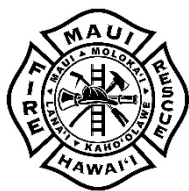


GREAT Committee Meeting

07/28/2026

BOE Nepotism Packet: Index & Documents

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County of Maui, Department of Fire & Public Safety
SPECIAL ORDER NO. SO-2025-0011

Date: August 6, 2025

To: All Department Personnel

From: Bradford K. Ventura, Fire Chief

SUBJECT: NEW! STANDARD OPERATING GUIDELINES, SECTION I. MANAGEMENT, 100 SERIES, 100.52 ANTI-NEPOTISM GUIDELINES

In consultation with Hawaii Fire Fighters Association (HFFA), Bargaining Unit 11 as well as Hawaii Government Employees Association (HGEA), Bargaining Unit 3, 13, and 15, the Administration has implemented the attached Anti-Nepotism Guidelines effective August 1, 2025.

Definitions:

- “Nepotism” is the practice of showing favoritism in employment decisions toward relatives or household members, regardless of merit or qualification, including actions such as hiring, promoting, supervising, or awarding contracts.
- “Relative” means the employee’s:

○ Parent	○ Parent’s Sibling (Aunt or Uncle)
○ Grandparent	○ First Cousin
○ Stepparent	○ Sibling’s Child (Niece or Nephew)
○ Child	○ Spouse
○ Grandchild	○ Spouse’s Parent
○ Stepchild	○ Child-in-Law
○ Foster Child	○ Siblings-in-Law
○ Adopted Child	○ Any individual who has become a member of the employees immediate family through the Hawaiian hanai custom.
○ Sibling	
○ Half-Sibling	
○ Step Sibling	
- “Household member” means an individual who resides in the same dwelling unit as the employee.
- “Supervisor” or “Manager” means anyone in a position with authority to hire, promote, discipline, evaluate, terminate, or direct the work of another employee.

The Anti-Nepotism Guidelines, found in the Standard Operating Guidelines, Section I. Management, 100 Series, 100.52, will affect many active (and future) fire and ocean safety personnel. **Please review this policy carefully.**

Note: Administration is still awaiting concurrence from United Public Workers (UPW) Bargaining Unit 1.

If you have any questions relating to this matter, please contact Administrative Officer Jamie Adams at (808) 270-7915 or via email at jamie.adams@mauicounty.gov.



ANTI-NEPOTISM GUIDELINES

M.A. 100.52

Effective Date	Total Pages	Version Number	Revision Date
8/1/2025	3	1	

PURPOSE:

To promote fairness, transparency, and merit-based employment practices in the Department of Fire & Public Safety (“Department”), this policy prohibits favoritism in employment decisions based on familial or household relationships, ensuring public trust in Department operations.

SCOPE:

This guideline applies to all employees of the Department, including but not limited to Fire Fighters, Ocean Safety Officers, Administrative Staff, and Management Personnel.

BACKGROUND:

In 2023, the Hawaii State Legislature passed an anti-nepotism law, Hawaii Revised Statutes (HRS) Chapter 84, Part II Code of Ethics, Section 84-13.2, which is applicable to State employees. The Department seeks to apply the principles of HRS § 84-13.2 to its employees, with the intent to maintain objectivity in government hiring practices and prevent conflict of interest that could arise when family relationships influence employment decision-making.

DEFINITION:

“Nepotism” is the practice of showing favoritism in employment decisions toward relatives or household members, regardless of merit or qualifications, including actions such as hiring, promoting, supervising, or awarding contracts.

“Relative” means the employee’s:

- Parent
- Grandparent
- Stepparent
- Child
- Grandchild
- Stepchild
- Foster Child
- Adopted Child
- Sibling
- Half-Sibling
- Step Sibling
- Parent’s Sibling (Aunty or Uncle)
- First Cousin
- Sibling’s Child (Niece or Nephew)
- Spouse
- Spouse’s Parent
- Child-in-Law
- Siblings-in-Law
- Any individual who has become a member of the employees immediate family through the Hawaiian hanai custom.



“Household member” means an individual who resides in the same dwelling unit as the employee.

“Supervisor” or “Manager” means anyone in a position with authority to hire, promote, discipline, evaluate, terminate, or direct the work of another employee.

GUIDELINE:

I. PROHIBITION ON NEPOTISM

In alignment with State ethics laws, no person in the Department shall make, participate in, or influence decisions relating to the hiring, promotion, transfer, or supervision of a relative or household member.

II. PROHIBITED ACTIONS

- a. A supervisor or manager in the Department may not directly supervise or make decisions regarding employment for any relative or household member.
- b. Any employee may not influence the hiring, promotion, or employment conditions of a relative or household member within the Department.
- c. Relatives or household members of current employees may not be hired into positions that would create a conflict of interest within the same division or chain of command.

III. PERMITTED ACTIONS

- a. Employees may work alongside relatives or household members in the Department, provided there is no direct supervisory or decision-making authority over the relative or household member.
- b. Temporary supervision of relatives or household members for operational reasons is permitted, including benefits authorized by Collective Bargaining Agreements, such as Substitution, Overtime, Rank-for-Rank Recall, Callout, Temporary Assignment, and Holdback, as long as no employment decisions are made regarding hiring,



promotion, transfer, discipline, evaluation, or termination of relatives or household members.

- c. Employment decisions affecting a relative or household member may be delegated to another manager or Chief designee in the Department and be documented under the guidance of the Fire Human Resources Office.
- d. Relatives or household members may apply for Department positions, provided the hiring, promotion, or contract award process is conducted by an impartial decision-maker with no familial or household connection.
- e. Employees may recommend relatives or household members for positions, provided they recuse themselves from any decision-making process and disclose the relationship as required.

IV. DISCLOSURE REQUIREMENTS

- a. Applicants for positions within the Department must disclose any relationship with a relative or household member who is employed by the Department to the Fire Human Resources Officer at the time of employment application or upon hire. Disclosure must be made in writing, detailing the nature of the relationship and the positions involved.
- b. Employees must disclose any relationship with a relative or household member who is employed by or seeking employment with the Department, within ten (10) calendar days of becoming aware of the situation. Disclosure must be made in writing, detailing the nature of the relationship and positions involved.
- c. Employees or officials with pre-existing supervisory or employment relationships involving relatives or household members as of the effective date of this policy must report such relationships to the Fire Human Resources Office within ten (10) calendar days of the effective date of this policy. Disclosure must be made in writing, detailing the nature of the relationship and the position involved.
- d. The Department will take steps to reassign personnel or modify reporting structures to comply with this policy, where feasible.



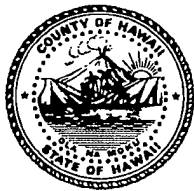
V. EXCEPTIONS FOR GOOD CAUSE

- a. Exceptions may be granted by the Fire Chief for good cause, including a demonstrated lack of qualified personnel or applicants.
- b. Requests for exceptions must be submitted in writing, with justification, within five (5) calendar days of disclosure of a relationship with a relative or household member as required by these guidelines. The requester shall not take any employment actions affecting in a relative or household member until an exception is approved by the Fire Chief.
- c. Approved exceptions must be documented with the Fire Human Resources Office.

VI. ENFORCEMENT

- a. Violation of these guidelines may result in disciplinary action, up to and including termination of employment.
- b. Any employee or individual who suspects a violation of this guideline may submit a confidential complaint to the Fire Human Resources Office.
- c. An investigation will be conducted to determine if these guidelines have been violated. If a violation is confirmed, appropriate corrective actions will be taken, which may include disciplinary measures or reassignment to avoid conflict.

COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 21
(DRAFT 2)ORDINANCE NO. 25 38

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 15, OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO NEPOTISM.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Purpose. The purpose of this ordinance is to adopt a County-wide policy prohibiting nepotism to ensure that the hiring and promotion of a relative, as defined hereinbelow, are conducted fairly and impartially, in a manner consistent with the ethical standards set forth in Section 84-13.2, Hawai'i Revised Statutes.

SECTION 2. Chapter 2, article 15, section 2-82, of the Hawai'i County Code 1983 (2016 Edition, as amended) is amended by repealing the definition of "immediate family" as follows:

~~"["Immediate family" means the employee's or officer's spouse, siblings, children, grandchildren, or parents.]"~~

SECTION 3. Chapter 2, article 15, section 2-82, of the Hawai'i County Code 1983 (2016 Edition, as amended) is amended by adding a definition to be appropriately inserted and to read as follows:

"Immediate family member" means:

- (1) An employee's or officer's parent, grandparent, stepparent, child, grandchild, stepchild, foster child, adopted child, sibling, half-sibling, stepsibling, foster sibling, adopted sibling, parent's sibling, first cousin, sibling's child, spouse, spouse's parent, child-in-law, or sibling-in-law, or any individual who has become an employee's or officer's child or sibling through informal adoptive practices; and
- (2) An individual who resides in the same dwelling unit as an employee or officer."

SECTION 4. Chapter 2, article 15, of the Hawai‘i County Code 1983 (2016 Edition, as amended) is amended by adding a section to read as follows:

“Section 2- . Nepotism prohibited.

(a) No employee or officer shall:

- (1) Appoint, hire, promote, or retain an immediate family member to, or demote, discharge, or terminate an immediate family member from a paid position in the employee or officer’s employing agency; or
- (2) Participate in an interview or discussion regarding the appointment, hiring, promotion, or retention of an immediate family member to, or the demotion, discharge, or termination of an immediate family member from a paid position in the employee or officer’s employing agency.

This subsection shall not prohibit an employee or officer from performing ministerial acts that may impact an immediate family member if those acts are a part of the normal job functions of the employee or officer.

(b) No employee or officer may supervise an immediate family member, unless the employee or officer:

- (1) Has a physical impairment requiring the employment of a particular immediate family member; provided that the employee or officer discloses the prospective employment to the board before the appointment or hire is made; or
- (2) Disqualifies oneself from taking any official action directly affecting the immediate family member.

