards and disclosure requirements to prevent those problems from occurring.

Nepotism occurs when family members favor other family members in employment decisions. Nepotism does not align with the City's policy and practice of making employment decisions based solely on City needs, merit-based processes, and individual qualifications, skills, knowledge, abilities, and performance.

Romantic relationships between supervisors and subordinate employees may raise issues of conflict of interest, abuse of authority, or favoritism. These relationships also have the potential to adversely impact other employees. Moreover, the real or perceived power imbalance that may exist between a supervisor and a subordinate may raise questions about mutual consent.

People in both family and romantic relationships are referred to as "related persons" (defined in Section III below) solely for purposes of this policy.

II. Applicability

This policy applies to all City officers, elected officials, employees (including permanent civil service, exempt, temporary, full and part time, and provisional), interns, and volunteers. These individuals are referred to collectively as "employees" solely for purposes of this policy.

III. Definitions

Employment decisions: Refers to the full array of decisions and actions that involve City employees and their employment, including, but not limited to, decisions related to hiring, supervision, promotion, compensation, work hours, assignment of duties, performance evaluation, discipline, termination, and decisions involving other terms and conditions of employment such as those listed in Section IV below.

Related person(s):

(A) A family member, whether by blood, adoption, marriage, or domestic partnership, including:

- Spouse;
- Domestic partner;
- Child;
- Parent;
- Grandparent/Grandchild;
- Aunt/Uncle;
- Sibling;
- First cousin;

- Niece/Nephew; and
- Any corresponding in-law, step, or foster relation

(B) A consensual romantic relationship occurring within the last two years. This includes, but is not limited to sexual, dating, engagement, or other intimate relationships.

Direct supervision: One employee directing the work of another employee. This includes temporary and project-based assignments.

Indirect supervision: One employee is responsible for the work of another employee through the organizational structure or chain of command. This includes temporary and project-based assignments.

IV. Policy

Employees may not make, participate in making, or influence any employment decision involving a related person. This includes, but is not limited to:

- Hiring, promoting, transferring, or re-assignment;
- Serving on a hiring panel;
- Developing, administering, or rating a civil service exam;
- Initiating an administrative investigation or discipline;
- Assigning work;
- Preparing, conducting, or contributing information to a performance appraisal;
- Approving overtime or any other compensated time;
- Approving vacation, sick, or other leave time;
- Granting or denying permission to attend a conference or other work-related event; and
- Approving reimbursement for work-related expenses.

Employees are prohibited from directly supervising related persons.

It is best practice that employees do not indirectly supervise related persons. Exceptions to this policy for indirect supervision may be made on a case by case basis as set forth in Section V.2 below.

Nothing in this policy prohibits an employee from acting as a personal reference or providing a letter of reference for a related person seeking appointment to a position in any City department, board, commission, or agency, other than the employee's department, board, commission, or agency, or to a position under the control of any such department, board, commission, or agency.

This policy does not prohibit a supervisor from making an employment decision that impacts an entire unit or group of employees that includes a related person.

V. Reporting and Compliance Procedures

1. Direct supervision of related persons must be promptly reported by both employees to their departmental personnel officer or human resources manager. Since employees cannot directly supervise related persons, the departmental personnel officer or human resources manager shall remove the conflict.
2. Indirect supervision of related persons must be promptly reported by both employees to their departmental personnel officer or human resources manager to assess the implications for the workplace, and to ensure that employment decisions are made appropriately.
 - a. If, for operational reasons, the departmental personnel officer or human resources manager cannot remove the conflict, he or she shall formulate a management plan to address the indirect supervisory relationship while minimizing impact on the employees involved.

- b. At a minimum, all management plans must address reporting relationships, supervision, and evaluation to ensure a supervisor does not participate in employment decisions regarding a related person, as prohibited by this policy.
3. Individuals who become related persons during City employment and while in a direct or indirect supervision situation must promptly disclose the relationship following the process set forth in Section V.1 and 2 above.
4. A department head prohibited under this policy from making, participating in, or influencing employment decisions involving related persons shall delegate in writing the authority to make employment decisions regarding such related persons to another employee within the department.
5. All employees are prohibited from retaliating against anyone who reports a potential violation of this policy.

VI. Investigations and Penalties

All employees must cooperate with any investigation into possible violations of this policy. Violations may include, but are not limited to:

- Failing to report, or actively concealing, a relationship that falls within this policy; or
- Retaliating against another employee who has made a report under this policy.

Violations of this policy may lead to discipline, up to and including termination.

Employee questions about this policy should be directed to the departmental personnel officer or human resources manager.

The City's policies on appropriate workplace conduct and sexual harassment are posted on the Department of Human Resources website at www.sfdhr.org. The requirements set forth in this policy are in addition to those set forth in San Francisco Campaign and Governmental Conduct Code section 3.212 (Decisions Involving Family Members).

