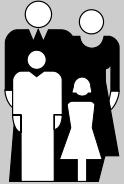


NEPOTISM

A summary of the nepotism restrictions contained in
Louisiana's Code of Governmental Ethics



Louisiana Board of Ethics
P.O. Box 4386
Baton Rouge, LA 70821



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Information Sheet #1

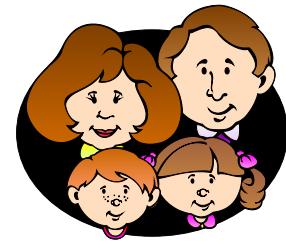
Nepotism is commonly understood to mean preference of any sort given to relatives. Some prohibitions against nepotism are contained in §1119 of Louisiana's Code of Governmental Ethics. (LSA-R.S. 42:1119) The purpose of this information sheet is to outline these prohibitions and to highlight some common misconceptions concerning §1119.

GENERAL PROVISIONS OF §1119

- **No member of the immediate family of an agency head may be employed in his agency.**

An “agency head” is the chief executive or administrative officer of an agency **OR** any member of a board or commission who exercises supervision over the agency. If a person qualifies as an agency head, then the following family members may not be employed in his agency because they classify as members of his immediate family:

1. his children
2. the spouses of his children (daughters-in-law and sons-in-law)
3. his brothers and sisters
4. the spouses of his brothers and sisters
5. his parents
6. his spouse
7. the parents of his spouse (mother-in-law and father-in-law)



Example #1: A parish fire district wants to hire the son of a fire district board member. Is this a violation of §1119?

Answer: Yes. The father is an agency head because he is a member of the fire board which exercises supervision over the fire district. The son is included in the definition of “immediate family.” Therefore, the son may not be employed by the parish fire district.

An “agency” is a department, office, division, agency, commission, board, committee, or other organizational unit of a governmental entity. In other words, an “agency” is the smallest unit or division in which the public servant works.

Example #2: The Road Design Unit of the Department of Transportation and Development (DOTD) wants to hire X. However, X’s father is the supervisor of the Bridge Maintenance Unit of DOTD. Is this a violation of §1119?

Answer: No. Although the father is an agency head, his agency is limited to the Bridge Maintenance Unit. While X may not be employed anywhere within the Bridge Maintenance Unit, he may

- be employed by any other unit in DOTD, such as the Road Design Unit.
- **No member of the immediate family of a member of a governing authority or the chief executive of a governmental entity may be employed by the governmental entity.**

A “governing authority” is a body which exercises the legislative functions of a political subdivision. For example, parish councils, city councils, and school boards are governing authorities. Therefore, no member of the immediate family of a member of a parish council may be employed by the governmental entity. What is a “governmental entity?” A “governmental entity” is the state or any of its political subdivisions, i.e., parishes, municipalities, and special districts.

Example #3: A parish recreation department wants to hire the son of a parish councilman to perform daily upkeep on baseball fields. Is this a violation of §1119?

Answer: Yes. The father is a member of a governing authority of the parish, therefore, no member of his immediate family may be employed by any part of the parish government.

- **Exceptions**

§1119 contains four exceptions to the general prohibition against nepotism. These exceptions are as follows:

1. A local school board may employ any member of the immediate family of a board member or of the superintendent provided that the family member is certified to teach. However, the board member or superintendent must recuse himself from any decision(s) involving the employee. In addition, school board members and/or superintendents who have immediate family members employed by their school system must file a disclosure statement with the Board of Ethics.

These statements must be filed **each year** within 30 days after the beginning of the school year. A disclosure form is available from the Board upon request. Those who fail to timely file the disclosure statement(s) may be assessed a late penalty of \$50 per day the statement is late, with a maximum late penalty of \$1,500.

2. A hospital service district or hospital public trust authority with a population of one hundred thousand persons or less may employ a licensed physician, registered nurse, or allied health professional as a health care provider, who is a member of the immediate family of any board or authority member or of the chief executive of the district or authority. However, a chief executive or any board or authority member who has an immediate family member employer, must recuse himself from any decision involving the employee. In addition, a district board or trust authority member and/or the chief executive who has an immediate family member so employed, must file a disclosure statement with the Board of Ethics. These statements must be filed by January 30th of **each year**. A disclosure form is available from the Board upon request. Those who fail to timely file the disclosure statement(s) may be assessed a late penalty of \$50 per day the statement is late, with a maximum late penalty of \$1,500.

3. §1119 does not apply to pilots appointed by the governor pursuant to R.S. 34:943, 34:1043, and 34:1072.

4. A municipality that has a population of less than two thousand and which owns an electrical or gas distribution system may employ the immediate family members of members of the governing authority if the member recuses himself and if, after advertisement, there is no other resident who is qualified and has applied.

5. A local school board with a student enrollment of 4,950 or less may employ a member of the immediate family of any board member as a school electrician provided that the family member has 20 years experience as an electrician.

6. The provisions of §1119 do not apply to the employment of volunteer firefighters or to any decision regarding the employment of a volunteer firefighter by an agency head, a chief executive of a governmental entity, or a member of a governing authority.

- **§1119 does not apply in the following situations:**

1. If a person was serving in public employment in violation of §1119 before April 1, 1980, then this person is not affected by the restrictions of §1119.

2. A public employee may continue his employment even if a member of his immediate family becomes the agency head of his agency, provided that the public employee has been employed in the agency for a period of at least one year prior to the immediate family member becoming the agency head.

- **Who may be held liable for a violation of §1119?:**

In addition to the agency head and the agency head's immediate family member(s) hired in violation of §1119, the following persons may also be held liable for a willful violation of the nepotism restrictions:

1. Member of the governing authority
2. Public employee having the authority to hire and fire the employee
3. Immediate supervisor of the employee

COMMON MISCONCEPTION

A common misconception regarding §1119 is that direct supervision is needed before a violation can occur. However, the law does not require direct supervision. If you are an agency head or a member of a governing authority, then no member of your immediate family may be employed in your agency or by your governmental entity, regardless of whether you actually supervise that employee's day to day activities.

Example #4: The director of a youth shelter wishes to hire the son of a parish police juror as a caseworker. The police jury is responsible for the administration of the shelter and directly supervises the director. However, the jury is not responsible for the hiring and firing, assignment of duties, or evaluation of any other employee of the shelter. Would hiring the son present a violation of §1119?

Answer: Yes. Although the facts indicate that the director, and not the police jury, has supervisory authority over the employees of the shelter, a violation of §1119 would still occur. The police juror is a member of a governing authority, therefore, his son may not be employed by any governmental entity which is under the umbrella of the police jury.



The Board encourages public servants to seek advice from the Board as to how the law applies to their own situations by writing for an advisory opinion. Advisory opinions are not issued as to past conduct, but can provide crucial advice on how to avoid problems in the future. If you wish to obtain an advisory opinion, please send your request to the above address. In addition, our staff is available for informal advice at (225) 219-5600 or 1-800-842-6630.

The Board has a web site located at: www.ethics.state.la.us

This information sheet is only a summary of the nepotism provisions contained in §1119 of the Code of Governmental Ethics. If interpretations of this fact sheet conflict with provisions of the Code, the Code will control.