

RESOLUTION 18-168

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, ADOPTING AND AN ANTI-NEPOTISM POLICY FOR THE APPOINTMENT, EMPLOYMENT, PROMOTION, AND ADVANCEMENT OF OFFICERS', MANAGERS', AND EMPLOYEES' FAMILY MEMBERS AND SIGNIFICANT OTHERS

WHEREAS, at general municipal election on November 6, 2018, the voters in the City of Carson voted to adopt a City Charter; and

WHEREAS, Sections 505 and 703 of the Charter included provisions prohibiting nepotism in the City's employment, promotion, and advancement process, as well as the process of making appointments to City boards, commissions, and committees; and

WHEREAS, the City's current Anti-Nepotism Policy is stated in City Policy/Procedure Number 6.15, which was effective as of December 11, 1978; and

WHEREAS, the City needs an updated Anti-Nepotism Policy to implement the Charter's anti-nepotism provisions and provides further anti-nepotism guidelines; and

WHEREAS, based on the mandates of the Charter and additional guidelines in the Policy, the City Council desires to adopt an updated Anti-Nepotism Policy to prevent and prohibit nepotism in the City's employment, appointment, promotion, and advancement procedures.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The above recitals are true and correct and incorporated herein by this reference.

SECTION 2. The City Council adopts the attached Anti-Nepotism Policy, which applies to the employment, promotion, advancement, and appointment of Officers', Managers', and Employees' Immediate Family members, Relatives, and Significant Others, as defined in the Policy.

SECTION 3. The Policy shall be immediately effective.

SECTION 3. The Policy is subject to meet and confer with all employee organizations representing employees affected by the Policy. Any substantive (non-clerical, e.g. typo or formatting) amendments to this Policy are subject to the City Council's approval.

SECTION 3. This Resolution is effective on the day of its adoption.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Carson, California, at a regular meeting held on the _____ day of _____, 2018.

ATTEST:

Mayor Albert Robles

City Clerk Donesia Gause-Aldana

APPROVED AS TO FORM:

City Attorney Sunny K. Soltani

CITY OF CARSON - ANTI-NEPOTISM POLICY

General Discussion and Background

The City of Carson's Charter expressly prohibits nepotism.¹ Nepotism is defined as the practice of using personal influence or power, because of a familial or romantic relationship, to aid or hinder another person in securing employment, promotion or other benefits.

This Anti-Nepotism Policy ("Policy") serves to implement the Charter's intent to prevent nepotism. Furthermore, by discouraging or preventing nepotism, this Policy helps to ensure fair and impartial employee and appointee selection, supervision, and evaluation. Additionally, the appointment or employment of relatives or those involved in romantic or close personal relationships ("significant others") can cause various problems, including charges of favoritism, conflicts of interest, family discord, and scheduling conflicts that work to the disadvantage of both the City and its employees.

Applicability

This Policy must be considered when assigning, transferring or promoting an employee, and when appointing anyone to any appointed position with the City. This Policy applies to the employment, promotion, advancement, or appointment of Officers', Managers', and Employees' Relatives or Significant Others, as defined below.

This Policy shall apply to *future* employment and appointments, and shall only apply to current employees and appointees to the extent described below. The City recognizes that it is unlawful to discriminate on the basis of marital status and does not prohibit hiring spouses or domestic partners of *current* employees. This Policy does not prevent the City's employment of employees' and Managers' family members, but rather, prevents Officers and Managers from using their positions of power to influence hiring and promotions.

Definitions

For purposes of this Policy:

"*Relative*" means any individual who is a relative, within the third degree, whether by blood, marriage, common-law, domestic partnership, or legal action. This includes parents (foster, legal, or step), children, in-laws, siblings, grandparents, and grandchildren.

A "*Significant Other*" is any individual who has a romantic or close personal relationship with the applicable and respective Officer, Manager, or employee.

An "*Officer*" is any public official of the City, whether elected or appointed.

¹ Carson City Charter Section 505 and 703.

“Manager” means the City Manager, Assistant City Manager(s), all department heads, and anyone with supervisory or hiring authority.

Anti-Nepotism Mandates of the Charter

1. Charter Section 505

- a. A Manager shall not himself/herself, or direct or influence anyone else to, appoint, employ, promote, or advance the Manager’s or any Officer’s Relative or Significant Other in or to any committee, board, commission, employment, or promotion in the City.
- b. An Officer shall not himself/herself, or direct or influence anyone else to, appoint, employ, promote, or advance any Officer’s Relative or Significant Other in or to any committee, board, commission, employment, or promotion in the City.
- c. No individual shall be appointed to any committee, board, or commission in the City if such appointment has been advocated by an Officer or Manager for preferential treatment of such individual for reasons other than the individual’s expertise or performance in such committee, board, or commission.

