

CITY OF FRISCO PERSONNEL POLICIES
SECTION: RECRUITMENT AND EMPLOYMENT

Subject: **NEPOTISM** **Effective Date:** 06/21/2006
Approved By: **Ordinance 06-06-58** **Revision Date:**04/04/2023
Revision Approved by: Ordinance 2023-04-18

I. STATEMENT OF PURPOSE:

The purpose of this policy is to define permissible business relationships in the workplace that involve relatives related either by affinity and/or consanguinity for the enforcement of nepotism provisions.

II. APPLICABILITY:

This policy is applicable to all City employees. As provided under the Texas Government Code and opinions from the Texas Attorney General, the City may enact and enforce anti-nepotism policies that are stricter than what is required by state laws and/or regulations, as long as the policy is consistent with the policy against favoritism under the underlying state nepotism statute. See Tex. Att'y Gen. JC-0546 (2002) and LO-93-30 (1993). This policy is narrowly tailored to further a legitimate state interest and did not violate the appellants' equal protection rights under the Texas Constitution.

III. DEFINITIONS:

Nepotism - The practice of favoring, providing benefits to, or giving any workplace preference to, relatives over other employees.

Relatives - Includes, but are not limited to, the first and second degree of consanguinity (blood), adoption; and the first and second degree of affinity (marriage). Common Law marriages as recognized by the State of Texas will also be included within the definition of affinity for purposes of this policy.

Consanguinity (Blood Relationships) and Adoptive Relationships

First Degree	Second Degree
Mother	Grandparent
Father	Grandson
Daughter	Granddaughter
Son	Uncle
Brother	Aunt
Sister	First Cousin
	Niece
	Nephew

Affinity (Marriage Relationship)

First Degree	Second Degree
Wife	Brother-in-Law
Husband	Sister-in-Law
Son-in-Law	Spouse's
Daughter-in-Law	Grandparent
Mother-in-Law	Grandchild
Father-in-Law	Step-Grandchild
Stepmother	Stepsister
Stepfather	Stepbrother
Stepson	Cousin-in-Law
Stepdaughter	

Cohabitants – Persons who live together in a sexual relationship but are not married, nor are declared to be married are included as employees in a relationship subject to this policy.

Roommates -Supervisor and Subordinate who share the same living quarters.

IV. GENERAL PROVISIONS / VIOLATIONS:

- A. **Supervision**: No City employee shall be permanently supervised directly by an employee related within the prohibited level of consanguinity and/or affinity, a cohabitant or a roommate ("Identified Employees"), as specified above. City employees will not be hired, transferred, or promoted into, positions that would cause them to be in a direct supervisor/subordinate relationship with an Identified Employee in violation of this provision.
- B. **Applicants**: All external applicants for employment must, at the time of application and hire, disclose the name(s) of any Identified Employee(s) serving as elected City officials or currently working for the City in any capacity.

Nondisclosure of this information by an applicant shall be deemed as falsification of his/ her application and shall result in non-consideration for a position and/or termination if the person has already been placed on the payroll. Current employees found to be in collusion with an Identified Employee in an effort to violate and/or circumvent this Policy, may be subject to disciplinary action, up to and including, termination of employment.

- C. **Employees**: When a prohibited relationship is created between employees in violation of this policy, the affected employees must inform their Department Director of the relationship that violates this policy within five City business days of the creation of the prohibited relationship. Failure to disclose this information to the affected Department Director(s) shall result in disciplinary action, up to and including, termination.
- D. **Promotions/Transfers**: All employees who are being considered for promotion or transfer to another position (whether in the same department or to a position in another department) must, at the time of the application for promotion or transfer, disclose on the application or to the hiring manager, the name(s) of any Identified Employee(s) serving as elected City officials or currently working for the City in any capacity. Non-disclosure may result in disciplinary action, up to and including, termination.
- E. **Conflict of Interest**: Identified Employees may work in the same department (subject to the prohibitions regarding supervision), unless otherwise specified in SPECIAL CONSIDERATIONS. Further, Employees and Identified Employees shall not be placed in positions allowing for financial signature approval of any purchasing or payroll transactions for one another. In the case where business demands require indirect or temporary supervision of Identified Employee(s), the Department Director of the affected employee(s) is responsible for establishing a process of auxiliary review for the affected employee(s) to include review and signature authority over timesheets, purchase orders and any other action where a conflict could arise from the reporting relationship of relatives, cohabitants or roommates.

The hiring, transfer, and/or promotion, of Identified Employees shall not be allowed, even in different departments, if that action results in a violation of this Policy and/or creates a conflict of interest, or the appearance of a conflict of interest for the City as determined by the City Manager and/or his/her designee. When any relationship prohibited under this Policy and/or that constitutes a conflict of interest exists, the City reserves the right to take appropriate action to eliminate the violation, which may result in action being taken up to, and including termination.

