

Department of Finance and Administration
Office of Personnel Management

Policy Title: **Disclosure – Relatives, Marriage, Contracts**

Policy Number: **5**

Authority: **Ark. Code Ann. §§ 25-16-1001 et seq.; Governor’s Executive Order 98-04**

Issued: **July 1, 2017**

State law prohibits an individual from working in certain positions for a state agency for the following reasons:

1. Public officials are prohibited from hiring relatives;
2. An employee is prohibited from supervising a relative; and
3. Employees working for the same agency who plan to marry must disclose this to the agency director.

Employee: A person whose employment is not seasonal or temporary and whose actual performance of duty requires one thousand (1,000) or more hours during a fiscal year.

Public Official: The Secretary of State, Governor, Lieutenant Governor, Treasurer of the State, Auditor of the State, Attorney General, Commissioner of State Lands, a member of the Senate, a member of the House of Representatives, and the executive head of any agency, department, board, commission, institution, bureau, or council of this state.

Relative: A husband, wife, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, stepbrother, stepsister, half-brother, half-sister, brother-in-law, sister-in-law, daughter, son, stepdaughter, stepson, daughter-in-law, son-in-law, uncle, aunt, first cousin, nephew, or niece.

State agency: All boards, commissions, departments, agencies, institutions, state-supported institutions of higher education, and offices of constitutional officers of the State of Arkansas; and The General Assembly, including divisions, commissions, and bureaus operating under the authority of the General Assembly.

Supervisory employee: Any individual having authority in the interest of the state agency to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees of a state agency; or the responsibility to direct other employees of a state agency, to adjust their grievances, or to effectively recommend an action if the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Hiring Relatives

A public official shall not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the state agency in which the official is serving or which the official exercises jurisdiction or control over any person who is a relative of the public official and is an employee of a

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state agency or as a result of the public official's action could be an employee of a state agency.

Within each state agency, no relatives of employees shall be placed within the same line of supervision whereby one relative is in a supervisory position over the other. A temporary change in supervision resulting in the supervision of a relative will not be considered a violation of Arkansas law provided the supervision does not exceed 30 days. No hiring, firing, pay adjustments, or other personnel actions may occur during this temporary period of supervision.

All state agencies are required to obtain completed and signed disclosure forms from the top applicant(s), whether the applicant is a current or former (within the last 24 months) state employee or has never been employed by the state prior to a formal offer of employment. The disclosure requirements are as follows:

1. F3-F4 - Employee Disclosure/Certification and Employment of Family Members Form
2. F5-F6, F7 - Employee Disclosure Requirements/Restrictions Notice This portion of the form series is a three page document which includes information to an applicant and/or employee regarding financial interest gained through a familial tie to a state contract or grant, the penalties for non-disclosure, receipt and understanding of the legislation, and disclosure of his or her familial relationship, type of business, state contracting entity, amount, and nature of the benefit received/to be received.
3. F8 - Employee Disclosure of Family Members Form (State Application Portion)

The F3-F4 form is a two page document in which an applicant and/or employee discloses his or her familial relationship, position and office, as defined. Additionally, the form provides the hiring official and subsequent reviewers, the opportunity to determine whether the applicant/employee meets or does not meet the requirements for hire, as defined.

The F8 form is a checklist format found on state application forms for family member disclosure.

It is imperative that before an employment offer is made, hiring officials must ensure the applicant meets the specified requirements and that proper approval is obtained. If additional approval is needed beyond the Human Resource Manager, the correspondence must accompany the hiring packet.

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Agencies must also report the information obtained from the selected applicant/employee disclosure statements. The reporting mechanism is located on the Department of Finance and Administration’s Office of Personnel Management website:

To report the information obtained from the F3 use the reporting site:

<http://www.dfa.arkansas.gov/offices/personnelManagement/Pages/forms.aspx>

Married State Employees

Employees working for the same state agency who plan to marry must both complete the Marriage Disclosure Form. The employees must submit the form to their human resources department for review and approval. Failure to complete this form may subject the employees to termination for non-compliance.

If the marriage will result in a violation of the Arkansas law prohibiting relatives from working within the same line of supervision whereby one relative is in a supervisory position over the other, the agency director or his designee shall provide written notice of the following alternatives to resolve the violation:

1. Transferring one of the employees to another position within the agency;
2. Transferring one of the employees to another agency; or
3. The resignation of one of the employees.

The employees have the opportunity to choose among the alternatives; however, there is no guarantee that a position will be available within the employee’s current agency, or another agency. If the employees are unable to agree upon an alternative within 60 days, the agency director or their designee shall choose from the alternatives to correct the violation.

Agencies must inform employees of the law by written notification of the rules, inclusion of the rules in the agencies employee handbook and/or inclusion in new employee orientation programs.

The nepotism section of the State of Arkansas Employment Application shall be completed in its entirety listing the name, relationship, and job title of all relatives currently employed by the state agency for which application of employment is being submitted. The Human Resources section of the agency or institution will then decide if the hiring of the applicant is in violation of this law.

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If an employee of an agency suspects a violation of this law has occurred, they may submit a completed Violation of Hiring Practices/Supervision of a Relative form to OPM for a determination of whether a violation has occurred. OPM will report violations to the Attorney General’s Office for resolution.

This law does not apply to an employee who was hired, transferred or promoted in a state agency prior to August 12, 2005.

Penalty

Anyone who approves a position and authorizes compensation to an employee in violation of this law will be charged with a Class A misdemeanor. A public official who knowingly violates this law is subject to a civil penalty of \$1,000.