(c) No employee or officer shall award a contract to or otherwise take official action on a contract with a business if the employee or officer knows or reasonably should know that the employee or officer’s immediate family member is an executive officer of or holds a substantial financial interest in that business.

(d) Notwithstanding the prohibitions in this section, if an employee or officer who is a supervisor or director is unable to waive or disengage from completing their official duties or from taking official action and is legally required to take action that directly impacts an immediate family member receiving an award or other official action on a contract described in subsection (c), the employee or officer will not be in violation of this section; provided that the employee or officer:

- (1) Has complied with the disclosure requirements of section 2-91.1; and
- (2) Posts a notice of intent to award the contract and files a copy of the notice with the board at least than five days before awarding the contract. If the posting and filing of the award in advance is otherwise prohibited by law, notice shall be posted and filed as soon as practicable. Every notice of intent shall describe the employee or officer’s relationship with the immediate family member, the immediate family member’s relationship with the entity receiving the contract, the action taken or to be taken affecting the immediate family member’s business, and the dollar value of the contract.

(e) Upon application, the board may grant an exemption to an employee, officer, or agency that is unable to comply with this section for good cause, including a demonstrated lack of qualified personnel or applicants.

- (f) Any favorable action obtained by an immediate family member in violation of this section is voidable in the same manner as voidable contracts as provided for by section 2-85.1.
- (g) This section shall not affect the applicability of sections 2-83 and 2-84.
- (h) This section shall not prohibit an agency from appointing, hiring, promoting, retaining, demoting, discharging, or terminating an immediate family member of an employee or officer employed by the agency."

SECTION 5. Chapter 2, article 15, section 2-83, of the Hawai'i County Code 1983 (2016 Edition, as amended) is amended by amending subsection (c) to read as follows:

- “(c) An officer or employee of the County, or a business in which an officer or employee or the officer or employee’s immediate family member has a controlling interest, may contract for goods or services with any County agency provided that:
- (1) The nature of the relationship between the officer or employee and the County is provided in full disclosure to the agency seeking goods or services as part of the bid for a contract or response to a request for proposals; and
 - (2) The officer or employee has obtained an opinion from the board that there is no conflict of interest resulting from the officer or employee’s position with the County. A board opinion shall continue to satisfy this requirement until a change occurs in the financial interest or role of the County officer, employee, or the officer or employee’s affected immediate family member[.] in the business or undertaking with which the contract is concerned. In the event an opinion by the board was not obtained in advance of submitting a bid, the officer or employee shall instead submit a copy of a letter or petition requesting review by the board.
- A contract shall be void if an officer or employee fails to comply with these disclosure requirements or if the board finds there is a conflict of interest or any preferential treatment involved.”

SECTION 6. Chapter 2, article 15, section 2-84, of the Hawai'i County Code 1983 (2016 Edition, as amended) is amended to read as follows:

“Section 2-84. Conflicts of interests.

- (a) No officer or employee shall take any official action directly affecting[÷] a business or other private undertaking in which the officer or employee:
 - (1) ~~[A business or other undertaking in which that officer or employee has]~~ Has a substantial financial interest;
 - (2) ~~[A private undertaking in which the officer or employee is]~~ Is engaged as a legal counsel, advisor, consultant, or representative, or other agency capacity; or
 - (3) ~~[A business or undertaking in which the employee knows]~~ Knows or has reason to know that ~~[a brother, a sister, a parent, an emancipated child, or a household]~~ an immediate family member has a substantial financial interest[.]

~~provided that the financial interests of these individuals shall not include those of any spouse or child].~~

A department head who is unable to be disqualified on any matter described in items (1), (2), and (3) above will not be in violation of this subsection if the department head has complied with the disclosure requirements of section 2-91.1. A person whose position on a board, commission, or committee is mandated by statute, charter, code, or resolution to have particular qualifications shall only be prohibited from taking official action that directly and specifically affects a business or undertaking in which that person has a substantial financial interest; provided that the substantial financial interest is related to the member's particular qualifications.

- (b) No officer or employee shall acquire financial interests in any business or other undertaking which that officer or employee has reason to believe may be directly involved in official action to be taken by the officer or employee.
- (c) No officer or employee shall represent private interests in any legal action or proceeding against the County or appear on behalf of private interests before any agency, except as otherwise provided by law; provided:
 - (1) This prohibition shall not apply to a County employee or officer who is an architect, landscape architect, surveyor, or engineer registered as such under the provisions of chapter 464, Hawai'i Revised Statutes, with respect to the affixing by such registered professional of such person's registered stamp to any plans, specifications, drawings, etc., to be submitted to the County for permits for such person's principal residence or that of ~~[members of]~~ such person's immediate family[;] ~~member~~; provided, that the stamp is accompanied by a signed statement that the work was prepared by the person stamping the document or under such person's supervision; and provided further, that the registered professional may not, in the capacity of a County employee or officer, review, approve or otherwise act upon the plans, specifications, drawings, etc., such person has stamped; and
 - (2) No officer or employee shall be denied the right to appear before any agency to petition for redress of grievances caused by any official act or action affecting such person's personal rights, privileges, or property, including real property.
- (d) Notwithstanding any provision of this article to the contrary, a member of any board, commission, or committee may appear on behalf of private interests before agencies other than the board, commission, or committee on which such person serves."

SECTION 7. Chapter 2, article 15, section 2-85, of the Hawai'i County Code 1983 (2016 Edition, as amended) is amended by amending subsection (a) to read as follows:

- "(a) A County agency may enter into a contract involving services or property or to procure or dispose of goods or services, or for construction, with an officer, an employee, or a business in which an officer or an employee or the officer or

employee's immediate family member has a controlling interest, provided the provisions in section 2-83, subsection (c) have been met, and further provided:

- (1) The contract is awarded by competitive sealed bidding pursuant to the state public procurement code; or
- (2) The contract is awarded by competitive sealed proposal pursuant to the state public procurement code.

Upon award of any such contract, the director of finance shall post notice of the award, which notice shall include the information provided pursuant to section 2-83, subsection (c)."

SECTION 8. Material to be repealed is bracketed and stricken. New material is underscored. In printing this ordinance, the brackets, bracketed and stricken material, and underscoring need not be included.

SECTION 9. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 10. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i
Date of Introduction: April 16, 2025
Date of 1st Reading: April 16, 2025
Date of 2nd Reading: May 7, 2025
Effective Date: May 28, 2025

REFERENCE Comm. 91.2

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Kona, Hawai'i

COUNTY CLERK
COUNTY OF HAWAII

2025 MAY 28 PM 3: 38

(Draft 2)

Introduced By: Heather L. Kimball
Date Introduced: April 16, 2025
First Reading: April 16, 2025
Published: April 25, 2025

REMARKS: _____

Second Reading: May 7, 2025
To Mayor: May 20, 2025
Returned: May 28, 2025
Effective: May 28, 2025
Published: June 6, 2025

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Galimba	X			
Hustace	X			
Inaba	X			
Kagiwada	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Onishi	X			
Villegas	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Galimba	X			
Hustace	X			
Inaba	X			
Kagiwada	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Onishi	X			
Villegas	X			
	9	0	0	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

Approved/Disapproved this 28th day
of May, 20 25

MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRPERSON


COUNTY CLERK

Bill No.: 21 (Draft 2)
Reference: C-91.2/GOEAC-34
Ord No.: 25 38

ADMINISTRATION

§ 2-91.5

Section 2-91.7. Nepotism prohibited.

(a) No employee or officer shall:

- (1) Appoint, hire, promote, or retain an immediate family member to, or demote, discharge, or terminate an immediate family member from a paid position in the employee or officer's employing agency; or
- (2) Participate in an interview or discussion regarding the appointment, hiring, promotion, or retention of an immediate family member to, or the demotion, discharge, or termination of an immediate family member from a paid position in the employee or officer's employing agency.

This subsection shall not prohibit an employee or officer from performing ministerial acts that may impact an immediate family member if those acts are a part of the normal job functions of the employee or officer.

(b) No employee or officer may supervise an immediate family member, unless the employee or officer:

- (1) Has a physical impairment requiring the employment of a particular immediate family member; provided that the employee or officer discloses the prospective employment to the board before the appointment or hire is made; or
- (2) Disqualifies oneself from taking any official action directly affecting the immediate family member.

(c) No employee or officer shall award a contract to or otherwise take official action on a contract with a business if the employee or officer knows or reasonably should know that the employee or officer's immediate family member is an executive officer of or holds a substantial financial interest in that business.

(d) Notwithstanding the prohibitions in this section, if an employee or officer who is a supervisor or director is unable to waive or disengage from completing their official duties or from taking official action and is legally required to take action that directly impacts an immediate family member receiving an award or other official action on a contract described in subsection (c), the employee or officer will not be in violation of this section; provided that the employee or officer:

- (1) Has complied with the disclosure requirements of section 2-91.1; and

- (2) Posts a notice of intent to award the contract and files a copy of the notice with the board at least than five days before awarding the contract. If the posting and filing of the award in advance is otherwise prohibited by law, notice shall be posted and filed as soon as practicable. Every notice of intent shall describe the employee or officer's relationship with the immediate family member, the immediate family member's relationship with the entity receiving the contract, the action taken or to be taken affecting the immediate family member's business, and the dollar value of the contract.
 - (e) Upon application, the board may grant an exemption to an employee, officer, or agency that is unable to comply with this section for good cause, including a demonstrated lack of qualified personnel or applicants.
 - (f) Any favorable action obtained by an immediate family member in violation of this section is voidable in the same manner as voidable contracts as provided for by section 2-85.1.
 - (g) This section shall not affect the applicability of sections 2-83 and 2-84.
 - (h) This section shall not prohibit an agency from appointing, hiring, promoting, retaining, demoting, discharging, or terminating an immediate family member of an employee or officer employed by the agency.
- (2025, ord 25-38, sec 4.)