- F. **Recommendation for Hiring:** A current City of Frisco employee may not be involved in the hiring or selection of an Identified Employee.
- G. **Disciplinary Actions:** Supervisors may not participate in disciplinary decisions or appeals involving an Identified Employee.

V. PROCEDURES:

- A. This policy applies regardless of whether the policy violation is the result of employee action, or as a result of any amendment to this policy and/or other action by the City.
- B. **Employees Who Become Identified Employees:** When a relationship is created which is not allowed by this policy, one of the employees must vacate and/or resign his/her position depending on the position held as identified in Special Considerations below. The decision as to which employee shall vacate his/her position shall, initially, be left up to the affected employees. In all such situations, the following procedures shall apply:
 - 1. As noted above, the affected employees shall disclose their potential violation of this policy to their Department Director. The Department Director will notify Human Resources of the potential policy violation.
 - 2. If Human Resources determines there is a policy violation, Human Resources will notify the affected employee(s) of the policy violation.
 - 3. Upon receipt of notification of the policy violation, the affected employees shall be given (15) fifteen calendar days from the date of the policy violation occurrence to make a decision as to which affected employee shall vacate his/her position.
 - 4. **Preferential Hiring:** Preferential-hiring consideration will be provided for those employees who must terminate under this policy. The City will endeavor to work with employees while they apply and/or interview for jobs for which they are otherwise qualified and that are not in violation of this policy. The employee(s) shall be required to provide advance notice to his/her supervisor prior to the date of such interview(s) or appointment(s) and to work with the supervisor on scheduling such absences. Preferential hiring consideration shall no longer be given to an employee who refuses a bona fide job offer.
 - 5. At the conclusion of the 15-day post notification period, the affected employees shall be given an additional fifteen (15) calendar days in which to vacate one of the positions. If the employees fail to make a decision as to whom should vacate his/her position within the fifteen (15) calendar day notification period, the Department Director(s) shall notify the employee who has the least seniority with the City, based upon the most recent hire date, that he/she must vacate his/her position.

- C. **Grace Period**: Employees who are found to be in violation of this policy, following the effective date, shall comply with Section V.B. of this policy.

VI. SPECIAL CONSIDERATIONS:

- A. **Elected Officials and Executives**: Article XIV, Section 14.01 of the Home Rule Charter of the City of Frisco states:

“NO PERSON RELATED WITHIN THE SECOND DEGREE BY AFFINITY OR WITHIN THE SECOND DEGREE BY CONSANGUINITY TO THE MAYOR OR ANY COUNCIL MEMBER OR THE CITY MANAGER SHALL BE EMPLOYED BY OR CONTRACTED WITH FOR THE CITY. THIS SHALL NOT APPLY TO THE FOLLOWING:

- (1) ANY PERSON EMPLOYED BY THE CITY PRIOR TO THE PERSON RELATED IN THE ABOVE DEGREE FILING TO RUN FOR ELECTIVE OFFICE OR BEING NOMINATED FOR AN APPOINTMENT, OR
- (2) ANY PERSON WHO IS A SEASONAL EMPLOYEE OR INTERN OF THE CITY.”

- B. Section VI.A does not apply to an appointment; confirmation of an appointment; promotion; or vote for an appointment, promotion and/or confirmation of an appointment of an Identified Employee to a position if the individual is employed in the position immediately before the election or appointment of the public official to whom the Identified Employee is related in a prohibited degree; if the prior employment of the individual is continuous for at least:

- a. 30 days, if the public official is appointed;
- b. six months, if the public official is elected.

- C. If, under Section VI.B, an Identified Employee continues in a position, the public official and/or employee to whom the Identified Employee is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, promotion, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the Identified Employee if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

D. Designated Departments:

1. There are some departments/positions within the City that, because of the nature of the work conducted, it is inappropriate for persons in these department/positions to be related to any Identified Employee employed by the City, regardless of whether they supervise the Identified Employee. Within the City of Frisco, these departments, divisions and positions include:
 - a. City Manager's Office
 - b. City Secretary's Office
 - c. Human Resources Department
 - d. Accounting, budget, and payroll functions that are a part of the Finance Department.
 - e. Purchasing, Risk Management and any Inventory functions that are a part of the Administrative Services Department.
2. Because of the nature of work conducted, Identified Employees shall not be employed at the same time in any capacity by the Police Department.
3. The City of Frisco reserves the right to designate additional departments/positions to those listed herein as necessary to prevent adverse impact on the work environment.

- E. **Department Directors:** No Identified Employees of a Department Director may be employed by the City of Frisco after the effective date of this policy.