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BULLETIN—

Reminder about Summer Jobs and Restrictions on Nepotism

TO: Cities, Villages, Townships, School Districts, and other public agencies

FROM: Paul M. Nick, Executive Director

DATE: May 2, 2012

During summer vacation, many high school and college students seek summer jobs. Many of these are seasonal full-time or part-time jobs (such as lifeguards and camp counselors) with cities, villages, school districts, and other public agencies that offer summer programs.

The Ohio Ethics Commission has issued this bulletin reminding public officials and employees about the restrictions in the Ethics Law against hiring their family members. If you have any questions about this bulletin, please contact the Commission or visit our Web site—www.ethics.ohio.gov.

What does the law prohibit?

Ohio's Ethics Law prohibits *all* public officials and employees from:

- Hiring their family members for public jobs;
- Using their public positions to get public jobs (or other contracts) for family members [for example, a public official can't ask someone else at the agency to hire the official's family member]; and
- Using their public positions to get promotions, selective raises, or other job-related benefits for their family members.

Who is a "public official"?

A public official is any person, paid or unpaid, and regardless of how much money earned:

- Who is **elected** or **appointed** to a fulltime or part-time public position; or
- Who is **employed** by a public agency in a full-time or part-time public job.

Who is a "family member"?

A public official's family members include, but are not limited to, the official's:

1. Husband or wife;
2. Child or grandchild of any age, regardless of whether dependent;
3. Parent or grandparent;
4. Brother or sister; and
5. Step-child or step-parent.

Also included is any other person who is related to the official by blood or by marriage (e.g., uncles, aunts, cousins, nieces, nephews, and in-laws) and who lives in the same household with the official.

Can a public official hire a family member who doesn't live in the same household?

No. The official can't hire the family members in the numbered list (above) no matter where they live.

Reminder – Nepotism Restrictions

Can a public official hire a family member for a part-time or seasonal job?

No. A public official is prohibited from hiring a family member for any job—full time, part time, temporary, permanent, intermittent, or seasonal.

If a public official's family member is an applicant for a job, can the official interview the other applicants?

No. By doing so, a public official could be eliminating other applicants, which would be using the public position to secure the job for a family member.

Can a public official's family member work for the same agency as the official?

Yes, provided that:

- The official has not hired, recommended the hire, or otherwise been involved in any way in the hire of, the family member; and
- The family member is not the official's minor child.

What if a job candidate is a public official's minor child?

An official's minor child cannot work for the same agency unless the official can show four things:

1. The agency's hiring process will be fair and open and will not favor the children of the agency's officials and employees;
2. The agency will provide a broad opportunity to qualified and interested applicants to submit applications;
3. All qualified and interested applicants who are not related to agency officials or employees have already been hired; and
4. Vacancies still exist.

The official must also show that:

- The public had full knowledge of the family relationship; and
- The official did not participate in the agency's deliberation or decision involving the employment of family members.

Does this apply to all children under 18?

Yes, if they are un-emancipated. An unemancipated minor child is receiving support from and subject to the control of parents. Most minor children are unemancipated.

What about a step-child?

The same restrictions apply to a public official if the official's step-child is seeking a public job.

Why is the result different for minor children?

Because a parent has a legal right to control the earnings of an un-emancipated minor child, a public official would have a financial interest in the minor child's job.

What if the parent doesn't take the child's earnings or otherwise use the right to control them?

Even if the parent has not used the right to control the child's earnings, he or she could do so at any time. For that reason, the parent has a financial interest in the earnings.

Can a public agency have a policy or rule that allows officials to hire their family members?

No. The Ethics Law is part of the general criminal code of the state. Local charter provisions, ordinances, policies, rules, and other guidelines cannot conflict with general state law.

Reminder – Nepotism Restrictions

If a public agency has always hired the minor children of officials and employees in the past, can it continue that practice?

No. An agency cannot rely on past practice to justify not adhering to the Ethics Law.

What are the penalties for violations?

- Hiring a family member can be a felony offense.
- Having an interest in a family member's employment can be a misdemeanor offense.
- If a person is hired in violation of the Ethics Law, the employment contract is void and unenforceable, and the person can be removed from employment at any time.

How can I reach the Commission for help?

- Telephone: (614) 466-7090 Monday to Friday, 8:00 AM to 5:00 PM [Ask for an advisory attorney]
- Website: www.ethics.ohio.gov [Use the search term “nepotism”]

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This reminder is prepared for informational purposes only. It is not an opinion of the Commission. For guidance in a specific situation, please contact the Commission.