HRS § 84-13.2

[§ 84-13.2]. Nepotism; prohibition

Effective: July 11, 2023

(a) No employee shall:

- (1) Appoint, hire, promote, or retain a relative or household member to, or demote, discharge, or terminate a relative or household member from; or
- (2) Participate in an interview or discussion regarding the appointment, hiring, promotion, or retention of a relative or household member to, or the demotion, discharge, or termination of a relative or household member from,

a paid position in the employee's employing agency; provided that this subsection shall not prohibit an employee from performing ministerial acts that may impact the relative or household member if those acts are a part of the normal job functions of the employee.

(b) No employee shall supervise a relative or household member unless the employee:

- (1) Has a physical impairment requiring the employment of a particular relative or household member; provided that the employee discloses the prospective employment to the state ethics commission before the appointment or hire is made; or
- (2) Disqualifies oneself from taking any official action directly affecting the relative or household member.

(c) No employee shall award a contract to or otherwise take official action on a contract with a business if the employee knows or reasonably should know that the employee's relative or household member is an executive officer of or holds a substantial ownership interest in that business.

(d) Notwithstanding the prohibitions in this section, if an employee who is a supervisor or executive director is unable to waive or disengage from completing their official duties or from taking official action and is legally required to take action that directly

impacts a relative or household member receiving an award or other official action on a contract described in subsection (c), the employee shall not be in violation of this section if the employee:

- (1) Has complied with the disclosure requirements of [section 84-17](#); and
 - (2) Posts a notice of intent to award the contract and files a copy of the notice with the state ethics commission at least five days before awarding the contract. If the posting and filing of the award in advance is otherwise prohibited by law, notice shall be posted and filed as soon as practicable. Every notice of intent shall describe the employee's relationship with the relative or household member, the relative or household member's relationship with the entity receiving the contract, action taken and to be taken affecting the relative or household member's business, and the dollar value of the contract.
- (e) Upon application, the state ethics commission may grant an exception to an employee or agency that is unable to comply with this section for good cause, including a demonstrated lack of qualified personnel or applicants.
- (f) Any employee who knowingly violates this section shall be subject to the administrative fines set forth in [section 84-39](#). Any favorable action obtained by a relative or household member of an employee in violation of this section shall be voidable in accordance with [sections 84-16](#) and [84-19](#).
- (g) This section shall not affect the applicability of [section 84-13](#) or [84-14](#).
- (h) This section shall not prohibit a state agency from appointing, hiring, promoting, retaining, demoting, discharging, or terminating a relative or household member of an employee employed by the agency.
- (i) Notwithstanding [sections 84-2](#) and [84-3](#), this section shall not apply to employees or agencies of the legislative or judicial branch of the State.
- (j) For purposes of this section:

“Household member” means an individual who resides in the same dwelling unit as the employee.

“Relative” means the employee's parent, grandparent, stepparent, child, grandchild, stepchild, foster child, adopted child, sibling, half-sibling, stepsibling, parent's sibling, first cousin, sibling's child, spouse, spouse's parent, child-in-law, or sibling-in-law, or any individual who has become a member of the employee's immediate family through the Hawaiian hanai custom.

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES
Council of the County of Maui

July 15, 2013

goes back to that philosophical discussion about, you know, what is a core service, what should we be subsidizing, and what should we say well this is not a core service of County government so if you want it you have to pay for it, so we're going, you know, charge fees for it. So this is a much bigger discussion for me than what we're talking about today. Thank you.

CHAIR HOKAMA: Thank you. Mr. Couch, any questions for Mr. Taylor or any comments at this time?

VICE-CHAIR COUCH: No. No, thank you.

CHAIR HOKAMA: I think you guys brought up some very good points, Members, and I appreciate the departments being quite direct in their responses and quite candid. I think they deal with the day-to-day operational challenges that we don't necessarily appreciate but they do. And I think Ms. Baisa's last comment was pretty on the mark. And, you know, part of it, I guess our job is get and present accurate information to the rest of our community members, and some may not then or may like the history that comes with that information. There's many reasons why we did many things our own way, and some you gotta go back to Board of Supervisor's Chair Samuel Kalama and that era regarding like water development and other things prior to the EMI ditch system and whatnot. But there's reasons why previous County fathers and leaders made certain decisions. If you want to read those old steno copies of minutes of past meetings, they're available. You can check with the Clerk's Office. I do and I have obviously not enough time to read other material. I would say, Members, I'm going to, with no objection, I'm going to ask for deferral of 22 and 35.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: DSG, MPV).

CHAIR HOKAMA: Thank you. I think we have a sense of where we need to go and the type of discussion that we're going to need to have with taking into account also the participation of Mr. Baz, Mr. Agsalog, and the other departments so that we can move forward in a joint manner whereby the least impact is of course those that pay the bill but still provide the services that we need to at the level we need to. So Item 22 and 35 is hereby deferred.

ACTION: DEFER pending further discussion.

CHAIR HOKAMA: And I want to thank Mr. Agsalog, Mr. Taylor, Mr. Baz for hanging on with us for most of the day. Thank you very much.

ITEM PIA-25: NEPOTISM POLICY (CC 13-127)

CHAIR HOKAMA: We have one last item to take care of, Members, and that is Policy Item 25 under the title of Nepotism Policy. We are in a...we have a proposal through a Communication 13-127 from Mr. White, whereby he has a proposal to, for consideration that would amend Chapter 2.56

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of the Maui County Code. And at this time I'll let Mr. White give some opening comments if he has any. Thank you, Mr. Baz.

COUNCILMEMBER WHITE: Thank you, Chair. I introduced this legislation in hopes that we would stop the practice of giving preference to relatives in the hiring process in the County. As we all know, there have been instances brought up in earlier discussions where family members have been employed in fairly small departments in ways that I feel don't enhance the trust in government that I think we would, that we all strive for. The initial bill that was in the binder was sent to the Board of Ethics and they were nice enough to review it and provide comments. So I have sent or I have submitted and was passed out today an updated bill, and so I would certainly be amenable to deferring this item after some discussion. Basically, what this incorporates is best practices that are included in US Code for Federal employees, and what we've done is incorporated some changes after discussing it with the Board of Ethics to more closely define nepotism, and then clearly stating that there are penalties for not following this process and, or this policy. And part of the reason for that is they're concerned that when things come before them for determination, there's very little in their arsenal to effectuate any penalties. And so they felt it was important that if we have a policy that's going to have a positive effect and actually have a, the effect of deterring people from favoring family members, that it should have some level of penalties. So I offer this up for the Committee's consideration, and would be interested in hearing others' perspectives.

CHAIR HOKAMA: Okay, thank you, Mr. White. The Chair will also note we do have from the Department of Personnel Services our Director, Director Hiromoto present. And I'm not too sure, did you have something you wish to share with the Committee this morning there, Director? We'd be very happy to...if you have any comments, you know. And again, Members, the Chair will take the request from Mr. White since the new draft has, wasn't actually posted for public comment, I'm going to recommend also to defer also that we can get comment that, for those that wish to submit on the most recent draft. Director, I'd, we are open to any comments if you have. I know, I don't know if you are aware of the new revision from Mr. White, so I'll give you a moment. And I'll ask Corporation Counsel, we have one of our other deputies joining Mr. Kushi, so if you could please introduce yourself, and we are open to any comments you wish to share.

MS. OANA: Good morning, Chair and Members. I'm Jennifer Oana, Deputy Corporation Counsel. And I do have some comments with regard to this draft. I did have a chance to review this latest draft this morning. My first comment is with regard to the language of the bill, and when I reviewed the last draft what immediately popped into my mind was the situation at the Prosecutor's Office. And with this new draft it hasn't really changed my opinion. When you look at the Prosecutor's Office, they are in a real unique situation where there's no other department like the Prosecutor's Office, there's no other law firm or law office situated like the Prosecutor's Office. And what I mean by that is if someone wants to become a prosecutor and live on Maui they have to work for the County of Maui Prosecuting Attorney's Office. There is no other private sector that has such an office as they do. And when you look at the language of the bill, you know, it says no officer or an employee shall employ an individual to a position or

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office under their supervision who is a relative or the relative of another officer elected to or employed by the same office. Now under the Charter the definition of an officer besides the Mayor, the Managing Director, you folks, Council members, heads of departments, it also includes an officer is the Deputy Prosecuting Attorneys. So when you look at the language of this proposed bill, not only can J.D. Kim not hire his son or daughter who grows up wanting to be like him, not only can J.D. not hire Robert Rivera's son or daughter who grows up wanting to be just like him, he cannot not hire any line attorney's son or daughter or relative who wants to be a prosecutor. And like I said before it's not like criminal defense where you can work for the government at the Office of the Public Defender, and if you don't want to work for the government you can be a private criminal defense attorney. In the Prosecutor's Office you can only work there if you want to work on Maui as a prosecutor. So just the language of this bill may need to be tweaked to take into that, take into account things like the Department of the Prosecuting Attorney and also Department of Police. There are a lot of times where children want to follow in their parent's footsteps. You know police officers make police officers in some situations and just like prosecuting attorneys. And so the language may need to be tweaked to take into account those situations. Also, if you look on the second page, I think it's Subsection...oh, 2.56.070 Subsection C and Subsection C1c. There is language that says except under circumstances where the relative is qualified on merit alone for the position, and that may have to be tweaked out too, because what does merit alone mean. Does it mean the person with the highest degree, does it mean the person with a degree plus experience. I think that has to be discussed in this Committee. Furthermore, the City and County of Honolulu as well as the County of Hawaii does have a nepotism policy in their charter, and for those two counties they do have an exception for a relative who is on the eligibility list in accordance with civil service law. So this Committee might want to consider adding some type of language like that. And again, Member White did mention about the Board of Ethics, they do have concerns whether they, what role they're going to have in this. I believe they're not at this point able to do investigations, they don't have the staff to do that. Again, just like every other Maui County board and commission, they are a group of voluntary citizens who serve on this type of committee. Another comment I have is where should this law be placed, should it placed in this 2.56 under the Maui County Code, or should it be just like the City and County of Honolulu and the County of Hawaii, should it be appropriately placed in the Charter? And I'm not quite sure about that at this moment. And then lastly, I believe lastly, again, what is the effect on civil service laws and the collective bargaining agreements, what will that have on this law? Thank you.

