



School board members, school employees and nepotism

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This fact sheet is designed to address the most frequently asked questions about family members serving the same district, either as employees or board members. This information is of a general nature. Readers should seek the advice of legal counsel regarding specific legal problems and questions.

What is nepotism?

Nepotism is the practice of hiring family members. Under Ohio law, public officials and employees are prohibited from hiring their family members for public jobs. They are also prohibited from using their positions to secure job-related benefits for their family members.

What are the laws that prohibit nepotism?

There are three applicable laws. None of these laws includes the word "nepotism." However, they restrict public officials from securing contracts, including employment, for relatives. The laws are:

- Ohio Revised Code (RC) 3319.21 – states that if a school board member votes for or participates in the making of a contract to hire the board member's child, brother or sister as a teacher or instructor, the contract is void.
- RC 2921.42 – prohibits a public official from authorizing or using their position to secure authorization of any public contract, including an employment contract, in which a "member of the public official's family" has an interest.
- RC 102.03(D) – prohibits an official from using their position to secure anything of value if the thing of value could have a substantial and improper influence on the official.

Which school personnel are covered by these laws?

RC 3319.21 applies to school board members.

RC 2921.42 applies to all public officials. In a school district, all school board members, administrators, teachers and employees, whether full time or part time or serving in temporary or permanent positions, are subject to this restriction.

RC 102.03 applies to public officials and employees but excludes teachers if they do not perform any supervisory or administrative duties. In a school district, all school board members, administrators and employees other than teachers are subject to this restriction.

Are teachers ever subject to RC 102.03?

Teachers are subject to the restriction in RC 102.03 only if they perform or have the authority to perform administrative or supervisory functions. The Ohio Ethics Commission (OEC) has explained that any teacher or educator whose position includes "any duties that involve managing or directing the activities of the school district or other school employees, or supervising other school employees," is subject to this restriction. Some examples include a teacher who is the head of an education department or who serves as a head coach or band director and supervises assistants (OEC Adv.Op. No. 2000-04).

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For more information on this subject, please contact OSBA's Division of Legal Services

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Initial service

Can two family members serve on the same school board?

Yes. There is no law that prevents two or more family members from serving on the same board of education. However, a board member would be prohibited from appointing a family member to a vacant position on the board.

Can a board member's family member work for the district?

In most cases, yes. The laws do not restrict a board member's family member from working for the district.

The only exception is when the family member is a minor child of the board member. Because a parent has a statutory right to the earnings of their minor children, OEC has explained that a board member has an unlawful interest in a contract between the district and their unemancipated minor child, even if the board member does not vote on or otherwise act to secure the hire of their child ([OEC Adv.Op. No. 93-008](#)).

For that reason, the Ethics Law prohibits the unemancipated minor child of a school board member from working for the district unless all of the following apply:

- the district has conducted a fair and open hiring process;
- all qualified and interested applicants who are not minor children of the board member have been offered employment;
- vacancies remain.

The board member cannot participate, in any way, in the district's hire of their unemancipated minor child.

Can a board member vote to hire a family member?

The answer depends on both the law and the closeness of the family relationship.

RC 3319.21 provides that any time a board is voting on a teaching contract with any person to whom a board member "is related as father, brother, mother or sister," that contract will be void if the board member votes on it. Under RC 3319.21, a board member cannot vote on a teaching contract for the board member's child or sibling.

RC 2921.42 prohibits a school board member from authorizing – or using their position on the board to secure authorization of – a public contract if a "member of the [board member's] family" has an interest in the contract. This law prohibits a board member from voting to hire anyone who falls within the definition of "member of the ... family."

Who falls within the definition of "member of the ... family"?

This term is not defined in the law. OEC has defined it to include a school board member's parent, child, grandparent, grandchild, spouse or sibling, including step-relations, regardless of whether the family member lives in the same household with the school board member.

OEC has also included, within the definition, any other person related to the board member by blood or marriage who resides in the same household with the board member. This group of people includes uncles, aunts, nieces, nephews, cousins and in-laws.

Is it legal for a board member to vote to hire their adult child who is financially independent and does not live with them?

No. A board member's child, regardless of age, financial independence or residence, is a member of the board member's family. RC 2921.42 prohibits a board member from voting to hire their adult child under any circumstances. If a board member did vote to hire their adult child, the contract would be void under both RC 3319.21 and 2921.42(H).

Can a school board member abstain from the vote but recommend that the board hire a family member?