2. Charter Section 703

- a. City Council Members’ Relatives are ineligible for appointment as City Manager, City Attorney, or appointment to any City advisory board, committee, or commission.
- b. A Manager authorized to appoint any person to an appointed position with the City shall not appoint said Manager’s Relative.

Additional Anti-Nepotism Guidelines – Beyond Officers and Managers

In addition to the Charter’s mandates above, the City will follow general guidelines to reduce the likelihood of nepotism in the City’s employment and advancement process. In the event of any conflict between these Guidelines and the Charter mandates above, the Charter mandates shall apply.

Except as prohibited by the Charter and this Policy, Employees’ Relatives and Significant Others are eligible for appointment, employment, promotion, or advancement in or to any City position, based on qualifications. Employees’ Relatives and Significant Others will be considered for employment, appointment, promotion, or advancement if they:

- (1) have made application in accordance with established procedure;
- (2) have been considered in accordance with established procedure;
- (3) possess the necessary qualifications; and

(4) are considered to be the most suitable candidate.

Employees' Relatives or Significant Others shall not be appointed to, or employed in, a full-time, part-time, or temporary position within the City if the employment would:

- (1) Create a supervisor/subordinate relationship with a family member or person with whom there is a romantic or close personal relationship, including a relationship where the family member occupies a superior position that is in the direct chain of command;
- (2) Have the potential for creating an adverse impact on work performance;
- (3) Have the potential for adversely impacting supervision, safety, security, or employee morale; or
- (4) Create either an actual conflict of interest, or the appearance of a conflict of interest that cannot be adequately mitigated.

Employment or Promotion Applicants

An Employee's Relative or Significant Other shall not be denied the right to file an application for employment or promotion and compete in the examination process, but a current employee shall not directly or indirectly participate in his or her Relative's or Significant Other's recruitment, employment, or promotion process.

Following employment or promotion examinations or interviews, a qualified and eligible applicant may be employed or promoted in the same department, division, or office of the City in which his or her Relative or Significant Other is employed, unless the Human Resources Department determines that such employment violates the supervisory prohibition described above, potentially creates a conflict of interest, or has a potential adverse impact on supervision, safety, security, or employee morale.

Refusal of employment or promotion of a qualified and eligible candidate by virtue of this Policy does not affect the candidate's eligibility for other available positions at the City.

Current Employees

If, at the time this Policy is adopted, two employees working in the same department, division, or office are Relatives or Significant Others, the relationship shall not be deemed an automatic violation of this Policy. This waiver, however, may not be used as a basis for further exceptions occurring after the effective date of this Policy.

Employees who are currently, or become, Relatives or Significant Others may continue employment as long as it does not involve any of the above four (4) restrictions. If, in the

determination of the Department Head, such a relationship violates this Policy, he or she shall submit the reason(s) for his or her determination to the Director of Human Resources for review. The Director of Human Resources shall then investigate the findings and determine whether such a relationship violates this Policy. The Director of Human Resources shall submit his/her determination to the Division Manager, with a copy to the Assistant City Manager and the City Manager.

If a Department Head is one of the Relatives or Significant Others, the Department Head shall inform the Director of Human Resources for review, and the review procedure shall continue as described in the paragraph above. If the Director of Human Resources is one of the Relatives or Significant Others, then the Director of Human Resources shall inform the Division Manager, with a copy to the Assistant City manager and the City Manager for review.

If a relationship violates this Policy, then the person authorized to make the determination of violation shall promptly inform the employees of the intent to transfer the less senior employee, or the more senior employee upon mutual agreement, to a vacant position of comparable pay and duties in another City department or office, provided that such a vacant position exists, the transferee is qualified, and no offer of employment to fill the vacant position has been made to another eligible candidate.

If a position of comparable pay and duties is not open, but one in a lower classification is vacant, the affected employee may elect to voluntarily demote to the lower position, provided that the vacant position is in another department, division, or office, the employee is qualified to fill the position, and the position has not been offered to another candidate. A voluntary demotion undertaken by the affected employee under this provision shall be in accordance with the provisions set forth in the City's Personnel Rules and/or applicable Memorandum of Understanding.

If accommodations of this nature are not feasible, the employees will be permitted to determine which of them will resign. If the employees cannot make a decision, the City will decide in its sole discretion who will remain employed with the City.

Current Appointees to Committees, Commissions, and Boards

As mentioned above, the Charter prohibits an Officer from appointing *any* Officer's Relative or Significant Other to any committee, board, or commission. Furthermore, the Charter prohibits City Council Members' Relatives from appointment to any advisory board, committee or commission. Within seven (7) calendar days after this Policy is adopted and the Charter is certified, Council Members' Relatives with existing appointments to advisory boards, committees, or commissions shall provide their written resignations to their appointing Officer or Manager, with a copy to the City Clerk and City Manager.