CHAIR HOKAMA: Thank you. And thank you very much for those very good comments. We appreciate that. Director Hiromoto, any comments you can share with the Committee at this point in time?

MR. HIROMOTO: Good morning, Chair. Good morning, Members. I did not have a chance to look at the new proposal; however, I did jot down some comments with regard to the old proposal, and I think it's still relevant. I think that the intent is good. I think it'll be challenging to develop or draft a nepotism policy, you know, that's free from discrimination, free from violating the collective bargaining agreements, and that doesn't, you know, back us up into a situation where

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we have to select the second best candidate. Having said that, I haven't seen this as a real issue in the County so far, and maybe it's because my Department deals primarily or predominantly with civil service type of appointments where a person would have to...we'd have to be recruiting for a position, we'd have to be...people would have to make the application, they'd have to fill out the application correctly. They'd have to be screened with regard to their minimum qualification requirements, they have to take a test, they have to score in the top, amongst the top people to get referred down to the Department. So when you talk...that's one of the questions I had, too, was similar with Deputy Corp. Counsel Oana's comment that I didn't know what merit meant in the proposal. If that meant coming through the civil service process then I think we'd be okay with that, with the civil service process. I also wanted to note that with regard to discrimination, for example we found a Supreme Court decision, Hawaii Supreme Court decision which, it involved a hotel and an employee who got married to his supervisor, and based on that hotel's no relative policy, the, either the supervisor or the subordinate would have to either transfer or resign. And it went up to the Supreme Court, Supreme Court ruled that it was a violation of the marital status component in the discrimination law, so that's in discrimination. With regard to collective bargaining, you know, it may affect who can be promoted. For example, if someone is currently an equipment operator for example and the supervisor is his uncle, then that person even though he's a senior equipment operator, it looks like according to this proposal would not be able to advance in that area. With regard to that second best comment that I made, what would happen, I guess I have a question is what would happen if a director finds out that the, his selection committee recommends a person on a list that happens to be the director's first cousin. Would that mean now that the director would have to go and get the second best and go against his selection committee's recommendation? So maybe things like that would need to be tweaked. But those were some of my comments and concerns with regard to this proposal. Thank you, Chair.

CHAIR HOKAMA: Thank you, Director. And those are very good comments, we need to be aware of it. It's kind of interesting though, how it's been presented to the Committee, 'cause I would have thought the issue was it's to the applicant's advantage to have his relative making the decision on who to hire than the opposite way. It would be to the hiring authority's disadvantage to be looking at one...interesting how we frame things. Well I'll open it up to questions for one round, Members, 'cause of one, aware of the time, but second, obviously we're going to need to work on this proposal and I already agreed to a deferral. So quickly, I'll start with Mr. White since your, this is your initial proposal. Any questions for either Deputy Counsel or Personnel Director?

COUNCILMEMBER WHITE: No. I appreciate their comments, and I think several of them are things that we will have to take into consideration. Thank you.

CHAIR HOKAMA: Thank you. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Mr. Chair. I, too, think that this is going to take a lot of work because it's a very sweeping piece of legislation, and I think that's been already brought to our attention by the administrative people that have spoken. You know I'm very

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familiar with very tight nepotism policies coming from where I came before, because we had really, really strict nepotism policies on our grants. And when I look at the list of relatives, I've never seen anything like it before, and so I'm really interested in knowing, I'll try to limit questions 'cause we can go on forever, into what is our current policy. Is it anything like this? Do we even have one?

CHAIR HOKAMA: Ms. Oana.

MS. OANA: We have no current nepotism policy in the County.

COUNCILMEMBER BAISA: That...now I understand it because when I look around the County and I look at this, a lot of people will be leaving. Thank you.

CHAIR HOKAMA: Or changing of who has supervisory authority over who. Mr. Couch?

VICE-CHAIR COUCH: Yeah, two questions. One is in relative to Ms. Baisa's last comment. Can this...where...in Section 070D, it says this section shall apply retroactively to all officers and employees of the County. Is that something legal since it's been an established practice until now and then we're saying well no longer and also gotta go back to anybody who's employed. Is that a...

CHAIR HOKAMA: Is that something any of you can respond at this time or would you care to take it under advisement? Mr. Kushi.

MR. KUSHI: Yes, Mr. Chair and Member Couch, that is troubling to our office at this point. We just saw this draft today. The general rule is all laws are favored to be prospective only. Now the proposed bill say it's retroactive, retroactive to when? And are we all criminals then? Do we need to open up another investigation? Do we need to go through a ...(inaudible)... chart on all departments? That is very troubling to our office at this point in time.

VICE-CHAIR COUCH: Okay. And the other question or possibly a comment is that it was mentioned that the Board of Ethics doesn't do investigations or doesn't have the manpower. I know when I was on the Board of Ethics we certainly did. We got the staff that was necessary, but we did do an investigation and had the powers to do that investigation. Has that changed?

MR. KUSHI: To my knowledge it hasn't. You were there --

VICE-CHAIR COUCH: Yeah.

MR. KUSHI: --and you had subpoena powers --

VICE-CHAIR COUCH: Yeah.

MR. KUSHI: --you conducted investigations.

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VICE-CHAIR COUCH: And we did.

MR. KUSHI: Whether or not they can still have the budget to do it, I'm not sure. We have a Deputy Corp. Counsel assigned to that board.

VICE-CHAIR COUCH: Okay.

MR. KUSHI: I know that for sure.

VICE-CHAIR COUCH: All right. I just was surprised when I heard that. Alright, thank you, Mr. Chair.

CHAIR HOKAMA: Okay, thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. Yeah, my question was asked by Ms. Baisa in regards to do we already have such a policy and if so, what's it like, and the question was answered. Maybe just a quick towards Mr. Kushi. Thank you for your comments on Item D. Are there other troubling points as you see through this second draft?

MR. KUSHI: Not so much troubling, Member Cochran, but I do note that and with all due respect to your office, you have exempted the Council Services, your own offices from this bill. But again, you can do what you want. The State Legislature exempted themselves from the Sunshine Law. My Deputy Oana did have some points in terms of how this thing would work if it is ever implemented, because the clear example is the Prosecutor's Office and basically it bars anybody who has any relative interested at all, whether it's the prospective employee's supervisor or not. There's troubling definitions between advocating versus actually the promotion and advancing. There's also situations where what does a civil service eligibility list have to do in the process at all? I mean does it even count? But overall, again, you know, I agree with the concept of it. I note that it is correct that we don't have an official written policy on nepotism. That's not to say that the Board of Ethics can come and bring up charges against an employee who, a supervisor who blatantly appoints a relative without consideration or merit. That would fall under the category of appearance of impropriety which I believe Member Couch knows about. You can also, you can be brought up on that type of charges. So to say that there's nothing on the books, I don't think that's a true statement. There was something in the grants review rules and regulations or grants policy, if I recall, but again, and we tried to enforce it on one of the nonprofits at one point in time, that didn't fly too far.

COUNCILMEMBER COCHRAN: Thank you, Mr. Kushi. Thank you.

CHAIR HOKAMA: Thank you. Thank you, Ms. Cochran. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you. I think what, from State law nonprofits have to come up with a nepotism policy in place as well as whistleblower and what have you. But I find this

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quite detailed, because in Hawaii we so _____, we're all related one way or the other sometimes if you get into the nitty-gritty and once you start talking story, you know. So I think something like this would have to come from our Corp. Counsel and how it fits in.

CHAIR HOKAMA: Thank you.

MR. KUSHI: One more comment, Mr. Chair --

CHAIR HOKAMA: Yes, yes, Mr. Kushi.

MR. KUSHI: --and Member... Stacy, since it's been brought up and my Deputy did bring it up initially. If we're going to go with this with the whole nine yards, include the definition or the category of domestic partner. Okay. So what's good for everybody else should be good for them, too. Or what's illegal for them should be illegal for us, too. Vice versa . . . *(inaudible)*. . .

CHAIR HOKAMA: Yeah, we understand your comment. Thank you. Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. It's about time we address this. And I'm very happy to see that we have grandchildren inside there, but they left out great grandchildren, so I can be an advocate for my great grandchildren if I'm around ten years from now. Thank you.

CHAIR HOKAMA: Again, as Mr. Kushi said, we need to be fair.

COUNCILMEMBER BAISA: Chair?

CHAIR HOKAMA: So listening to the comments as well as from our resource people, we're going to need additional time obviously to revise the proposal to take into account the comments provided by our resource as well as you, Members. So...

COUNCILMEMBER BAISA: Chair?

CHAIR HOKAMA: Yes, Ms. Baisa.

COUNCILMEMBER BAISA: I just want to say this and I'll be real quick. I didn't see hanai addressed. It became a real issue for the organization I came from.

CHAIR HOKAMA: And that is another good point. We'll take into account --

COUNCILMEMBER BAISA: Thank you.

CHAIR HOKAMA: --certain specific cultural practices that are unique to our State, our County, our people --

COUNCILMEMBER BAISA: Thank you.

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CHAIR HOKAMA: --as we make the revisions. Okay, with no other considerations for this item, Policy Item 25 shall be deferred, Members.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: DSG, MPV).

CHAIR HOKAMA: Thank you.

ACTION: DEFER pending further discussion.

CHAIR HOKAMA: And with no other business, I thank you very much for your presence. This meeting is adjourned. . . .(*gavel*). . .

ADJOURN: 12:06 p.m.

APPROVED:

G. RIKI HOKAMA, Chair
Policy and Intergovernmental Affairs Committee

pia:min:130715:ds

Transcribed by: Daniel Schoenbeck

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CHAIR HOKAMA: Members, you want a short break before we take the last item or you guys want to just pound this out?

COUNCILMEMBER BAISA: Go on.

COUNCILMEMBER CRIVELLO: Go on.

COUNCILMEMBER WHITE: Five, five minutes.

