



HAWAI'I STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i 96813

August 11, 2023

Via-Email: david.dinkel@k12.hi.us

David Dinkel
Principal
Kalanianiana'ole Elementary School

Re: *Request for a Good Cause Exception to Nepotism Prohibition*

Dear Mr. Dinkel:

Thank you for contacting our office to request a good cause exception to the Nepotism Law. You are the principal of Kalaniana'ole Elementary School ("Kalaniana'ole Elementary"). You requested a good cause exception so that your spouse may be hired as a full time teacher at Kalaniana'ole Elementary. In your good cause exception application form and in a subsequent call, you informed the Hawai'i State Ethics Commission ("Commission") that your spouse has worked as a part-time teacher at Kalaniana'ole Elementary for the past several years. Last year, she served as a substitute teacher for Kalaniana'ole Elementary, and will do so again this year. Unbeknownst to you, she applied for a full-time teaching position at Kalaniana'ole Elementary. The position was advertised on July 21, 2023, and you had no idea she applied nor did you assist with her application in any way. If she is hired, you have indicated that your spouse will report to the Vice Principal, and that you will not supervise her.

Based on the information provided, it is our opinion that the Nepotism Law does not prohibit Kalaniana'ole Elementary from hiring your spouse because you have shown that you intend to comply with the law without the necessity of a good cause exception. The Nepotism Law prohibits state employees from taking employment action affecting relatives or household members. Employment action includes such things as hiring, evaluating, demoting, or supervising a relative or household member. The law further provides that the Ethics Commission may grant an exception to this law upon good cause shown. Good cause may include a demonstrated lack of qualified employees or candidates.¹

In this case, a good cause exception is not required because you have indicated that you will not supervise or take action affecting your spouse, nor did you participate in her hiring process.

Finally, you should be aware of an additional section of the Ethics Code. Haw. Rev. Stat. §84-13(a) prohibits state employees from using their state positions to grant themselves or anyone

¹ The Nepotism Law is available at:

https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=HB&billnumber=717&year=2023

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else any unwarranted benefit or advantage. State employees who work alongside relatives must be extremely careful not to accord their relatives any special treatment.

Thank you for your request for an exemption. This letter is based on the information provided by you and other employees of the DOE. If any of this information is inaccurate, please inform us as soon as possible as this may affect our decision.

If you have questions or would like to discuss this matter further, please contact me at (808) 587-0460.

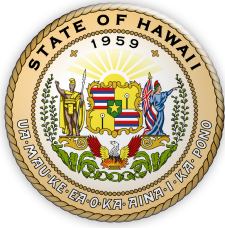
Sincerely,

A handwritten signature in black ink, appearing to read "Kee Campbell", written in a cursive style.

Kee M. Campbell
Enforcement Director

Attachment: Nepotism Quick Guide

KMC/lis



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1001 Bishop Street, Suite 970 | Honolulu, HI 96813 | info.ethics@hawaii.gov | (808) 587-0460 | Twitter: @HawaiiEthics

THE STATE ETHICS CODE - A QUICK GUIDE ON THE NEPOTISM LAW

DOES THE NEPOTISM LAW APPLY TO ME?

The nepotism law applies to almost all state employees (including board members). Exceptions include employees in the legislative or judicial branches.

The Commission encourages all state employees to comply with this law.

What does the nepotism law prohibit?

If the nepotism law applies to you, there are two restrictions:

1. You cannot take employment action affecting relatives or household members.

- This means you cannot appoint, hire, promote, retain, demote, discharge, terminate, or supervise a relative or household member from a paid position in your agency.
- This also means you cannot participate in an interview or discussion regarding a relative or household member’s potential hiring, promotion, or retention to a paid position in your agency.
- There is an exception for supervising a relative where you have a physical impairment requiring the hiring of a particular relative or household member and the employment is disclosed to the Commission before the hire is made.

2. You cannot be involved in contracts awarded to businesses owned by relatives or household members.

- You may not award or be involved in administering/supervising a contract to a business where a relative or household member:
 - is an executive officer of that business or
 - owns a substantial interest in the business.
- For example, an employee could not sit on the selection panel of a request for proposals if one of the applicants was owned by a relative.
- **Narrow exception:** if you are legally required to take action affecting a relative or family member’s business, you may do so when you file a notice with the Commission at least five days in advance.

What is a Relative?

A “Relative” includes parents, grandparents, children, grandchildren, siblings, uncles/aunts, cousins, in-laws, and step-relationships.

A “household member” is anyone who resides in the same dwelling.

THE STATE ETHICS CODE - A QUICK GUIDE ON THE NEPOTISM LAW

What should I do if I supervise a relative at work?

Employees generally cannot supervise their relatives, and agencies and employees should work together to comply with the nepotism law. For instance, a supervisor could delegate all employment decisions affecting a relative to another person in the agency. To avoid the appearance of impropriety, it will be important to document that employment decisions are being made by someone else and be public about that delegation.

If that is not possible, you may apply to the Commission for an exception to the nepotism law where there is good cause. You must prove good cause, which might include a lack of qualified applicants, in a public and transparent manner. An exception form can be found at ethics.hawaii.gov.

How do I establish good cause?

When applying for a good cause exception, it is important that the employee or agency produce evidence that they are unable to comply with the nepotism law. For hiring decisions, this could include ensuring that the job description was reviewed for general applicability; meaningfully advertising in relevant locations; advertising for a reasonable period; acting quickly to review and consider potential candidates; and generally going above and beyond to recruit applicants into the state system.

For existing state employees taking action affecting relatives, a good cause exception application should include proof of why the agency and employee are unable to delegate those duties to another employee and the efforts that were made to comply with the nepotism law absent an exception.

What should I do if I am asked to interview a relative for a job opportunity?

Employees may not interview or promote their relatives. An employee that is asked to do so should disclose their relationship to their agency and refrain from participating in the hiring process.

What are the penalties for a violation?

Employees violating the nepotism law face fines of up to \$1,000 per violation, any favorable treatment received by a relative or household member is potentially voidable.

Contact Us:

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