

 <p style="text-align: center;">STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES</p> <p style="text-align: center;">Policy and Procedure</p>	POLICY AND PROCEDURE NUMBER 08.02.070	PAGE 1 of 5
	EFFECTIVE DATE November 21, 2011	
SUBJECT Nepotism and Ethics		SUPERSEDES 08.02.070
		DATED December 8, 2009
CHAPTER Personnel Administration	SECTION Personnel	APPROVED BY Signature on File

PURPOSE

This formalizes the policy and procedure (P&P) of the department on appointing persons to positions when they have familial relationships with current employees, on reporting changes in familial relationships between employees, and on preventing employment relationships between employees who have familial relationships. The scope of this P&P is limited to positions and employees in the Department of Transportation and Public Facilities (DOT&PF).

POLICY

DOT&PF follows Alaska law regarding nepotism and ethics in the employment of personnel.

The department will not appoint a person to a position if that person has a familial relationship with a current employee and the appointment would result in an employment relationship.

The department will not appoint a person to a position if that person has a familial relationship with the commissioner, a deputy commissioner, or an assistant commissioner.

The department will not appoint a person to a position in a region, division, system, or similar organizational unit if the person has a familial relationship with the director, a deputy director, or an assistant director of that region, division, system, or similar organizational unit. In this context, director means the highest official, regardless of actual job title.

As provided by current law, nepotism regulations barring familial relationships in the workplace generally do not apply to “persons employed by the Division of Marine Transportation as masters and members of the crews of vessels who operate the State Ferry System and who are covered by a collective bargaining agreement.” See 2 AAC 07.905; AS 39.25.100(16).

In no case will the department permit individuals to work on Alaska Marine Highway System (AMHS) vessels or in rural areas if a substantial and material conflict of interest would exist between the individuals under the Ethics Act, AS 39.52.010 et seq.

Nothing set forth in this policy limits the department's right to lawfully manage its personnel in accordance with its best business interests.

For purposes of this policy the terms "familial relationship," "employment relationship," "immediate family member," etc. are defined below.

New Hires to the Department

A person who has a familial relationship with a current DOT&PF employee may not be hired for a position that will result in an employment relationship.

The department will not appoint a person to a position if (1) that person has a familial relationship with a current employee who would have the authority to take or withhold official action affecting the terms or conditions of that person's employment or (2) that person would have the authority to take or withhold official action affecting the terms or conditions of an immediate family member's employment. Official action means advice participation, or assistance, including, for example, a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction.

Changes in Relationships between Current Employees

Two employees who have a familial relationship will not have an employment relationship.

When a change in an employee's circumstances creates a familial relationship with another employee, the employees will report it to the commissioner, deputy commissioner, regional director, or AMHS general manager, as applicable. The commissioner, deputy commissioner, regional director, or AMHS general manager will promptly consult the DOT&PF HR Service Center Human Resource Manager for appropriate action. Failure to notify DOT&PF management may result in discipline.

The department will not implement organizational structure, duty, or reporting relationship changes if said changes create an employment relationship between two employees who have a familial relationship.

Delegation of Authority

Deputy Commissioners, Regional Directors, and the AMHS General Manager are delegated authority to sign the Declaration of Familial Relationships and Nepotism Waiver form for employment purposes for positions within their span of control.

The Department does not have the authority to waive AS 39.90.020 and cannot waive ethical violations arising from employment relationships of familial members. Therefore, this authority is not delegated.

AMHS vessel employees are not subject to 2 AAC 07.950(c); 2 AAC 07.905; AS 39.25.110(16).

Delegated authorities shall maintain a calendar year log of all employment waivers approved or denied and sufficient notes or documentation to support the determinations. Logs are to be maintained for a three-year period and are subject to review by the Commissioner's Office, the Division of Personnel & Labor Relations, the Office of the Attorney General, or other appropriate representatives or officials.

Only the department's commissioner has the authority to approve a nepotism waiver when an exception is being requested due to a clear and compelling business interest for which there is no effective alternative. The commissioner shall briefly state the reason for and duration of any such waiver.

PROCEDURE

Definitions

Appointing Authority for all officers and employees in the executive branch is the Governor. The Governor's authority may be delegated to commissioners and from commissioners to department managers or supervisors. AAM 100.080.

Appointment, to *Appoint* (and its derivative forms), and *appointee* in this context refer to appointments, transfers, promotions, demotions, and any other form of placement into positions.

Employment Relationship is a work-related relationship where one person has the authority to advise, participate, or assist in actions, including for example, a recommendation, decision, approval, disapproval, vote, or similar action, including inaction, that impact the other person's wages, hours, terms, or conditions of employment.

Familial Relationship includes immediate family members and those individuals who are related by blood or by marriage within and including the second degree of kindred.

Immediate Family Member is a person's spouse, biological child, stepchild, adoptive child, parent, parent-in-law, sibling, sibling-in-law, grandparent, aunt, or uncle, or another person cohabiting with the person in a conjugal relationship that is not a legal marriage.

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. For employees in the classified or partially exempt service, this includes relationships by blood and marriage. AAM 100.050.

AMHS Vessel means any watercraft owned and operated by the Alaska Marine Highway System.

Nepotism and the Appointment Process

In those instances when Alaska's nepotism or ethics laws may constrain the department's employment decision, the department will consult with the DOT&PF HR Service Center before conducting interviews or making any offer of employment, transfer, promotion, demotion, or other form of placement into a position when nepotism may exist.

1. Application Review

The hiring manager will check application materials for applicants' responses to the nepotism question. The Workplace Alaska appointment process always elicits this information.

If an appointment process other than Workplace Alaska is used, the appointing authority will complete the State of Alaska Applicant Certification form or the AMHS Marine Employment Application form.

When information regarding an applicant indicates there may be a nepotism or ethics issue, the hiring manager will follow the procedures below.

2. Before Conducting Interviews

If a potential employment relationship exists, consult with the DOT&PF HR Service Center. HR will make the determination on whether or not the applicant is immediately disqualified. HR will notify the hiring manager if the applicant can continue to be considered.

3. Before Requesting Hire Approval

A completed nepotism waiver form must be submitted to the appropriate departmental delegated authority when the hiring manager wants to request hire approval for an applicant who needs a nepotism waiver.

Approved nepotism waivers must be submitted to the DOT&PF HR Service Center when requesting hire approval.

The original signed form is to be submitted to the DOT&PF HR Service Center for placement in the employee file if the appointee accepts the appointment. A copy of the form, and the originals of all other records pertaining to familial relationships for the applicant, will be kept with the hiring file.

If the applicant will be appointed to an AMHS unlicensed vessel position, the applicant must complete and sign the *Dispatch Selection* form, where he or she understands that familial relationships may limit work opportunities and may impact his or her ability to be promoted.

AUTHORITY

AS 39.90.020
AS 39.52.120
AS 39.52.150
AS 39.52.210
AS 39.52.910(d)(2)
AS 39.25.110(16)
AS 44.17.030
2 AAC 07.905
2 AAC 07.950 - 2 ACC 07.960
2 AAC 07.999
AAM 100.050

IMPLEMENTATION RESPONSIBILITY

Appointing authorities, individuals with delegated authority to act on issues of familial relationships between employees, all employees generally

DISTRIBUTION

All department employees via the DOT&PF website