

ADMINISTRATIVE MEMORANDUM

SUBJECT University Policy Concerning Employment of
Related Persons (Anti-Nepotism)

NUMBER 14

DATE April 27, 1973

At its meeting on April 13, the Board of Governors adopted a policy on the subject of employment of related persons, which is applicable to personnel practices at all campuses of the University. A copy of the policy statement is attached.

Directions Concerning Implementation

Consistent with the report of the Personnel Committee of the Board of Governors, which commended adoption of this policy, the following directions concerning implementation of the policy statement are furnished to each campus administration:

1. Copies of the policy statement, with appropriate explanatory material, are to be distributed to all University employees who have responsibility and authority with respect to personnel recommendations or decisions.
2. The policy is to be publicized generally throughout the University community, to insure that all employees are aware of its requirements.
3. Appropriate personnel-action forms, designed to insure effective administrative supervision of the implementation of the policy, shall be used in screening applicants or candidates for appointment, for example:
 - a. With reference to candidates for initial employment, the pertinent personnel-action form shall include an inquiry about whether the applicant or candidate is related, within the degrees specified in the policy statement, to any incumbent employee within the institution or to any other candidate for concurrent employment at the institution;
 - b. With reference to candidates for promotion to a position having responsibility for supervision of other employees, the pertinent personnel-action form shall include an inquiry about whether the candidate is related, within the degrees specified in the policy statement, to any incumbent employee within the institution or to any other candidate for concurrent employment at the institution.

4. In any situation where two or more related persons are to be employed concurrently within the same academic department (or other comparable subdivision of institutional employment), the supervisory or administrative official who has authority to give final administrative approval to the employment shall obtain from the supervisory or administrative official recommending employment a certification to the effect that no other candidate for the position in question possesses qualifications superior to those of the relative candidate.

5. Consistent with the requirements of Paragraph E of the Board policy, each Chancellor's written report to the Board of Trustees shall treat all cases in which the nepotism question arose during the preceding year:

a. In all cases where an individual making written application for employment was denied employment because of the requirements of the anti-nepotism policy, the circumstances shall be set forth; for example, (1) the employment would have resulted in one relative supervising another, or (2) an unrelated candidate had demonstrably superior qualifications;

b. In all cases where concurrent employment of related persons was allowed, the justifying circumstances shall be set forth; for example, (1) the supervisory relationship was not "direct", or (2) there were no other candidates for the available position whose professional qualifications were demonstrably superior to those of the relative.

Interpretations of Substantive Policy

Note should be taken particularly of the following points in connection with administration of the Board policy.

1. This policy applies only to EPA personnel; however, the policy of the State Personnel Board for SPA personnel, which was recently revised, is essentially identical in substance to the policy of the Board of Governors.

2. The policy of the Board of Governors is to be applied prospectively. This means that no incumbent employee's current job security will be jeopardized by the enactment of this policy; in short, if there are current instances of concurrent employment of relatives, in which one relative has responsibility for direct supervision of the other, neither person need be nor shall be prejudiced by this fact (neither to be transferred or asked to resign or discharged, so as to eliminate the type of conflict of interest now proscribed by the Board policy). However, prospective application of the new Board policy does require the following:

a. With reference to incumbent related employees, neither may hereafter be promoted to a position in which he or she would have responsibility for direct supervision of his or her relative; or, conversely, the promotion of one to such a supervisory position would require the transfer or resignation of the other, so as to eliminate the conflict of interest;

b. With reference to incumbent related employees, neither may hereafter participate in the evaluation of the other; this means:

(1) One relative who is a supervisor of the other must disqualify himself or herself from and not participate in the evaluation of the other, if such disqualification is practicable; it is acknowledged that during this transition period, in which relationships otherwise precluded by the new policy are permitted to persist with reference to incumbents, it may not be possible in every instance for the supervisor to readily effect a removal of himself or herself from the evaluation process; however, where this is possible, it must be done;

(2) One relative may not sit as a member of a faculty or a member of a committee of a faculty which is exercising authority to evaluate the other relative; as appears most appropriate, this objective can be accomplished either by selective absence of an affected faculty member from the functioning of such a faculty or faculty committee at pertinent times or by declining appointment to any faculty committee which could be charged with responsibility for evaluation of a relative.

3. Section A 1 of the policy of the Board of Governors predicates its restriction on the concept of "responsibility for direct supervision." This phrase was adopted in the belief that, within the limits of basic guidelines, the policy ought to be so stated as to permit variety of treatment responsive to varying conditions at the campuses.