CHAIR HOKAMA: Okay, we'll return in five minutes at ten five zero. . . .(gavel). . .

RECESS: 10:45 a.m.

RECONVENE: 10:56 a.m.

CHAIR HOKAMA: . . .(gavel). . . Policy Committee shall return to order. Members, we have final item on our agenda for today's meeting, it is Policy Item 25 under the heading of the Nepotism Policy.

ITEM PIA-25: NEPOTISM POLICY (CC 13-127)

CHAIR HOKAMA: We are in receipt of a County Communication 13-127, from Mr. White, who had transmitted a proposed bill and we also have a revised proposed Bill for an Ordinance Amending Chapter 2.56, of the Maui County Code, Relating to a Nepotism Policy. The Chair has just two, our Staff handed you out some more or less stylistic and what I consider not major adjustments to the bill for an ordinance consideration at this time, and of course on the last page under Section 3, Subsection D, I have the Staff present a question that I would need in the appropriate forum for whether it be open or executive legal counsel as well as Department of Personnel Services regarding that one consideration regarding retroactivity. With that, I'll ask first Mr. White if he has any comments he would like to share with the Committee?

COUNCILMEMBER WHITE: Thank you, Chair. And I believe we've had previous discussions on this matter, and the item D was deemed not to be appropriate, and so with Staff we had reworked the wording and not use the word nepotism and taken out that item D. And so I would enjoy hearing others' reaction but I would be more than comfortable to work on this a little more and bring it back to you at a later date after hearing some of the questions and concerns of the other Members.

CHAIR HOKAMA: Okay, thank you for your comment, Mr. White. I'll ask Mr. Kushi first if he has any comments at this time that he would like to share with the Committee?

MR. KUSHI: Mr. Chair, I will defer to my Deputy Oana.

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CHAIR HOKAMA: Okay, if you'd please introduce yourself to the Committee for the record, please, Deputy.

MS. OANA: Good morning Chair and members of the Committee. My name is Jennifer Oana, Deputy Corporation Counsel, and I took a look at this again on Friday and I do have some concerns and comments with regard to the revised bill. Starting from the first Section 2.56.010, it does mention upon conviction, and when you're talking about upon conviction, you're talking about a criminal violation or criminal conviction which would involve the Prosecutors Office with investigation, charging of the offense, bringing before the court the defendant, and a plea or trial, sentencing and proof of compliance. So when you're talking about conviction with regard to this proposed section, the Prosecutors Office should probably be consulted with.

CHAIR HOKAMA: Okay, thank you for that.

MS. OANA: Further, moving on to some comments.

VICE-CHAIR COUCH: Mr. Chair, point of order.

CHAIR HOKAMA: State your point.

VICE-CHAIR COUCH: I'm trying to figure out which version we're talking about, is this the one submitted by Councilmember White on 7/15/13?

CHAIR HOKAMA: This is...

MS. OANA: That is the one I'm looking at.

CHAIR HOKAMA: This is the separate submittal; it should be right behind the March 27 document.

VICE-CHAIR COUCH: Right, it says down at the bottom, submitted by Councilmember White 7/15/13.

CHAIR HOKAMA: That is correct.

VICE-CHAIR COUCH: Okay.

CHAIR HOKAMA: Please work off that one, thank you for that question.

VICE-CHAIR COUCH: Thank you. Sorry.

CHAIR HOKAMA: No, no, no, that was a good clarification, and Members, I would have Ms. Oana go through her review and comments first, and then we can, we'll open it up to questions and any other requirements on this so if you would please continue.

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MS. OANA: Okay moving on to Section 3, the 2.56.070 section. Section A, it does have an exemption for Council members. This prohibition on nepotism is exempting Council members so this won't apply to Council Executive Assistants and Aides can be relatives. The first draft that Councilmember Couch mentioned just now did not have this exemption. There is also a bill going through the State Legislature right now currently, and the State is including Legislators in their proposed bill so I just wanted to comment on that. With regard to Section B, just a typo, the second line, kind of fourth word from the end of the second line "by", the word "by" should probably be changed to "to". With regard to Section C, this looks fine except for when you go down to 1b and 1c where it adds the term "another officer", that may be problematic for certain professions and departments due to the definition of "officer". Last time we were here I believe on July 15, 2013, I gave you a hypothetical about the Prosecutors Office, because under the Charter the term "officer" besides Mayor, M.D., Division Heads, First Deputies, under the Charter, "officer" also means the Deputies, Prosecuting Attorneys, and Corporation Counsel. So the example I gave you folks last time was besides the Chief Prosecutor and the First Deputy not be able to hire their children which is reasonable, they can also not hire any of their Deputies' children. So in a profession like the Prosecutors Office where if you want to be a prosecutor on Maui you can only work there, and in my experience as a criminal defense attorney some prosecutors are born prosecutors and so they're born prosecutors and Mr. Guzman's laughing, he's probably agreeing with me. You know, they're born prosecutors, they grow up, they want to go to law school and be prosecutors, they come out of law school, they're prosecutors, they have children who want to grow up just to be like them, but with this draft the way it is, no one, no kid coming home wanting to be a prosecutor can be a prosecutor if their parent is already one. Whether they're the first Deputy or the Chief Prosecutor or just a line attorney in the Prosecutors Office, their kids cannot be Prosecutors. So besides the Prosecutors Office and maybe relevant to MPD and Fire as well. I'm not really sure about that. Moving on to the same Section 2.56.070 (C)(1)(c), the end of that section it mentions merit alone, except under circumstances where the relative is qualified on merit alone, I believe the Personnel Services Department likes that addition but I do have a question what is merit alone mean, what's the definition? Does it mean you're on the eligible list? Does it mean you have the required degree, college degree? Does it mean any amount of experience in years? So that may have to be defined. Also I have a comment with regard to that phrase, does this phrase go to Sections A, B, and C or just C? Because right now it looks kind of like it just qualifies Section C. With regard to Section D now the retroactivity section, at this time I don't see how it can be applied retroactively. If we're talking about current employees who are married to each other, father-daughter whatever, one has to quit, I'm not sure if how that's going to play out. They're going to be possibly losing their rights, their property rights that they've been you know accumulating over the years. There's going to be some vesting issues, retirement issues. I'm not sure, but probably the unions will have a problem with this. This may be unlawful termination if we require someone to quit. I'm not sure if we're thinking about grandfathering in the current employees. But someone should consult with the unions as well as Department of Personnel Services. Also, with the proposed State bill that I just mentioned, they have an effective date of July 1, 2050. I'm not sure exactly why, but maybe it's just to think ahead. I think I have some further comments. Now with regard to that bill that's going to the State Legislature right now, it was introduced by Senator Hee January 2014. It's been referred to various committees. It has a more simpler definition if I can

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find it, hold on just a moment and I'll just read it to you so you can have some info. Their proposed bill...

CHAIR HOKAMA: What was the bill number if you have it please?

MS. OANA: It is SB 2959.

CHAIR HOKAMA: Thank you.

MS. OANA: So their proposal falls under Section 84 of the HRS, Nepotism, Section A, no legislator or employee shall advocate for, appoint, employ, promote, supervise, or advance to public office or employment any relative who is the legislator's or employee's spouse, reciprocal beneficiary, parent, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister. So it pretty much ends there with regard to the rule. They do have an exemption, Section B that this section shall not apply in the event of an emergency resulting from a natural disaster or similar unforeseen event or circumstance. So that's the bill going through the State right now. Like I said, they propose an effective date of July 2050. They do include Legislators in their bill; they also do not include the other officer language. However, just to note that bill does not seem to include County Officers because under this bill they use the term employee, under HRS 84 employee means State employees. Just a couple more comments, like I said to you folks last time, the City and County of Honolulu and the County of Kauai include an exemption in their nepotism law prohibition for a relative who is on the eligibility list in accordance with Civil Service Law, so I would probably suggest you look into that and see if that should be included in ours. Another concern, I spoke with the attorney who advises the Board of Ethics, and the Board of Ethics has concerns if that's the agency you want to be the enforcement agency, they're saying that they are volunteer citizens and they have no staff to conduct investigations. So I think that's all of my comments at this point right now. Thank you.

CHAIR HOKAMA: Thank you, Deputy Oana. I appreciate your review and comments. Well I can understand why the Senate Bill has 2050, 'cause the Senator's own wife is a State employee at a University system so I guess he expects her to be retired by then. Interesting, and for me, Members, I think if we need to we can go to court again but I believe the County has standing under local governance that the State cannot interfere, the County's local governance and that's why we have a Charter and if need be I have no problem asking the Council and through this Committee that we may want to if need be take the State to court again regarding their interference with local governance. But we thank the Deputy. I think that some of your comments regarding upon conviction, if we want to maintain it as a criminal violation that it is appropriate to get the Prosecuting Attorney's comments. I appreciate your question that we may need to define the phrase "merit alone". I appreciate your comments regarding the retroactivity, Civil Service component, benefit component, tenure-ship. And so I'll ask Mr. Underwood, as our Deputy for the Department of Personnel Services if he has some comments he is able to share with the Committee this morning, please.

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MR. UNDERWOOD: Thank you, Mr. Chair. I think Deputy Corporation Counsel Oana did an awesome job at summarizing pretty much everything we'd identified as well. As she noted, most of our concerns would center around the merit system and the overlapping protections of collective bargaining, Civil Service versus this particular policy. Especially if existing employees are not going to be grandfathered in, then we might have a situation where we'd have to terminate Civil Service employees or union members so that would be probably much more problematic for us. Some of the other things that she touched on, the other counties use an exception for when an employee is on an eligible list, you know we thought that that was a pretty reasonable compromise to carving out those protections. One minor point that we kind of deal with, it's come up in our office several times in any kind of rule or law that affects family is whether we want to include the definition of hanai, include hanai relationships in the definition of family. We typically always get that question when any type of family-based benefit is involved. So I think that would be pretty much the only thing I would have to offer in addition to Ms. Oana's.

