

Diaz-Greco, Gilma M. (COE)

From: Ethics (COE)
Sent: Monday, January 13, 2014 3:43 PM
To: Brewer-McDuffie, Cecilia (WASD)
Cc: Diaz-Greco, Gilma M. (COE); Sanchez, Gerald (CAO)
Subject: INQ - Cecilia Brewer-McDuffie (WASD) (Nepotism)

Ms. Brewer-McDuffie:

You have inquired as to whether there is a violation of the County's Nepotism Policy for an Assistant Director in WASD to have the spouse of a stepdaughter working within one of the divisions under the chain-of-command of this AD, noting that there are at least four layers of supervision between the AD and this employee.

The County's Nepotism Policy is based upon the State law that deals with nepotism, Section 112.3135, Florida Statutes. Please be aware that the policy is an administrative policy, and, therefore, is not enforced by the Miami-Dade County Commission on Ethics. The Miami-Dade County Commission on Ethics also does not have jurisdiction to authoritatively interpret or to enforce the state law, which falls under the purview of the State of Florida Commission on Ethics. Therefore, any advice that we may provide is not a definitive or binding opinion. Nonetheless, I will provide you with some informal guidance on the subject.

The State anti-nepotism statute (F.S. 112.3135) prohibits employment, promotion or advancement, of specified relatives by any public official who is vested with or delegated the authority to appoint, employ, promote or advance, or is in a position to recommend an individual for appointment, employment, promotion or advancement. It applies to any public official who has that vested or delegated authority, regardless of whether it is further delegated to avoid an apparent conflict. For this reason it would not make any difference that there are other levels of supervision if the Assistant Director holds a position that would permit the AD to be involved in the appointment or promotion of a designated relative.

However, the definition of "Relative" under Section 112.3134(1)(d) includes only "an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister." The list does not include the **spouse** of a stepdaughter.

Since the foregoing list does not include the spouse of a stepdaughter, it appears that the situation to which you are referring does not fall within the prohibitions of the County Anti-Nepotism policy or the State of Florida anti-nepotism statute.

Although there may be no legal prohibition involved in this situation, care should always be taken by County officials to avoid appearances of impropriety whenever possible. The County's Anti-Nepotism policy states that, "Department directors are strongly encouraged to refrain from placing relatives within another relative's chain of command or placing or maintaining relatives in close proximity to a departmental subunit."

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust

From: Brewer-McDuffie, Cecilia (WASD)
Sent: Monday, January 13, 2014 11:37 AM
To: Ethics (COE)
Subject: Conflict Determination of Miami-Dade County's Nepotism Policy

I would appreciate an opinion in the following scenario:

I have an Assistant Director (AD) whose stepdaughter's spouse works within one of the divisions that is within the chain-of-command of this AD. Is this considered conflict of the policy?

NOTE: There are at least four layers of supervision between the AD and this employee.

Should you need additional information, please feel free to contact me. Thank you.

Cecilia Brewer-McDuffie
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