

Executive Order No. 1 - 11

Prohibition of Nepotism

WHEREAS, it is the policy of the City of Philadelphia to promote a workplace environment free of situations in which close familial relationships could result in actual or perceived conflicting interests, undue favoritism, or biased decision-making;

WHEREAS, close familial relationships between a City supervisor/manager and his/her subordinate employee may lead to actual or perceived conflicts of interest related to the supervisor's/manager's and the employee's City employment;

WHEREAS, Section 1103(a) of the State Ethics Act provides that no public official or public employee shall engage in conduct that constitutes a conflict of interest, and the State Ethics Commission has ruled that the hiring of a family member by a public official or employee with authority over the family member's position generally presents such a conflict of interest;

WHEREAS, Sections 20-607 and 20-608 of The Philadelphia Code prohibit City officials and employees from taking official action on, among other things, a contract or decision in which a family member has a financial interest; and

WHEREAS, Civil Service Regulation 13.02 permits the transfer of permanent Civil Service employees from one assignment to another and from one department to another;

NOW, THEREFORE, by the powers vested in me by the Philadelphia Home Rule Charter, it is hereby ORDERED that:

Section 1. Definitions.

A. "Immediate family member" for purposes of this Executive Order shall mean a spouse, life partner (as defined in Section 9-1102 of The Philadelphia Code), parent, child, sibling, or like relative-in-law. In the case of life partners, "like relative-in-law" shall include any person who would be defined as an immediate family member if the life partners were legally married.

B. "Restricted Employment Relationship" for purposes of this Executive Order shall mean the supervision by a City official or employee of another employee who is an immediate family member of the supervising official or employee. "Supervision" shall include all employees in the direct line of reporting below the City official or employee. A City "employee" for this purpose shall mean all persons (including contract employees) who are directly supervised by a City official or employee.

Section 2. Restricted Conduct.

- A. No City official or employee shall have any role in the hiring (including interviewing, assessing, influencing or approving the selection of the candidate) of an immediate family member.
- B. No City official or employee shall participate in any decision (including, but not limited to, a decision involving appointment, evaluation, promotion, compensation, work assignment, transfer or discipline) that may benefit or disadvantage an immediate family member.
- C. No City supervisor or manager shall continue in, or enter into after the date of this Executive Order, a Restricted Employment Relationship without application of the remedial actions set forth in Section 4 hereof.

Section 3. Reporting Requirements.

- A. If a City employee is now assigned, or is in the future assigned, to work for a supervisor or manager who is an immediate family member, the supervisor/manager who is party to such relationship shall promptly disclose the existence of the relationship to the Director of the Office of Human Resources and to the supervisor/manager's appointing authority.
- B. The failure by the involved supervisor/manager promptly to disclose the existence of a Restricted Employment Relationship shall be grounds for disciplinary action, up to and including termination.
- C. All Department Commissioners and Directors, and their respective deputies, managers and supervisors, shall promptly inform the Director of the Office of Human Resources of any relevant information concerning themselves, or concerning other employees in their departments, who are in Restricted Employment Relationships.
- D. Any employee who believes that he or she has been adversely affected by a Restricted Employment Relationship, regardless of whether it has been formally disclosed, or believes that the relationship poses a conflict of interest, shall report the matter to the Director of the Office of Human Resources.
- E. Upon learning of the existence of a Restricted Employment Relationship, the Director of the Office of Human Resources shall inform the appointing authority for the employees in the relationship, and any other City official who, in the judgment of the Human Resources Director, should know of the existence of the relationship.

Section 4. Remedial Actions.

A. Upon learning of the existence of a Restricted Employment Relationship, the appointing authority shall ensure that the employee and supervisor/manager do not work together on the same matters (including matters pending at the time the relationship is disclosed), and that the supervisor/manager immediately withdraws from participation in activities or decisions (including, but not limited to, evaluations, promotions, compensation, work assignments, transfers and discipline) that may benefit or disadvantage the supervisor/manager's immediate family member, by taking one or more of the following actions:

(.1) Reassigning or transferring one or both employees to a suitable assignment or position that eliminates the Restricted Employment Relationship;

(.2) Reassigning the supervisor's responsibility for all decisions, including any approval authority for such decisions, regarding the employee's appointment, performance evaluations, promotions, compensation, work assignments, transfers and discipline; or

(.3) Any other action that he or she deems necessary to protect the best interests of the City and to avoid the appearance of a conflict of interest.

B. In the event that a potential Restricted Employment Relationship with a City official or employee is presented by a proposed hiring or appointment decision, the City official or employee who is party to such relationship shall not participate in the hiring process, and his or her appointing authority for, or any advisory role in, the hiring decision shall be delegated to the next highest individual up the chain of command or, as appropriate, to a person of lateral authority.

(.1) If such employment candidate is the immediate family member of a City official or employee with some authority to participate in the hiring process for that position, the hiring of such immediate family member shall be pursuant to an open and public process, including prior public notice of the position and subsequent disclosure, upon request, of all candidates considered.

(.2) If an individual hired pursuant to the procedures required by this Order would be in a Restricted Employment Relationship with a City official or employee, that official or employee shall observe the restrictions imposed by Section 2.B. hereof, and any such decisions regarding the subordinate employee shall be transferred to the next highest individual up the chain of command, or as appropriate, to a person of lateral authority. Unless an exemption is granted under Section 4.C. hereof, the official who is party to such relationship shall not supervise the employee.

C. If the appointing authority believes that the operational needs of a particular department limit the ability to eliminate conduct prohibited by this Order, he or she may submit a request to a committee consisting of the Managing Director, City Solicitor and Director of Human Resources for an exemption allowing the supervisory relationship to continue. The request shall set forth the business necessity for the exemption, the requested duration, and the controls that the appointing authority will implement to reduce insofar as possible the contact between the parties to the Restricted Employment Relationship and to eliminate any potential conflict of interest arising from the Restricted Employment Relationship. The requested exemption may last no longer than one year but may be reviewed and renewed annually.

Section 5. General Provisions.

A. Questions concerning the applicability of this Executive Order shall be referred to the Director of the Office of Human Resources.

B. Nothing in this Executive Order is intended to supersede the requirements of any applicable State or City law or provision, which remain in full force and effect.

C. This Order shall become effective immediately upon execution.

1/25/11
DATE


Michael A. Nutter, Mayor