

TOWN OF SOUTH HADLEY  
NEPOTISM POLICY

I. Nepotism

Nepotism is generally defined as favoritism shown to family or friends on the basis of the parties' relationship, rather than on merit considerations. All Town employees, including elected and appointed officials, are subject to the Massachusetts Conflict of Interest Law, G.L. c. 268A. The law strictly prohibits Town employees from participating in particular matters in which their immediate family members have a financial interest. Immediate family is defined in the statute as "the employee and his or her spouse, and their parents, children, brothers and sisters." For example, employee Smith's brother-in-law would be considered "immediate family" if he were the brother of Smith's spouse but not if he were her sister's husband.

In addition, § 23 of the law sets forth standards of conduct regulating all public employees which may involve nepotism and fraternization-related issues. This section prohibits Town employees from acting in a manner which gives a basis for the impression either that they are improperly influenced by another person, or that someone is unduly enjoying their favor because of their relationship. Therefore, if an employee wishes to participate in a matter which affects the financial interest of a relative, even if that relative is not a member of his or her immediate family, he/she may not give preference to the relative because of the relationship. Employees must also be careful to ***avoid even the appearance of favoritism.*** This is done by publicly disclosing the relationship and following ordinary and accepted procedures without deviation.

Specific Acts Strictly Prohibited.

1. Town employees with hiring authority may not participate in the hiring of an immediate family member. As stated above, the law prohibits a public employee from participating in any particular matter in which a family member has a financial interest. The hiring prohibition involves any significant involvement in the hiring process such as discussion or recommendation. For example, interviewing or creating a test for applicants, one of whom is a family member, would violate the law. Generally, the best course would be to leave the room when a matter involving a family member's financial interest arises.

It makes no difference whether an employee or official has unilateral authority over personnel decisions or whether he/she is one link in a bureaucratic chain of approvals. A typical example arises where a sub-committee conducts a search to fill a municipal position. The sub-committee's preferred list of candidates is then narrowed down by the full search committee and the candidate is ultimately chosen by an appointing authority. An employee with a family member in the pool of candidates cannot participate in the sub-committee's search, the full committee's approval of a list of candidates, or the appointing authority's final decision.

2. In addition to hirings, any significant involvement in the reappointment, promotion, reclassification, demotion, or firing of an immediate family member is prohibited. A Town employee may not participate in a job performance evaluation of an immediate family member

because such evaluations play a critical role in job retention, promotion, and other job-related benefits of financial interest to the employee.

3. A Town employee who serves in a supervisory capacity cannot directly supervise an immediate family member. The process by which employees are retained or fired, promoted or demoted, or granted or refused pay increases is not merely a function of a formal personnel evaluation. Those decisions are based on the supervisor's cumulative impressions derived from his/her day-to-day supervision of the employee. Therefore, day-to-day supervision of an immediate family member is barred because it is an integral part of the evaluation process.

4. Determining a family member's salary or benefits is barred. The prohibition includes approving or authorizing discretionary salary increases such as annual pay increases. Even signing warrants authorizing payroll or other payments to immediate family members is prohibited.

5. Negotiating or approving collective bargaining agreements or other contracts where the financial interests of family members will be affected is also prohibited.

#### Delegation Generally Prohibited.

Town employees are prohibited not only from participating in personnel decisions affecting immediate family members, but also from delegating the authority to a subordinate. Because the official is in a position to choose and influence the person most likely to favor his or her family member, the choice of who will make the decision is an important part of the overall hiring decision. The delegation decision itself should be made by a disinterested party. In rare cases, this may be impossible. In such cases, legal counsel and the State Ethics Commission will be contacted for guidance.

#### Disclosure and Authorization to Avoid Appearance of Conflict

In addition to the strict prohibitions listed above, § 23 of the law also prohibits Town employees from acting in a manner which could cause a reasonable person to think that he/she would show favoritism to someone or that he/she could be improperly influenced. Such situations could include dealings with relatives outside of one's immediate family, or any other circumstance which could give rise to perceptions of favoritism or improper influence. When a Town employee/official is faced with such a situation, he/she should abstain from participating in the matter and thereby avoid any violation of the law. Alternatively, the employee may seek the authorization from the appointing authority to continue to participate by disclosing in writing all the relevant facts. If the appointing authority grants the authorization, it must be provided in writing. Copies of the request and the authorization must be available for public inspection.

Elected Town officials have no choice but to abstain in such situations. They cannot take advantage of disclosure and authorization because they have no appointing authority from whom to seek authorization.