

Nepotism

7.42
Board Adopted
(07-16-93)

No person shall be employed by Windham School District who is related to a member of the Board by blood (consanguinity) within the third degree, or by marriage (affinity) within the second degree. Art. 5996a, V.A.T.S.

Duty assignment will not be made whereby a supervisory relationship will exist between such persons related within the prohibited degree. Subject to the availability of qualified applicants, the employment of persons related within the first degree by either consanguinity or affinity within the same organizational unit will be prohibited. For purposes of this policy an organizational unit will be a department or unit. Persons employed in the same organizational unit prior to the effective date of this policy and who are related by either consanguinity or affinity will be safeguarded in their current position. The Continuous Employment Exception, below, shall not apply to supervisory or same unit assignments.

The method of computing degrees of relationships is the civil law method. Art. 5996h, Sec. 1, V.A.T.S.

Consanguinity

7.42-1

Two persons are related to each other by consanguinity if one is a descendant of the other or if they share a common ancestor. For this purpose, an adopted child is treated as a natural child of the adoptive parents.

The degree of relationship by consanguinity between a person and his/her descendant is determined by the number of generations that separate them. If a person and his/her relative are related by consanguinity but neither is descended from the other, the degree of relationship is determined by adding the number of generations between the person and the nearest common ancestor shared by him/her and his/her relative to the number of generations between the relative and the nearest common ancestor. Art. 5996h, Sec. 2, V.A.T.S.

If a Board member is the prospective employee's parent or child, there exists a relationship in the first degree. If a Board member is the prospective employee's grandparent, grandchild, sister, or brother, there is a relationship in the second degree. If a Board member is the prospective employee's great grandparent, great grandchild, aunt, uncle, niece, or nephew, there is a relationship in the third degree. These are the only relationships by consanguinity that are prohibited by the nepotism law. Art. 5996h, Sec. 4, V.A.T.S.

Affinity

7.42-2

Two persons are related to each other by affinity if they are married to each other or if the spouse of one of the persons is related by consanguinity to the other person.

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A husband and wife are related to each other in the first degree by affinity. For other relationships, the degree of relationship by affinity is the same as the degree of the underlying relationship by consanguinity. If a Board member's spouse is the prospective employee's parent or child, or if the prospective employee's spouse is a Board member's parent or child, there exists a relationship in the first degree. If a Board member's spouse is the prospective employee's grandparent, grandchild, sister, or brother, or if the prospective employee's spouse is a Board member's grandparent, grandchild, sister, or brother, there is a relationship in the second degree. These are the only relationships by affinity that are prohibited by the nepotism law.

Divorce or the death of a spouse terminates relationships by affinity created by a marriage unless a child of the marriage is living. If a child of the marriage is living, the marriage is treated as existing as long as a child of that marriage survives. Art. 5996h, Sec. 3, V.A.T.S.

Continuous Employment Exception

7.42-3

This policy shall not affect any person who has been employed by Windham School District for a continuous period of 30 days before the appointment of the Board member to whom that person is so related.

When a person is allowed to continue in employment under this exception, the Trustee who is related to the employee shall not participate in the deliberation or voting on the appointment, reappointment, employment, reemployment, change in status, compensation, or dismissal of the employee, if the action applies only to the employee and is not taken with respect to a bonafide class or category of employee. Art. 5996a, V.A.T.S.

The Superintendent is merely an employee or agent of the Board and is not subject to prohibitions under the nepotism statutes. *Pena v. Rio Grande City CISD*, 616 S.W. 2d 658 (Tex. Civ. App. - Eastland 1981, no writ)

A principal is not a public officer for purposes of the nepotism statutes. Atty. Gen. Op. DM-132 (1992)

Trading

7.42-4

It is illegal to evade the provisions of this policy by trading. Art. 5996c, V.A.T.S.

NOTE: An example of trading would be if a Board member employed the relative of a person subject to the nepotism statute, in return for which that person employed a relative of the Board member, given the fact that neither employer could legally employ his or her own relative.

Federal Funds

7.42-5

The rules against nepotism apply to employees paid with public funds, regardless of the source of those funds. Thus, the rules apply in the case of a teacher paid with funds from a federal grant. Atty. Gen. L.A. No. 80 (1974)