CHAIR HOKAMA: Okay, thank you. I am not making a judgment but I will tell you that the history can show that various branches of government, except the judiciary, have utilized family members for certain appointments and it's mostly through the executive and the appointing authority. In the past, Mayor Tavares believed that Ms. Charmaine Tavares was qualified, experienced, and able to perform as Director of Parks and Recreation, and so he appointed her in that position and you know everyone has their own opinions but I believe she conducted herself in a very professional manner as our Director. We can look at President Kennedy and appointing his own, well he had to go to confirmation process of course, but the Attorney General was his own brother Robert Kennedy. So there's instances in the past where it was not an issue being a family member. I think a lot of the concern is more in the realm of transparency, and I believe the term "merit" regarding qualifications and an ability to perform is what the people expect first and foremost regarding employment opportunities in the government sector. So I just share that it's been done in the past in the State, it's happened a few times also with various successes, levels of success. I think it's something we need to discuss and if appropriate make the appropriate legislation, move forward to Council. Mr. White, hearing the comments from Corporation Counsel and Personnel Services, you have any questions for our resource people? I'll give you your first opportunity and then have all the other Members have their chance.

COUNCILMEMBER WHITE: The comments they made are the same as were made I believe was about a year ago when this first came up. I'm not moved on any of those changes and it looks like Committee Staff hasn't done anything to alleviate the concerns that were done earlier so rather than getting in to any specifics I think the real, the only question that I'd like to hear from the other Members is whether or not they feel we should have a policy that at least puts a higher level of evaluation on decisions to hire one's relatives, families, or others. You know we're all aware of where it has happened and in certain departments and that was the reason why I brought this forward. I don't think it's necessary to review all the issues that they were brought up. They were brought up before and I think they're valid concerns and which can be addressed. But the

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real question is whether the group feels that we should have some control on this or not at all. So thank you, Chair.

CHAIR HOKAMA: Ms. Baisa, any comments at this time or questions?

COUNCILMEMBER BAISA: It appears to me that this is a work in progress and I hear more questions than answers. But you know, I have a little bit of experience with nepotism policy when I was at MEO. We had a very strong nepotism policy. But it was more limited and it was limited to the definition of immediate family. This is much, much broader. This has mothers-in-laws, and sisters-in-laws, and all kinds of people. And of course we also got into that Hawaiian situation with hanai family and you know that is so recognized here in Hawaii that that's another problem. You know if I had a child that I hanai'd, it wouldn't be about blood relative or even an in-law but you know it would be like my own child so this is really complicated. I understand the need for a nepotism policy and you know if you've been in management you know that there are times when a relative makes a very good assistant because you know you have shared the same values, you have the same experiences, you understand a lot of things. If you lived with your mom or dad and you heard them talk about all their stuff at work every day you'd know, you'd kind of, you know, absorb it because you've been around it. But it also tends to sometimes be difficult to supervise family, because when discipline comes into the picture, it's very, very hard to discipline your family whereas if it's a person that doesn't, isn't that close it's much easier. So it's not an easy situation and I understand where Member White is coming from, and I think what we're looking for here is to make sure that people that are in positions have the skills and do the job and deserve whatever the compensation that they get. But I don't think that we are in any way ready to make a decision on this today. Thank you.

CHAIR HOKAMA: Thank you. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. And I echo Ms. Baisa's comments and my only concern is you know you have in-laws in here and typically after a divorce, in-laws are still your in-laws, that's my understanding. So then you're starting to, they're starting to grow the web there so I'm not sure that the in-law thing is enough. I would like to have Mr. White and whatever kind of take kind of take a look at that one more time, because in-laws are still your in-laws after divorce because of the kids. So that's my understanding, and I've been looking it up. There's questions both ways so I don't even know if we have a legal definition of an in-law. So that's my only concern. Everything else you know, all the other concerns have been mentioned so.

CHAIR HOKAMA: Thank you for bringing up a good point that we need to reflect and consider on, Mr. Couch, so thank you for that. Ms. Crivello?

COUNCILMEMBER CRIVELLO: I can understand where Mr. White is going with this but you know in the culture that we are, we're all incestuous, we're all related one way or the other, and so how do you really dissect it when it comes to nepotism. I can see direct supervision perhaps that could be more of a strong consideration than as a whole as far as prohibiting any kind of

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employment. I know most nonprofits today you have to come up with a policy on nepotism and it's not so specific. It's how you defined it and maybe that's something we need to look further to as to what the law requires for nonprofits for the nepotism policy. So I don't know if I can support this at this time because if I look at just, if I just look at my genealogy I think I'm related to just about so many people so you know, it would be touch and go. Yeah.

CHAIR HOKAMA: Thank you. Yes, many of us have huge families and clans so I understand that comment very well. Mr. Carroll, any questions or thoughts?

COUNCILMEMBER CARROLL: Just about the same as my fellow Council members have passed on that I really think some thought needs to be given to this to make sure we don't violate doing our number one rule do no harm. Thank you.

CHAIR HOKAMA: Thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: I concur with my colleagues and very concerned, and I saw that you also had made some changes as of today and where you struck out violation articles. I guess there's a whole bunch of things like Ms. Baisa said more questions than answers at this point. And a more thorough review needs to be extended on this, and I'd like to know you know the question I would like a legal opinion on what in-laws mean, because ex-in-laws are not relatives as far as I've been told and have legal standing but I would want the legal beagles to give us a determination. I think that's important. And I guess the last thing I would really want to hear is how hanai plays into this. Because in Hawaii hanai is a big part of it. I have a hanai grandson and I give him all the rights in my family. I have no distinguish between him and the blood. So I would really want to know that because this is important. We're going to start saying these people especially when you're talking various areas, Police, Fire, when you know fathers, sons, grandsons, all follow each other. I'd become very concerned if and how would this play in to it you know. We make exemptions for us, let us not be Legislators like our Legislature who make exemptions on Sunshine Law and then the rest of us suffer the consequences. Let us not do what others have done to us. I guess that's my whole issue with this you know. I understand Mr. White's desire to protect and to make sure nepotism is not part of government. Nepotism is part of the private sector. I challenge anyone to tell me differently. Now there are rules and regulations that you work different division, different departments, your father can oversee your department, different you know different issues because I've been there. But you know in the resort industry I know there are many family members. Mothers, daughters, fathers, who all work in one hotel, I know that. So let us not be chastising something that we all, especially in Hawaii, we're very much accustomed to. That's part of our lifestyle. Something that I'm very concerned. So I couldn't support anything today. But I'll let them go work on it a little bit more and I may send a letter with my concerns to you, Mr. Chair so that those concerns could be addressed appropriately. Thank you, Chair.

CHAIR HOKAMA: The Chair has heard your concern, Mr. Victorino, and the Chair will forward on behalf of the entire Committee the appropriate written request to the appropriate departments for

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some comment and advisory thoughts on the two questions as the Chair understood it prior to the next meeting for a response so that we can be better informed.

COUNCILMEMBER VICTORINO: Thank you, Chair.

CHAIR HOKAMA: Thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. Yes, I too believe that this needs to be revisited and researched more. I understand the intent of Mr. White. I think even at the State level as mentioned they do have a proposed nepotism policy. It's to me, nepotism is, to have a nepotism policy is somewhat standard in the private sector. On the other hand, Chair, I think what we're talking about is what Chair Baisa is mentioning is that I think this would apply more so if it's a direct hire from a, let's say the Director has the full-on decision to hire versus having a system wherein one is appointed and then goes through a process like confirmation by the Senate or confirmation by the Council. I think there's a distinction between the two and if we can kind of compartmentalize those two I think we can come up with good legislation wherein if it's a direct hire from the department head there would be a section in there where he has to recuse himself and allow a body within his department to make that decision because we're just talking about a decision making whether...if the person is qualified so be it. If the person is related, I don't feel that it's going to jeopardize anything if the relative is not involved in the direct hire. So this could be drafted a little more narrowly so we can accommodate those situations. But thank you, Chair, for this opportunity.

CHAIR HOKAMA: Okay, the Chair has heard the Committee's concerns and so the Committee, the Chair and the Staff will consult and work with Mr. White as the original proposer of the legislation. I think the two items that I've heard that is very critical and major to the Committee is the, not the concept, but how we would deal with the practice of hanai because it is an ongoing thing, it does exist. And I believe also we've had enough comments regarding the phrase "in-law" that we should get some better grip on it. While I agree with Mr. Carroll, you know we should ensure that there is no harm, part of this process and why I brought it forward is to avoid harm. The State is responding to a situation in the Department of Health that has caused harm to the employees, physical harm. That is something in according to this Chair we will try and avoid within the confines and parameters of the County. So I'm happy, I'm going to, well before I make any comments I will ask Mr. Kushi once more if he has any additional comments that he would like us to be informed of, Mr. Kushi?

MR. KUSHI: Yes, Mr. Chair. Since it's going to come back to you later after Staff revises it with those comments and concerns and not to pile on or add fuel to the fire but would you like to address the issue of domestic partner, too?

CHAIR HOKAMA: Okay, thank you very much. I think that is a very well needed to be addressed so we'll bring that on. I believe, I think, Corporation, your Deputy Ms. Oana brought up a good point regarding the criminality versus civil concern as well as whether or not who will be the administering and implementing component of the County to deal with this and have

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responsibility. I take those comments regarding the volunteer component of the Board of Ethics and their issues. And so we may need to consider something more appropriate that knows labor laws, understands collective bargaining, and the more appropriate may be Department of Personnel Services to have the policy, if adopted, be the ones that we consider for assignment of implementing and taking responsibility of this new County policy. Is there anything you have, the Chair would like, you would like the Chair to consider? Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. Yeah, I think the important point to remember is that, and this may not be, obviously it's not crafted well enough to be clear, but as Mr. Victorino said there are a lot of hotels that have family members and most hotels in Hawaii couldn't operate without having family members. But the rules generally don't allow family to work directly under family, and they don't allow the family to make the hiring decisions for family, and so I in my career I had a situation in which out of 80 employees, I believe about 20 came from one family. So it was a very, very difficult thing to balance, but the point is none of them were in supervisory positions hiring other family members, and that's I think the thing that I was hoping to start getting a handle on. I had many family members of other people's families working at my organization, but I won't hire any of my own kids or my wife or any other relative because it's, I just don't believe that's the right thing to do. I'm not suggesting that that's the way all departments should operate, but I think we have to have a sense of clarity and transparency as you mentioned as we make job offers and put people in roles that are being supervised by relatives. So that's my concern and I thank you for bringing this up.