The question of "directness" or "indirectness" must be interpreted reasonably to accomplish the intent and spirit of the anti-nepotism policy. As a general rule of interpretation, no supervisory relationship between related persons should be permitted to exist where the supervisor effectively controls the terms and conditions of the relative's employment, including promotion opportunities, rates of compensation, work assignments and evaluation of performance. The terms "direct" and "immediate" may be essentially interchangeable, for purposes of evaluating certain types of relationships; however, in certain situations, because the term "immediate" may connote only "first line" supervision, it may be too restrictive a concept to serve as a reasonable guide.

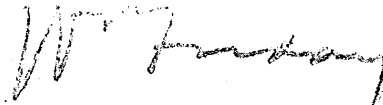
Existence of the following types of relationships would appear, invariably, to violate the restriction against "direct supervision":

- a. Department Chairman and a member of the instructional staff of the same department.
- b. Member of instructional or research faculty and his or her teaching or research assistant.
- c. Dean of a School and a Chairman of a Department included within the School.
- d. Chancellor and a Vice Chancellor.

With respect to other types of relationships, an exercise of discretion may be necessary, with the possibility of varying conclusions depending on the operative circumstances. In general, if the relationship between an employee and an official in the line of supervision is sufficiently remote to give rise to no substantial supervisory relationship, it may be appropriate to disregard the fact of family relationship.

In applying all aspects of the Board policy, the essential point, as articulated in the Basic Principles, is that no person shall at any time receive preferred treatment because of his or her relationship to another employee of the institution. The guidelines established in Paragraph A 1 of the Board policy are designed to preclude situations in which there is a high risk of such subjective favoritism. Accordingly, any interpretation of the "direct supervision" restriction should be consistent with this underlying policy objective.

Of critical importance is the principle that administrative guidelines and practices shall operate consistently. For example, if the policy is invoked in one case to preclude employment of a faculty member because his or her relative is Chairman of the department, the same result should obtain with respect to all identical cases; conversely, if employment is allowed under certain factual circumstances, there should be consistent results achieved in all identical cases. In short, an ad hoc, case-by-case approach, without the benefit of consistently applied guidelines, is likely to produce variations in result which could prompt charges of discrimination.



William Friday

Attachment

RESOLUTION

CONCERNING THE EMPLOYMENT OF RELATED PERSONS

WHEREAS, decisions concerning the employment, evaluation, promotion and compensation of academic personnel should be based in every instance on considerations of individual merit, and

WHEREAS, favoritism based on family relationships between employees derogates from the merit principle of employment, and

WHEREAS, the risk of occurrence of such favoritism can be avoided most effectively by the advance establishment of general restrictions against the creation of situations where such favoritism could be operative; and

WHEREAS, a common policy concerning the employment of relatives, applicable to personnel practices at all constituent institutions of The University of North Carolina, is desirable,

NOW THEREFORE, the Board of Governors herewith adopts the following

UNIVERSITY POLICY CONCERNING THE CONCURRENT EMPLOYMENT OF RELATIVES

A. Basic Principles

Consistent with the principle that University employees and prospective employees shall be evaluated on the basis of individual merit, without reference to considerations of race, sex, religion or national origin, or any other factors not involving personal professional qualifications and performance, the following restrictions, designed to avoid the possibility of favoritism based on family relationship, shall be observed with respect to institutional personnel who are not subject to the State Personnel Act:

1. Related persons shall not serve concurrently within the institution in any case where one such relative would occupy a position having responsibility for the direct supervision of the other relative.

2. With respect to proposed employment decisions which would result in the concurrent service of related persons within the same academic department (or other comparable institutional subdivision of employment), a relative may not be employed if the professional qualifications of other candidates for the available position are demonstrably superior to those of the relative.

3. With respect to the concurrent service of related persons within the same academic department (or other comparable institutional subdivision of employment), neither relative shall be permitted, either individually or as a member of a faculty or as a member of a committee of a faculty, to participate in the evaluation of the other relative.

B. Definition of "Related Persons"

The following relationships are sufficiently immediate to invoke the prohibitions against concurrent service of related persons:

1. Parent and child
2. Brothers and sisters
3. Grandparent and grandchild
4. Aunt and/or uncle and niece and/or nephew
5. First cousins
6. Step-parent and step-child
7. Step-brothers and step-sisters
8. Husband and wife

9. Parents-in-law and children-in-law
10. Brothers-in-law and sisters-in-law
11. Guardian and ward

C. Effective Date

The provisions of this policy shall be applicable prospectively only, with reference to appointments made after the adoption date of the policy.

D. Employees Subject to the State Personnel Act

With respect to University employees who are subject to the State Personnel Act, applicable restrictions concerning the concurrent service of related persons shall be those adopted by the State Personnel Board.

E. Each Chancellor shall report annually to the Board of Trustees, at the regular meeting falling closest to the date of commencement, concerning all specific cases during the preceding year in which the terms of this policy were applied.