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BULLETIN—

Reminder about Summer Jobs and Restrictions on Nepotism

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

FROM: David Freel, Executive Director
Jennifer Hardin, Advisory Chief

DATE: May 29, 2008

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

At its meeting today, the Ohio Ethics Commission took the opportunity to issue 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 check out our Web site—www.ethics.ohio.gov.

What does the law prohibit?

Ohio's Ethics Law prohibits any public official (including any public employee) from:

- * Hiring a family member for a public job;
- * Using his or her public position to get a public job (or other contract) for a family member (for example, a public official can't ask another official to hire his or her family member);
- * Using his or her position to get promotions, selective raises, or other job-related benefits for a family member.

Who is a "public official"?

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

- * Who is elected or appointed to a full-time 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;
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 as long as he or she doesn't live in the same household with the official?

No. The official can't hire the family members in the numbered list no matter where they live. Residence only matters for the last group of relatives.

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.

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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 his or her 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 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 his or her interest; and
- * The official did not participate in the agency’s deliberation or decision.

Does this apply to all children under 18?

It applies to children under 18 who are unemancipated. An unemancipated minor child is receiving support from and subject to the control of his or her parents. Most minor children are unemancipated.

What about a step-child?

The same restrictions apply to a public official if his or her 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 his or her unemancipated minor child, a public official would have a financial interest in his or her child’s job.

What if the parent doesn’t take the child’s earnings or otherwise use his or her control over them?

Even if the parent has not used his or her 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.

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 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 family member is hired in violation of the Ethics Law, his or her employment contract is void and unenforceable, and he or she can be removed at any time.

How can I reach the Commission for help?

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