CHAIR HOKAMA: Okay, thank you. Ms. Baisa.

COUNCILMEMBER BAISA: Yes, thank you Chair. It's always good when we have a discussion like this and everybody gives their mana'o, it helps you to remember. You know in talking about my former situation I didn't mention it but it is true. Having direct supervision is a problem. You know if they were in another department and you had no day-to-day supervision it's not so bad. But when you're in the same office, same department, it does and could potentially cause issues with the other employees that you're supervising. I mean if you allow your wife to come in late every day it causes problems with the other employees. So this could be an issue. The other thing that I can verify that Ms. Crivello mentioned was it was an, it was a real burden on us in the smaller islands particularly on Molokai where everybody's related to everybody and it became very difficult to try and recruit. Many times we'd have open positions because we couldn't hire the daughter, the niece, the mother, or whatever. And so it is acute problem in small populations because you know everybody's related. Thank you.

CHAIR HOKAMA: Thank you for that comment. Any other questions or comments at this time for the Chair or our department representatives, Members? Okay, thank you very much. The Chair with no objections is going to defer this item and work on the areas that the Committee has brought up as well as our department representatives that has brought up for consideration for revision.

COUNCIL MEMBERS: No objections.

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COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: EC).

CHAIR HOKAMA: No objection. This item is deferred.

ACTION: DEFER pending further discussion.

CHAIR HOKAMA: And I thank you for your participation. It was a very good meeting in the Chair's perspective. This meeting is adjourned. . . .(*gavel*). . .

ADJOURN: 11:34 a.m.

APPROVED:

G. RIKI HOKAMA, Chair
Policy and Intergovernmental Affairs Committee

pia:min:140616

Transcribed by: Marie Tesoro

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES
Council of the County of Maui

June 16, 2014

CERTIFICATE

I, Marie Tesoro, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 8TH of July 2014, in Wailuku, Hawaii

Marie Tesoro



[Home](#) » Nepotism Good Cause Exception Application

NEPOTISM GOOD CAUSE EXCEPTION APPLICATION

Step 1 of 6

16%

Applicant Information

If you have questions about the definition of a household member or relative, or how the nepotism law works, please see [Quick Guide to Nepotism](#)

Applicant's Name (Name of the state employee hiring or supervising a household member or relative who seeks an exception to the nepotism law)

(Required)

Applicant's State Position *(Required)*

State Agency *(Required)*

Address *(Required)*

Street Address

Address Line 2

City

State

Zip Code

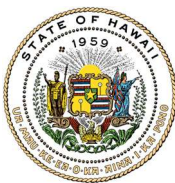
Email (Applicant) *(Required)*

Phone *(Required)*

Date of Hire *(Required)*



Next



HAWAI'I STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i 96813

July 20, 2023

Via-Email: brickwoodg@oha.org

Brickwood Galuteria
Trustee
Office of Hawaiian Affairs
560 N. Nimitz Hwy #200
Honolulu, Hawai'i 96817

Re: *Request for a Good Cause Exception to Nepotism Prohibition*

Dear Mr. Galuteria,

Thank you for contacting our office to request a good cause exception to the nepotism prohibition. This prohibition restricts you from taking employment actions, such as supervising or retaining, your daughter, Sommer Soares. We understand Ms. Soares serves as your office aide and reports directly to you.

Based on the information you provided, it is our opinion that good cause does not exist for a blanket exception to the nepotism law. Nonetheless, recognizing the complexities of restructuring an existing employment arrangement, we extend a temporary exception of three months from the date of this letter to allow you and your office to make alternative accommodations.

Background:

Hawai'i recently implemented a ban on nepotism that applies to all state employees, except those working in the legislative or judicial branches of government.¹ See Act 261.² As of July 12, 2023, no employee subject to Act 261 shall "[a]ppoint, hire, promote, or retain a relative or household member to, or demote, discharge, or terminate a relative or household member from . . . a paid position in the employee's employing agency"

¹ The Office of Hawaiian Affairs does not appear to fall under either the legislative or judicial branch of government and, thus, is subject to Act 261.

² Available at https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=HB&billnumber=717&year=2023

“Employee” means “any nominated, appointed, or elected officer or employee of the State, including members of board, commissions, and committees, and employees under contract to the State” Haw. Rev. Stat. § 84-3.

The Commission “may grant an exception to an employee or agency that is unable to comply with this section for good cause, including a demonstrated lack of qualified personnel or applicants.” Act 261 at (g). On May 17, 2023, the Commission delegated “the initial decision on any good cause exception application to the Executive Director.”³ Such a decision shall be publicly available on the Commission’s website. Further, should the “application raise novel issues or should the applicant disagree with the Executive Director’s decision, the matter shall be referred to the Commission for a decision”⁴.

Analysis:

Recognizing that compliance with the new nepotism prohibition may have unavoidable consequences that impact your office, and in particular, Ms. Soares, a current state employee, we acknowledge the delicate nature and significance of this subject. We fully grasp the seriousness of your request and address it with due gravity.

In addition, we understand the central issue. The dynamic between an elected official and their employees differs from that of a typical state worker. An elected official is directly accountable to their community. A close relative brings with them a sense of familiarity and trust, shared values and vision, and the potential to strike a harmonious balance between loyalty and effectiveness. Furthermore, if the public expresses discontent with the performance of an elected official and their team, there exists an active political solution: voters retain the power to elect a different candidate. This differs from a traditional civil servant or at-will state employee.

Nonetheless, Act 261 establishes a bright-line restriction, forbidding most state employees from hiring or retaining a relative or household member. The law does not differentiate between elected officials, civil servants, or at-will employees. Consequently, this unambiguous language establishes that no state employee subject to the law, irrespective of their elected status, is permitted to oversee or recruit a family member or household member due to the strict nepotism prohibition.

³ Order Regarding Applications for Good Cause Exceptions to the Nepotism Law, May 17, 2023 at 2.

⁴ *Id.*

Moreover, looking to the legislature itself, it is notable that both the Senate⁵ and House of Representatives⁶ enacted rules prohibiting the hiring or employment of a close relative.⁷ This supports the conclusion that the legislature intended a firm prohibition of nepotism, regardless of elected status.

Finally, public policy further supports drawing a narrow line around possible good cause exceptions. The nepotism prohibition:

- Eliminates favoritism, and establishes an equal playing field for other qualified individuals seeking an employment opportunity;
- Avoids conflicts of interest by ensuring state employees can make unbiased decisions in the best interest of the public;
- Helps maintain public confidence in the public integrity and impartiality of elected officials and government as a whole; and
- Prevents abuses of power, that is, the risk of elected officials misusing their authority to benefit family members and expend public resources improperly.

Conclusion:

As established above, state employees subject to the Nepotism law (Act 261) are covered without regard to elected status, and the fact that one is elected does not establish good cause for an exception. Nonetheless, recognizing that the law directly and significantly impacts your office as a whole and in particular, Ms. Soares, an existing state employee, a temporary good cause exception is granted for three months following the date of this letter to allow for corrective action, such as transitioning Ms. Soares into a new position, assigning her to a different supervisor, or other steps that would achieve full compliance with the Nepotism law.

⁵ “A Senator or employing staff member may not appoint, employ, promote, advance or advocate for appointment, employment, promotion, or advancement in or to a position in the Senate any individual who is a close relative of the Senator or employing staff member.” *Administrative and Financial Manual of the Senate*, adopted January 15, 2020, at 60 (available at <https://www.capitol.hawaii.gov/sessions/session2023/docs/SenateAdminManual2023.pdf>).

⁶ “For permanent staff who being employment on January 18, 2023, and thereafter, each member and support agency head is prohibited from appointing, employing, promoting, or advocating for the appointment, employment, or promotion of any relative to a position that the member or support agency head exercise authority or control over in an official capacity.” *House Administrative and Financial Manual*, House of Representatives, Thirty-Second Legislature 2023-2024, at 71 (available at <https://www.capitol.hawaii.gov/docs/HouseAdminManual.pdf>).

⁷ Employees of the judicial branch are also subject to a longstanding nepotism prohibition preventing them from appointing or hiring a family member. Haw. Rev. R. of Jud. Cond., Rule 2.13.

Trustee Brickwood Galuteria
July 20, 2023
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If you need assistance in determining how to comply with the Nepotism law moving forward, please review our Quick Guide (attached) or contact our office.

Thank you for your inquiry and if you have questions or would like to discuss this matter further, please contact me at 587-0460.

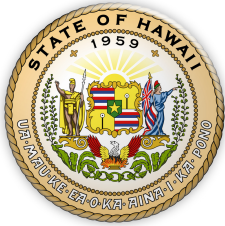
Sincerely,

A handwritten signature in black ink, appearing to read 'RDH', written in a cursive style.

Robert D. Harris
Executive Director and General Counsel

Attachment: Nepotism Quick Guide

RDH/ls



HAWAI'I STATE ETHICS COMMISSION

1001 Bishop Street, Suite 970 | Honolulu, HI 96813 | info.ethics@hawaii.gov | (808) 587-0460 | Twitter: @HawaiiEthics

THE STATE ETHICS CODE - A QUICK GUIDE ON THE NEPOTISM LAW

DOES THE NEPOTISM LAW APPLY TO ME?

The nepotism law applies to almost all state employees (including board members). Exceptions include employees in the legislative or judicial branches.

The Commission encourages all state employees to comply with this law.

What does the nepotism law prohibit?

