

THE UNIVERSITY OF TEXAS OF THE PERMIAN BASIN
OFFICE OF HUMAN RESOURCES
POLICY AND PROCEDURES MEMORANDUM

NEPOTISM

DATE: February 1, 2006

1. PURPOSE

This policy provides for the appointment of relatives of employees to ensure that personnel actions are in compliance with The University of Texas Board of Regents' *Rules and Regulations*.

2. POLICY

2.1 Employment of certain relatives of a member of the Board of Regents in any capacity is prohibited by the Regents' *Rules and Regulations* and state law. The University of Texas of the Permian Basin may hire relatives of existing employees, but neither relative may supervise the other nor be involved in any way with the appointment, salary, or promotion of the other. The Office of Human Resources must ensure that personnel transactions are in compliance with the Regents' *Rules and Regulations* and assist with reporting of any exceptions annually via the component docket or the annual operating budget.

2.2 The nepotism rule is set forth in Section 30106 of the Board of Regents' *Rules and Regulations*, and is reproduced below:

1. Title: Nepotism

2. Rule and Regulation

Sec. 1 Statutory Requirement. *Texas Government Code*, § 573 prohibits public officials from appointing any individual to a position that is to be directly or indirectly compensated from public funds or fees of office if the individual is related to the public official within the second degree by affinity or within the third degree by consanguinity.

Sec. 2 System Requirement. Even though the appointment of a person, would not be prohibited by the *Texas Government Code*, no employee of The University of Texas of the Permian Basin may approve, recommend, or otherwise act with regard to the appointment, reappointment, promotion, or salary of any person related to such employee as outlined in §§ 2.4 or 2.5 regardless of the source of funds for the payment of salary. This provision also includes individuals hired as private contractors.

2.1 Supervision. If the appointment, reappointment, or promotion of a person places him or her under an administrative supervisor related within the specified degree, all subsequent actions with regard to the evaluation, reappointment, promotion, or salary

shall be the responsibility of the next highest administrator to make a written review of the work performance of such employee at least annually and to submit each review for approval or disapproval by the Human Resources Director in the case of classified employees or the President in the case of faculty or non-classified employees.

- 2.2 Promotion.** If the appointment, reappointment, or promotion of a person places him or her in an administrative or supervisory position with responsibility to approve, recommend, or otherwise act with regard to reappointment, promotion, or salary of a person who is related to them within the above degree specified, all subsequent actions regarding the evaluation, reappointment, promotion, or salary of such person shall be made by the next highest supervisor.
- 2.3 Marriage.** The provision of §2.1 of this Series shall apply to situations where two employees marry and one spouse is the supervisor of the other.

3. PROCEDURES

- 3.1** As required by the Board of Regents' *Rules and Regulations*, an individual within the second degree of affinity or the third degree of consanguinity will not be appointed to a position where a relative is a supervisor making decisions on the employee's reappointment, promotion, or salary.

Those persons related within the prohibited degrees are:

First Degree of Kinship:

Employee's Spouse; Father; Mother; Son; Daughter

Second Degree of Kinship:

Brother; Sister; Grandfather; Grandmother; Grandson; Granddaughter

Third Degree of Kinship:

Great Grandfather; Great Grandmother; Great Grandson; Great Granddaughter; Uncle; Aunt; Nephew; Niece

- 3.2** The State of Texas Attorney General has issued an opinion letter indicating that nepotism law also applies to individuals hired as private contractors.
- 3.3** State agency purchasing personnel must disclose certain family relationships with business entities receiving certain state agency contracts. Before a state agency may award a major contract for the purchase of goods or services to a business entity, each of the state agency's purchasing personnel working on the contract must disclose in writing to the administrative head of the state agency any relationship the purchasing personnel is aware about that the employee has with an employee, a partner, a major stockholder, a paid consultant with a contract with the business entity the value of which exceeds \$25,000, or other owner of the business entity that is within a degree described by §573.002. The form for use by purchasing personnel of a state agency to disclose information regarding certain relationships with, and direct or indirect pecuniary interests in any party to a major contract with the state agency prior to the award of a major contract, was developed by the

State Auditor and can be found on the State Auditor's website:
<http://www.sao.state.tx.us/resources/forms/NepotismDisclosureForm.pdf>.
Applies to an institution of higher education as defined by the Texas
Education Code, § 61.003. Applies only to a contract awarded or extended
on or after September 01, 2005.

DEFINITIONS

Affinity: Relationship by marriage. Two individuals are related to each other by affinity if: (1) they are married to each other; or (2) the spouse of one of the individuals is related by consanguinity to the other individual. The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

Consanguinity: Relationship by blood or origin. Two individuals are related to each other by consanguinity if one is a descendant of the other; or they share a common ancestor. An adopted child is considered to be a child of the adoptive parent for this purpose. The degree of relationship by consanguinity between an individual and the individual's descendant is determined by the number of generations that separate them. A parent and child are related in the first degree, a grandparent and grandchild in the second degree, a great-grandparent and great-grandchild in the third degree, and so on. If an individual and the individual's relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding: (1) the number of generations between the individual and the nearest common ancestor of the individual and the individual's relative; and (2) the number of generations between the relative and the nearest common ancestor. An individual's relatives within the third degree by consanguinity are the individual's: (1) parent or child (relatives in the first degree); (2) brother, sister, grandparent, or grandchild (relatives in the second degree); and (3) great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).

Public official:

1. An officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state;
2. An officer or member of a board of this state or of a district county municipality, school district, or other political subdivision of this state; or
3. A judge of a court created by or under the statute of this state.

Major stockholder: a person who directly or indirectly owns or controls more than a 10 percent interest or a pecuniary interest with a value exceeding \$25,000 in a business entity.

Purchasing personnel: an employee of a state agency who makes decisions on behalf of the state agency or recommendations regarding: a) contract terms or conditions on a major contract; b) who is to be awarded a major contract; c) preparation of a solicitation for a major contract; or d) evaluation of a bid or proposal.

4. AUTHORITY

Opinion, State of Texas Attorney General, No. DM-76 (1992)

Texas Government Code, § 573

Texas Education Code, § 61.003

The University of Texas System Board of Regents' *Rules and Regulations*, § 30106

5. APPLICATION

This policy applies to The University of Texas of the Permian Basin.