No. The law prohibits a board member from taking any action to secure authorization of employment for a family member. This means that the board member cannot vote to hire a family member. However, even if they plan to abstain from the vote, the board member is also prohibited from lobbying other board members; recommending the employment to a district employee; participating in the deliberation or discussion about the hire, in both open and executive session; and taking any other formal or informal step to secure a job for a family member.

Can a district superintendent recommend the hire of a family member?

No. RC 2921.42 prohibits a superintendent from taking any action to secure the hire of a family member. The superintendent cannot participate in interviews of a family member, recommend the family member for a job or act in any other way to secure employment for them.

A superintendent also cannot nominate a family member for a job. The superintendent's nomination is required for some employees to be hired by a district. RC 3319.02 requires that the superintendent nominate any candidate for employment as an administrator before the board can hire the candidate. RC 3319.07 requires that

the superintendent nominate any candidate for employment as a teacher before the board can hire the candidate.

In some situations, the law allows someone else to make a nomination for employment in place of the superintendent. RC 3319.07 allows the board to designate someone other than the superintendent to make nomination of the employment of a candidate for teacher if the superintendent's nomination would be a violation of RC 2921.42. However, there is no provision in RC 3319.02 for a similar designation when hiring an administrator.

If the superintendent's nomination is required to hire a family member for the district job and the board cannot or does not designate someone other than the superintendent to make the nomination, the family member cannot be hired (OEC Adv.Op. No. 2010-03).

Can any other employee use their position to get a job for a family member?

No. RC 2921.42 applies to every person who is a public official or employee, which includes everyone employed by a school district. All school district employees are prohibited from using their positions or taking any actions to help a family member get a job in the district.

Job changes and discipline

Can a board member or employee vote on a family member's raise or promotion?

No. Board members and district employees are prohibited from using their positions to secure any definite and direct job-related benefits, including raises and promotions, that would be to the advantage of their family members.

Can a board member or employee act if a family member is the subject of discipline?

No. Board members and district employees are prohibited from using their positions to help a family member avoid any definite and direct job-related detriment. If their family member is the subject of a disciplinary action, board members and district employees should not participate in those matters.

Can a board member or employee act if a family member is asking for a change in assignments, duties or other aspects of employment?

It depends. If the change would result in a definite and direct benefit, or avoid a definite and direct detriment, to the family member, the board member or employee would be prohibited from acting on the matter. The best approach is for district officials and employees to avoid participating in any matters that affect a family member's employment.

Can a board member vote on across-the-board pay increases, reductions in force (RIFs) or other indirect benefits or detriments that affect a family member when they are a member of a large class of employees?

Yes. The law does not prohibit a board member from voting on matters that affect a large class of district employees that includes a member of their family, provided that the family member is affected in the same manner as other district employees (OEC Adv.Op. No. 92-012).

Can a board member participate in executive session if a family member's employment is being discussed by the board?

No. The board member may be able to attend the executive session but cannot participate in the board's discussion of the matter. If the board will be discussing confidential information, such as a lawsuit brought by the board member's relative against the board, the board member is prohibited from attending the executive session. The best approach is for the board member to stay out of any portion of an executive session while the board is discussing the board member's family member.

Collective bargaining agreements (CBA) **Is a CBA a public contract?**

Yes. However, CBAs that affect a class of district employees are treated differently from contracts with individual district employees.

Can a board member vote to approve a CBA if a family member is a member of the union?

It depends. The board member can vote to approve a CBA if their family member is one of the employees affected by the CBA unless:

- Their family member is an officer or employee or on the union's negotiating team.
- Their family member is affected by the CBA in a way that is different from the way it affects all other employees.
- The board member is covered under the health insurance provided to their family member by the CBA. For example, the board member is a covered spouse under a spouse's health insurance or the board member is a covered child under a parent's health insurance.

Can a board member serve on the negotiating team for the district if a family member is a member of the union?

Because of provisions in the collective bargaining law, OEC has recommended a board member not serve on the district's negotiating team if a family member will be covered by the CBA.

Conclusion

These are some, but not all, of the matters that can arise when multiple members of the same family serve the same district. The law doesn't prohibit relatives from serving together, but it does limit their actions when matters come up that affect their relatives.

As always, OSBA's Division of Legal Services is available to answer general questions about Ohio laws as they affect school district service. The division staff is available at (855) OSBA-LAW or (855) 672-2529. For specific questions, district officials and employees should consult with the board's attorney or contact the Ohio Ethics Commission at (614) 466-7090.

The information in this fact sheet is designed to provide authoritative general information. It should not be relied upon as legal advice. If legal advice is required, the services of an attorney should be obtained.