If the nepotism law applies to you, there are two restrictions:

1. You cannot take employment action affecting relatives or household members.

- This means you cannot appoint, hire, promote, retain, demote, discharge, terminate, or supervise a relative or household member from a paid position in your agency.
- This also means you cannot participate in an interview or discussion regarding a relative or household member's potential hiring, promotion, or retention to a paid position in your agency.
- There is an exception for supervising a relative where you have a physical impairment requiring the hiring of a particular relative or household member and the employment is disclosed to the Commission before the hire is made.

2. You cannot be involved in contracts awarded to businesses owned by relatives or household members.

- You may not award or be involved in administering/supervising a contract to a business where a relative or household member:
 - is an executive officer of that business or
 - owns a substantial interest in the business.
- For example, an employee could not sit on the selection panel of a request for proposals if one of the applicants was owned by a relative.
- **Narrow exception:** if you are legally required to take action affecting a relative or family member's business, you may do so when you file a notice with the Commission at least five days in advance.

What is a Relative?

A "Relative" includes parents, grandparents, children, grandchildren, siblings, uncles/aunts, cousins, in-laws, and step-relationships.

A "household member" is anyone who resides in the same dwelling.

THE STATE ETHICS CODE - A QUICK GUIDE ON THE NEPOTISM LAW

What should I do if I supervise a relative at work?

Employees generally cannot supervise their relatives, and agencies and employees should work together to comply with the nepotism law. For instance, a supervisor could delegate all employment decisions affecting a relative to another person in the agency. To avoid the appearance of impropriety, it will be important to document that employment decisions are being made by someone else and be public about that delegation.

If that is not possible, you may apply to the Commission for an exception to the nepotism law where there is good cause. You must prove good cause, which might include a lack of qualified applicants, in a public and transparent manner. An exception form can be found at ethics.hawaii.gov.

How do I establish good cause?

When applying for a good cause exception, it is important that the employee or agency produce evidence that they are unable to comply with the nepotism law. For hiring decisions, this could include ensuring that the job description was reviewed for general applicability; meaningfully advertising in relevant locations; advertising for a reasonable period; acting quickly to review and consider potential candidates; and generally going above and beyond to recruit applicants into the state system.

For existing state employees taking action affecting relatives, a good cause exception application should include proof of why the agency and employee are unable to delegate those duties to another employee and the efforts that were made to comply with the nepotism law absent an exception.

What should I do if I am asked to interview a relative for a job opportunity?

Employees may not interview or promote their relatives. An employee that is asked to do so should disclose their relationship to their agency and refrain from participating in the hiring process.

What are the penalties for a violation?

Employees violating the nepotism law face fines of up to \$1,000 per violation, any favorable treatment received by a relative or household member is potentially voidable.

Contact Us:

1001 Bishop Street, Suite 970
Honolulu, HI 96813
www.ethics.hawaii.gov

(808) 587-0460 phone
(808) 587-0470 fax
info.ethics@hawaii.gov



HAWAI'I STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i 96813

January 19, 2024

Via-Email: Christopher.Sanita@k12.hi.us

Principal Christopher Sanita
Hāna High & Elementary School
P.O. Box 128
4111 Hāna Highway
Hāna, HI 96713

Re: Request for a Good Cause Exception to Nepotism Prohibition
(OTH-24-00028)

Dear Mr. Sanita:

Thank you for contacting the Hawai'i State Ethics Commission ("Commission") to request a good cause exception to the Nepotism Law. As the principal of Hāna High & Elementary School ("Hāna School"), you seek a good cause exception to hire your son, Makana Sanita ("Makana"), as an emergency hire teacher at Hāna School. As noted below, we believe there is good cause.

The Nepotism Law prohibits state employees from taking employment action affecting relatives or household members.¹ Employment action includes hiring, evaluating, demoting, or supervising a relative or household member. The law further provides that the Ethics Commission may grant an exception to this law upon good cause shown. Good cause may include a demonstrated lack of qualified employees or candidates.

In both your application for a good cause exception and during a subsequent call, you provided the following details:

- Hāna School, being situated in a rural area, faces inherent challenges in filling vacant positions due to its geographic location and limited housing options;
- The specific vacancy has remained unfilled for approximately a year;

¹ The Nepotism Law is available here: [Act 261 \(2023\)](#). For more information, please refer to the quick guides posted on the Ethics Commission's website: [Nepotism Quick Guide](#).

- The hiring team, led by Hāna School’s vice principal, Jennifer Everett, conducted interviews and identified your son, Makana, as a qualified candidate and recommended his employment;
- Makana was the sole applicant for the position; and
- If the event of hiring, Makana would be under the direct supervision of Ms. Everett and the elementary department head.

During my conversation with Ms. Everett, she mentioned that the position in question was initially posted on an older Department of Education website, eHR, on August 1, 2023, with no applicants. Subsequently, on January 5, 2024, the position was re-listed on NEOED, the Department of Education’s latest website for hiring state public school teachers.² As of January 18, 2024, Makana remains the sole applicant, with no other candidates having applied.

As the lead of the hiring team, Ms. Everett affirmed the team’s unanimous view that Makana was a qualified candidate. She expressed confidence in supervising Makana and agreed that in the event of any conflicts arising under her supervision, she would seek assistance from the Complex Area Superintendent, Dr. Rebecca Winkie, to resolve the matter.

Dr. Winkie substantiated that Hāna School has historically faced challenges in recruiting teachers and educational staff. She also confirmed that in the event of any issues arising in the supervision of Makana, Ms. Everett or others could approach her for assistance in addressing problems or complications.

From the details presented, there is good cause to hire Makana.³ As noted previously, the Nepotism law permits a good cause exception in cases with a “demonstrated lack of qualified personnel or applicants.” In this instance, both Ms. Everett and Dr. Winkie endorsed the argument that Hana School, giving its rural setting, has consistently faced challenges in attracting qualified applicants. This assertion is further supported by the absence of any other applicants for the position, which remained open for at least five months.

With regard to the ongoing supervision Makana, the Nepotism Law expressly allows an individual to recuse themselves from taking any official action directly affecting the relative or household member. In this specific case, you have voluntarily recused yourself from such responsibilities. Two other designated individuals have been assigned the task of supervising Makana. Additionally, a protocol has been established to ensure that these individuals can seek guidance from the Complex Area Superintendent in addressing any unforeseen circumstances or

² The Commission understands the adoption of the NEOED website has significantly increased the number of overall applicants on a statewide basis.

³ Commission staff note this good cause exception limited to the hiring of Makana for this emergency position. Should Makana choose to apply to a different or permanent position, a new good cause application may need to be submitted.

conflicts related to their supervision of Makana. If circumstances change, such as you find yourself in a position of supervising or taking official action directly affecting Makana or if Makana were to apply or switch to a different position, it may necessitate submission of another good cause exception request.

Thank you for your request for an exemption. This letter is based on the information provided by you and other employees of the Department of Education. If any of this information is inaccurate, please inform us as soon as possible as this may affect our decision. Further, if you disagree with any portion of this letter, you may, pursuant to the Order Regarding Applications for Good Cause Exceptions to the Nepotism Law issued on May 17, 2023, appeal to the full Ethics Commission for reconsideration.⁴

If you have questions or would like to discuss this matter further, please contact me at (808) 587-0460.

Sincerely,



Robert D. Harris
Executive Director & General Counsel

RDH/ls

⁴ Available at <https://ethics.hawaii.gov/wp-content/uploads/Order-NepotismExceptionProcess.pdf>

HOUSE OF REPRESENTATIVES
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

H.R. NO. 65

HOUSE RESOLUTION

URGING THE ETHICS COMMISSION OF EACH COUNTY TO ADOPT STANDARDS
SIMILAR TO THAT APPLICABLE TO STATE ELECTED OFFICIALS AND
OFFICERS AS ADOPTED AND ENFORCED BY THE STATE ETHICS
COMMISSION.

1 WHEREAS, the primary purpose of governmental ethics laws is
2 to improve honesty and integrity in government; and
3

4 WHEREAS, public service is a public trust and those
5 entrusted with the power of office must first and foremost
6 commit steadfastly to upholding the rule of law and must never
7 presume that they are above its letter and spirit; and
8

9 WHEREAS, the perception of integrity in government is no
10 less important than the reality of integrity in government, as
11 regardless of how honest public officials are in fact, a
12 democratic system of government cannot function properly if the
13 public believes its officials are corrupt; and
14

15 WHEREAS, further efforts are necessary for elected
16 officials and officers to restore trust in county governments;
17 now, therefore,
18

19 BE IT RESOLVED by the House of Representatives of the
20 Thirty-third Legislature of the State of Hawaii, Regular Session
21 of 2025, that the ethics commission of each county are urged to
22 adopt standards similar to that applicable to state elected
23 officials and officers as adopted and enforced by the State
24 Ethics Commission; and
25

26 BE IT FURTHER RESOLVED that certified copies of this
27 Resolution be transmitted to the mayor of each county,
28 chairperson of each county council, and chairperson of the
29 ethics commission of each county.
30
31



Page 2

H.R. NO. 65



OFFERED BY: _____

MAR 06 2025

1

2025-2161 HR HMSO-3



2

Great Committee

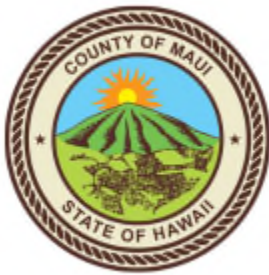
From: Board Of Ethics <BoardOfEthics@co.maui.hi.us>
Sent: Monday, July 20, 2026 2:14 PM
To: Great Committee
Cc: Lauren M. Akitake; Kristine N. Tsukiyama
Subject: GREAT-15
Attachments: 2026-07-28_GREAT-15 Nepotism Index & Documents.pdf

Aloha,

Attached are Nepotism materials for the 7/28 GREAT meeting.

Mahalo,

BOE Staff



Board of Ethics

County of Maui

(808) 270-8078
boardofethics@mauicounty.gov
www.mauicounty.gov/170/Board-of-Ethics
2145 Kaohu St., Suite 104, Wailuku, HI 96793

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