

*Department of Administration
Division of Personnel & Labor Relations*

**Nepotism Prohibited
Frequently Asked Questions**

1. Who is covered by the nepotism/ethics policy?

This policy applies to all State of Alaska classified and partially exempt employees within the Executive branch. Portions of this policy also apply to exempt employees within the Executive branch. State policy is contained and reiterated in the state Administrative Manual, Section AAM.100.050.

2. What is the authority for this policy?

This policy was developed under the authority of AS 39.90.020, Nepotism prohibited, and AS 39.52.120 and AS 39.52.150, Executive Branch Ethics Act.

3. What is the definition of “second degree of kindred”?

“Second degree of kindred” is defined as father, mother, son, daughter, brother, sister, grandfather, grandmother, grandson, or granddaughter, in a full, half, or step relationship.

4. What is the definition of “immediate family member”?

AS 39.52.960(11) defines “immediate family member” as:
the spouse of the person;
another person cohabiting with the person in a conjugal relationship that is not a legal marriage;
a child, including a stepchild and an adoptive child, of the person;
a parent, sibling, grandparent, aunt, or uncle of the person; and
a parent or sibling of the person’s spouse.

5. What is the definition of “employment relationship”?

“Employment relationship” is defined as any work-related relationship where one individual has the authority to approve or effectively recommend actions that will impact the wages, hours, terms or conditions of employment of another employee. Examples include, but are not limited to, assigning shifts, authorizing overtime, approving leave, evaluating performance, approving or recommending a transfer, promotion or demotion, or authorizing or recommending disciplinary action.

6. The definitions of “immediate family member” and “second degree of kindred” differ. How are these to be applied?

The Executive Branch Ethics Act (AS 39.52) prohibits employees from being in an employment relationship with an immediate family member, including a conjugal relationship that is not a legal marriage.

The statute and regulation (AS 39.90.020 and 2 AAC 07.950 and 2 AAC 07.999) pertaining to nepotism also prohibit the appointment of certain individuals. The regulation does allow for a waiver if there is not a direct supervisory relationship.

The chart below indicates by type of service (classified, partially exempt, exempt) and family relationship when an employment or direct supervisory relationship is prohibited.

	Applies To:		
	Partially Exempt, Classified and Exempt		Partially Exempt & Classified
	Nepotism Statute	Ethics Act	Personnel Rules
Family Relationship Prohibited	AS 39.90.020	39.52.120; 39.52.150 39.52.960(11)	2 AAC 07.950; 2 AAC 07.999
Spouse	x	x	x
Biological Child	x	x	x
Adoptive Child		x	
Step Child		x	x
Parent	x	x	x
Step Parent		x	x
Parent-in-law		x	x
Step Parent-in-law		x	x
Sibling	x	x	x
Half Sibling	x		x
Step Sibling			x
Sibling of Spouse		x	x
Sibling-in-law		x	x
Step Sibling-in-law			x
Grandparent	x	x	x
Step Grandparent			x
Grandparent-in-law			x
Aunt or Uncle		x	
Step Aunt or Uncle			
Aunt or Uncle-in-law			
Cousin			
Grandchild	x		x
Step Grandchild			x
Conjugal Relationship		x	

7. The policy indicates classified and partially exempt employees must also abide by the terms of 2 AAC 07.950. What are these terms?

This regulation prohibits an individual from being employed in a department or agency if that person is the spouse of, or is related by blood or marriage, within and including the second degree of kindred, to:

- the principal executive officer of the department or agency, to the principal executive officer's deputy or to an assistant principal executive officer;
- the director, a deputy director or to an assistant director of the division within the department or agency in which the position reports; and
- a person who would be in a direct supervisory relationship.

This regulation also prohibits the appointment of an individual if that individual is related to an employee in the department or agency unless the Commissioner of the employing department/agency or his or her designee approves a waiver.

8. Which portions of this policy do not apply to exempt employees?

The requirements of 2 AAC 07.950 does not apply to exempt employees. Although under the policy the disclosure of immediate family members by an exempt employee is required, an individual may be appointed without approval of a nepotism waiver as long as the individual will not be employed in an agency in which they are the *spouse of or related by blood within and including the second degree of kindred* to the executive head of an operating agency or *in an employment relationship with an immediate family member*. (Read the *definitions* carefully.)

9. How will I know if the individual I want to appoint is related to a current employee of the department or agency?

At the time of interview, hiring managers are required to have all applicants complete the *Pre-Employment Certification* form located at:

http://doa.alaska.gov/dop/fileadmin/Human_Resource_Services/pdf/Pre-EmploymentCertification.pdf

On this form the applicant is asked to disclose all relatives currently working for the department.

10. How is a waiver requested under 2 AAC 07.950?

To request a waiver, a *Declaration of Familial Relationships and Nepotism Waiver* form must be completed and approved prior to a job offer being made. Only the Commissioner or head of the employing agency or his or her assigned designee is authorized to approve a waiver. Under no circumstances will a waiver be approved that would place an employee in an employment or direct supervisory relationship to an immediate family member or a person related by blood or marriage within and including the second degree of kindred. The *Declaration of Familial Relationships and Nepotism Waiver* form is available at:

http://doa.alaska.gov/dop/fileadmin/Human_Resource_Services/pdf/NepotismWaiver.pdf

It is important to keep in mind that the approval of a waiver may in the future limit the ability of one or all of the affected individuals to promote, transfer, etc.

11. Can a waiver be requested under the Executive Branch Ethics Act?

No. The state Ethics Act provides for prohibited employment relationships and, under provision of statute, cannot be waived.

12. Can a letter of agreement with the appropriate bargaining unit representative be signed to allow for an employment or direct supervisory relationship with an immediate family member or a person related by blood or marriage within and including the second degree of kindred?

No. Neither the Executive Branch Ethics Act nor the Personnel Regulations are subject to modification through collective bargaining.

13. When is a *Declaration of Familial Relationships and Nepotism Waiver* required?

For a classified or a partially exempt employee, Parts A, B and C of the *Declaration of Familial Relationships and Nepotism Waiver* must be completed and approved prior to making a job offer to an individual who is an immediate family member of or related by blood or marriage within and including the second degree of kindred to a current employee of the employing department or agency.

For an exempt employee, Parts A and C of the *Declaration of Familial Relationships and Nepotism Waiver* must be completed upon appointment.

14. If, while employed, circumstances change and employees find themselves in an employment relationship with an immediate family member what should they do? Will either party's employment be terminated?

Both parties should immediately disclose their relationship to their department management, to their department human resource office or to the Division of Personnel & Labor Relations. The circumstances of each situation will be reviewed on a case-by-case basis to determine if a possible resolution can be made. Where practicable, resolution may include:

- transferring one of the employees to another position; or
- reassigning, where it is appropriate, supervision of the subordinate employee.

Every reasonable remedy will be examined and considered before termination is considered.

15. Can an employee who is designated as an approving officer authorize a purchase, travel or other expenditure for an immediate family member or an individual related by blood or marriage within and including the second degree of kindred?

Although not specifically prohibited by statute or regulation, this is not a recommended or good business practice. More appropriate (best) practice is for another agency approver – one who does not report to the routinely designated agency approver – to review and approve such expenditures.