



BOARD POLICY

REG No.: 008

NEPOTISM

I. BACKGROUND and/or LEGAL REFERENCE

TASB Policy Manual, DBE, Employment Requirements and Restrictions: Nepotism, 3-7-94, and references therein.

II. POLICY

A. Relation to Trustee

1. No person shall be employed in the District who is related to a member of the Board by blood (consanguinity) within the third degree, or by marriage (affinity) within the second degree. *Gov't Code 73.002573.002, 573.047.* [See also the section on nepotism in legal policy BBFA, TASB Policy Manual.]
2. The method of computing degrees of relationship is the civil law method. *Gov't Code 573.021Chapter 573, Subchapter C.*

B. Consanguinity

1. Two persons are related to each other by consanguinity if one is a descendant of the other or if they share a common ancestor. For this purpose, an adopted child is treated as a natural child of the adoptive parents. *Gov't Code 573.022.*
2. The degree of relationship by consanguinity between a person and his descendant is determined by the number of generations that separate them. If a person and his relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding the number of generations between the person and the nearest common ancestor shared by him and his relative to the number of generations between the relative and the nearest common ancestor.
3. If a Board member is the prospective employee's parent or child, there exists a relationship in the first degree. If a Board member is the prospective employee's grandparent, grandchild, sister, or brother, there is a relationship in the second degree. If a Board member is the prospective employee's great grandparent, great grandchild, aunt, uncle niece, or nephew, there is a relationship in the third degree. ~~These are the only relationships by consanguinity that are prohibited by the nepotism law.~~

Gov't Code 573.023.

C. Affinity

1. Two persons are related to each other by affinity if they are married to each other or if the spouse of one of the persons is related by consanguinity to the other person. Divorce or the death of a spouse terminates relationships by affinity created by a marriage unless a child of the marriage is living. If a child of the marriage is living, the marriage is considered to continue as long as a child of that marriage lives. *Gov't Code 573.024.*

2. A husband and wife are related to each other in the first degree by affinity. For other relationships, the degree of relationship by affinity is the same as the degree of the underlying relationship by consanguinity. If a Board member's spouse is the prospective employee's parent or child, or if the prospective employee's spouse is a Board member's parent or child, there exists a relationship in the first degree. If a Board member's spouse is the prospective employee's grandparent, grandchild, sister, or brother, or if the prospective employee's spouse is a Board member's grandparent, grandchild, sister, or brother, there is a relationship in the second degree. These are the only relationships by affinity that are prohibited by the nepotism law. *Gov't Code 273.925573.025.*

D. Effect of Trustee Resignation

All public officers shall continue to perform the duties of their offices until their successors shall be duly qualified, i.e. sworn in. Until the vacancy created by a Trustee's resignation is filled by a successor, the Trustee continues to serve and have the duties and powers of office, and a **relativefamily member** within a prohibited degree of relationship is barred from employment. *Tex. Const., Art XVI, Sec. 17; Atty. Gen. Op. JM-636 (1987).*

E. Continuous Employment Exception

The nepotism prohibitions described in this policy shall not apply to the confirmation or appointment of an individual to a position if the individual is employed in the position immediately before the election or appointment of the Trustee to whom the individual is related in a prohibited degree and that prior employment is continuous for at least six months before the date of election or 30 days before the date of appointment. ~~Gov't code~~ *Gov't Code 573.062 (a).*

If an individual continues in a position, the Trustee to whom the individual is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees. *Gov't Code 573.062(b).*

F. Trading

It is illegal to evade the provisions of this policy by trading. *Gov't Code 573.044.* **NOTE:** An example of trading would be if a Board member employed the relative of a person subject to the nepotism statute, in return for which that person employed a relative of the Board member, given the fact that neither employer could legally employ his or her own relative.

G. Federal Funds

The rules against nepotism apply to employees paid with public funds, regardless of the source of those funds. Thus, the rules apply in the case of a teacher paid with funds from a federal grant. *Atty. Gen. L.A. No. 80 (1974).*

(POLICY APPROVAL: 3-7-94, Board of Trustees)