

Number 5.2 - CONFLICTS OF INTEREST ARISING FROM EMPLOYMENT

Effective Date: January 23, 2013

Supersedes: Policy 5.2, dated February 1, 2002
Policy 5.2, dated March 1, 1996

Applicable To: All applicants for employment with; and all classified, exempt, appointed, temporary, and contractual employees, in the Executive Branch of the State of Vermont.

Issued By: Department of Human Resources

Approved By: Jeb Spaulding, Secretary of Administration

PURPOSE & POLICY STATEMENT

It is the State of Vermont's responsibility to conduct employment matters in a manner that avoids not only conflicts of interest, but also the any appearance of a conflict of interest. Conflicts of interest may arise in: hiring employees; other employment related matters; their employment by the State in more than one capacity; outside employment or activities engaged in by employees; and the award of contracts to employees.

This Policy is intended to promote avoidance of conflicts of interest and the appearance thereof that arise through the employment, in the same governmental unit, of people who share certain familial or other close relationships. The primary goal of this Policy is to avoid instances in which the hiring process or any term or condition of employment is inappropriately influenced by such familial or other relationships, or the perception among members of the public or other employees of such impropriety.

It is the general policy of the State that no one will be employed in the same department, institution, or organizational unit that employs his/her relative. In addition, it is the general policy of the State that no one will be employed in the same department, institution, or organizational unit as a person with whom he/she resides, or the relative of a person with whom he/she resides. It is important to note that the definition of "relative," for the purposes of this Policy, includes spouses, civil union partners, and domestic partners, in addition to the other familial relationships listed in the definition.

This Policy applies to ***all*** employment decisions including, but not limited to, those concerning new hires, promotions, demotions, transfers within State government, and changes in categories of employment (such as moving from temporary employment into the classified service). Hiring managers must ask prospective applicants for employment or appointment if they have any relatives, a civil union partner, a domestic

partner, other person with whom they reside, or relative of any of the foregoing currently working for the State of Vermont.

DEFINITIONS

Civil Union Partner – a person who has entered into a civil union pursuant to Vermont law. Civil union partners shall be treated the same as spouses under this Policy.

Domestic Partner – a person of the same or opposite sex who lives with a State employee under circumstances in which they have agreed between themselves to be responsible for each other's welfare.

Relative – includes parent, grandparent, spouse, civil union partner, domestic partner, child, brother, sister, grandchild, aunt, uncle, niece, nephew, parent-in-law, brother-in-law, sister-in-law, step-parent, step-child, or any other person so related through marriage, and any other person so related to one's civil union partner or domestic partner.

Employment – working for the State in a permanent, limited, temporary or exempt position; or under contract.

Division – a major unit of an agency or department of State government, usually headed by a director.

WAIVERS

Requests for a waiver of this Policy may be submitted to the Commissioner of Human Resources or designee. Waiver request will be evaluated to determine the extent of current or potential conflicts of interest, or the appearance thereof. The Commissioner's or designee's consideration will include, but not be limited to the following:

- ❖ The size of the employing unit;
- ❖ The closeness or remoteness of the relationship between the relatives or co-habitants;
- ❖ The reporting relationships within the organization and the likelihood that the employees would work together or that either employee would be in a position to influence any aspect of the other's employment;
- ❖ The degree to which the action would aid in attaining applicable affirmative action goals;
- ❖ The level, status, and geographic locations of the positions;
- ❖ The extent to which the proposed employment may reduce management's flexibility with respect to work assignments or future transfer or promotion of such employee;

- ❖ The availability of other qualified, suitable, and interested applicants for the position, as demonstrated by the documented results of the recruitment effort for the position that is the subject of the waiver request.

Waivers will not be granted in any case in which one of the affected positions is the exempt head of a department, or deputy thereto. Waivers to allow the employment of a person in any case in which the waiver would be necessary because of a relationship with a designated management employee (either classified or exempt) are disfavored and will be granted only when the lack of potential conflicts is apparent, will not compromise the safety and security of the organizational unit, institution or facility, and the waiver is plainly in the State's best interest.

All requests for waiver shall be submitted to the Commissioner of Human Resources or designee **prior to the extension of an offer of employment** (including the approval of transfers, promotions, reclassifications, reallocations, management level re-designations, or any other change in position or permanent workplace assignment) and shall include the following information:

- ❖ Names of the applicant and the person whose employment causes the conflict, as defined by this Policy, and their relationship to one another.
- ❖ A current organizational chart that identifies both positions and shows the reporting relationships within the organization.
- ❖ Status of the position under recruitment (i.e., permanent, limited, temporary, exempt, etc.)
- ❖ Proposed starting date of employment.

No promise or offer of employment made to a person covered under this Policy shall be valid, effective and enforceable **unless previously approved** by the Commissioner of Human Resources or designee.

Any waiver which is approved applies **only** to the circumstances identified in the request. A further waiver **must** be requested for any change in employment status including promotion of the person subject to a waiver. If a waiver is granted, each employee must sign a *Conditional Approval to Hire a Relative* form to acknowledge awareness that future duty assignments and/or employment opportunities may be denied based on this Policy.

CONFLICTS OF INTEREST ARISING DURING EMPLOYMENT

Conflicts of interest that arise (or become known) during employment must be avoided to the extent that is reasonably practicable. Employees who, during their employment, become the relative (including by marriage or civil union) or domestic partner of another employee, or who begin to reside with another employee within the same department, must make those facts known to the employing department. The employing department must then request a waiver of this Policy as described above. Such employees will not

be required to leave State employment solely as a result of that change in circumstances. However, any favoritism or inappropriate action by either employee that is attributable to the relationship with the other employee will lead to corrective or disciplinary action, up to and including dismissal from employment.

Where a conflict of interest has arisen during employment, the employing department must take all reasonable and practicable measures, including, but not limited to, changes in supervision, work location, and/or work shift, to avoid to the greatest extent possible the conflict or the appearance thereof.

This Policy shall also apply to promotion or other subsequent employment action that affects an employee. The employer shall avoid creating or exacerbating any conflict of interest situation that arose during employment by any promotion or subsequent actions involving the affected employees.

Questions regarding this Policy should be directed to the Labor Relations Division of the Department of Human Resources, 828-2972 or 828-3454.

Approved:

Jeb Spaulding
Secretary of Administration

Date