

Memorandum



Date: January 9, 2023

To: Department Directors

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Miami-Dade County Nepotism Policy

Miami-Dade County's personnel system is based on merit principles; all appointments and promotions in the County's merit system are to be made solely on the basis of merit and fitness. Department Directors are responsible for ensuring that their departments' appointment and promotion processes are conducted in a non-discriminatory manner without regard to among other factors, familial status. Miami-Dade County's nepotism policy is based upon Section 112.3135 of the Florida Statutes which prohibits the appointment, 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 who is in a position to recommend an individual for appointment, employment, promotion or advancement. Nevertheless, promotions and advancements of specified relatives which are of a ministerial nature (promotions/advancements which do not involve discretion on the part of the County, the Mayor, Department Director or other hiring authority) are not prohibited by the anti-nepotism law. For example, promotional policies where officers are ranked for promotion by test score and time in-grade and the top applicant is always promoted unless he or she declines, has committed a disqualifying offense, or is under investigation, involve no discretion.

Consistent with these guidelines, the principle of promoting employees based on merit, and in order to promote and ensure fairness and equity in our workforce, I am modifying the County's Nepotism Policy as follows. Effective immediately, in all future cases where the relative of a department director or director's delegee has qualified for promotion to a position in the department which requires a civil service examination and is deemed as the best candidate based solely on objective criteria, I am removing the director's promotional authority and delegating that authority to the Director's Chief or equivalent Chief who reports directly to the Mayor. It should be noted that all civil service promotional examinations must be developed, approved, administered, and scored by the Human Resources Department and independent of the hiring Department. Through these new rules, the Administration aims to improve the County's past policies, avoid conflicts of interest, and ensure all promotional reviews are done fairly.

Officials with the authority to appoint or promote or who are in a position to recommend appointment or promotion cannot avoid the statute's prohibitions by temporarily delegating their authority to others in particular cases. Accordingly, it is important to clarify who, under County policy or practice, has been vested or delegated the authority to appoint and promote employees or to recommend appointment or promotion of employees. The Personnel Rules for the Classified Service provide that department directors are vested with the authority to appoint or promote employees within their departments. Department directors may, and usually do, delegate hiring decisions to subordinate deputy directors, assistant directors, division directors and managers. The delegation of this authority does not negate the department director as the vested authority. Thus, the nepotism prohibitions will always apply to the

appointment or promotions of relatives by department directors, regardless of any administrative delegation of the appointment authority to others, with the exception, as previously noted, to positions which require an objective, civil service, promotional examination as part of the recruitment/selection process. any delegation by directors of their delegated authority has the effect of expanding the prohibitions to those with the delegated authority, but it does not absolve the department director of his or continuing obligation to abide by the statute's prohibitions.

If, by policy or practice, a department director has delegated employment and promotion authority to a lower-level executive or manager, the law's prohibitions apply to them as well. They likewise cannot avoid the law's prohibitions by temporarily delegating that authority to others for particular decisions in which a relative is involved. For example, if an assistant director has been delegated the authority to make departmental hiring decisions, the department cannot hire the official's wife, son or daughter, even if the official is temporarily removed from participating in the selection process for the position for which the relative applied. Only if the deputy director or assistant director's authority to hire or promote is removed permanently and entirely would he or she no longer be subject to the same limitations.

In addition to department directors who are vested with such authority, and subordinate executives and managers who may be delegated such authority, the statute also applies to those who are in a position to recommend individuals for employment or promotion. Managers, supervisors and others who, because of the positions they hold or because of their customary involvement in personnel decisions, make recommendations on employment or promotions to a higher authority are subject to the law's prohibitions. As an example, County employees are precluded from serving on any interview panel involving a specified relative.

Specified relatives listed in Fla. Stat. § 112.3135 and covered by the County's Nepotism Policy include 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 and half-sister. Miami-Dade County is adding registered domestic partner and child or parent of a registered domestic partner to the list of relatives to be considered in this policy.

Thus, with the exception of promotions to positions which require a civil service promotional examination, as noted above, relatives of the following cannot be appointed, employed nor promoted within their departments:

- a. Department Directors, regardless of who else is delegated employment authority;
- b. Deputy Directors, Assistant Directors, Division Directors and all Managers who, by department policy or practice, are delegated the authority to make employment or promotion decisions;
- c. Managers, Supervisors and others who, because of their position or customary involvement in personnel decisions, would normally be expected to make an employment or promotion recommendation to others within their departments, regarding a particular appointment or promotion.

It should also be noted that while Florida law prohibits public officials from employing or promoting their relatives, it does not prevent relatives from working together in the same department. The statute also does not prohibit one relative from supervising another.

However, to avoid all appearance of favoritism and any potential for violation of State law, as well as operational challenges that may arise, 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 in a departmental subunit. All departments are required to comply with Florida law and the County's standard Operating Procedures to ensure department policies conform to the Miami-Dade County Nepotism Policy.

Questions regarding this policy clarification should be directed to Tyrone W. Williams, Division Director, Human Resources Department at Tyrone.Williams2@miamidade.gov.

- c: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners
- Honorable Luis G. Montaldo, Interim Clerk, Circuit and County Courts
- Honorable Pedro J. Garcia, Property Appraiser
- Lazaro Solis, Deputy Property Appraiser
- Geri Bonzon-Keenan, County Attorney
- Gerald K. Sanchez, First Assistant County Attorney
- Jess M. McCarty, Executive Assistant County Attorney
- Office of the Mayor Senior Staff
- Felix Jimenez, Inspector General
- Jose J. Arrojo, Executive Director, Commission on Ethics and Public Trust
- Javier A. Betancourt, Executive Director, Citizens' Independent Transportation Trust
- William Diggs, Executive Director, Miami-Dade Economic Advocacy Trust
- Aileen Bouclé, Executive Director, Transportation Planning Organization
- Basia Pruna, Director, Clerk of the Board
- Jennifer Moon, Chief, Office of Policy and Budgetary Affairs
- Yinka Majekodunmi, Commission Auditor
- Tyrone W. Williams, Division Director, Human Resources Department
- Departmental Personnel Representatives
- Union Presidents