

**ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY**

GLENN A. GRANT, J.A.D.
ACTING ADMINISTRATIVE
DIRECTOR OF THE COURTS



RICHARD J. HUGHES
JUSTICE COMPLEX
PO Box 037
TRENTON, NEW JERSEY 08625-0037

**To: APPELLATE DIVISION JUDGES
SUPERIOR COURT JUDGES
TAX COURT JUDGES**

DIRECTIVE # 17-08

FROM: GLENN A. GRANT

**SUBJ: POLICY ON THE APPOINTMENT OF JUDGES' RELATIVES TO JUDICIARY POSITIONS
(JUDICIARY ANTI-NEPOTISM POLICY)**

DATE: DECEMBER 2, 2008

Attached as approved by the Supreme Court is the Statement of Judiciary Policy on the Appointment of Judges' Relatives to Judiciary Positions. This policy statement supersedes the current policy statement, issued April 30, 1981 by Chief Justice Robert Wilentz, as well as any and all prior or intervening policy statements.

The 1981 statement provided that no appointment of judges' relatives to court or court-related positions could be made without the prior approval by the Supreme Court, by application through the Administrative Director's office. A revised policy was required in order to clarify several provisions, such as the definition of judges' relatives (essentially following the Code of Judicial Conduct with respect to disqualification of a judge based on degree of familial relationship), and, perhaps most importantly, to place responsibility for policy implementation on those who are involved in the selection and appointment process, e.g., the hiring judge or hiring manager/supervisor, the local Human Resources office, and the senior manager for the position. The previous policy statements placed that responsibility on the judge who is related to the job applicant, but a judge may not know of a relative's application for a Judiciary position or of the specifics of the recruitment from which the relative has been selected.

The revised policy details the responsibilities of those involved in the selection and interview process, beginning with the applicant's identification on the employment application of any relative who is employed by the Judiciary. This requirement applies to both external candidates (those from outside the Judiciary) and internal candidates (current Judiciary employees). The section of the Judiciary's employment application regarding relatives who work for the Judiciary has been revised to request the relationship and the relative's position and work location. To guide the review of hiring/appointment recommendations for recruitments in which a judge's close relative at the conclusion of the process is the top candidate, the policy sets out the following three criteria on which an exception to the

general policy against hiring or appointing a judge's close relative might be approved:

- (1) the unusual nature of a particular position and any difficulty in recruiting for it;
- (2) the outstanding qualifications of the applicant compared to others who were qualified and interviewed; or
- (3) any extraordinary or unusual circumstances present in the situation.

As in the past, the revised policy specifies that the Supreme Court must approve any exceptions before a job offer is extended. The revision provides several levels of review against the above criteria to ensure that appropriate consideration is given to nepotism concerns when a judge's close relative applies and is the top candidate for a position and to ensure that any request for an exception to the policy is warranted. The first level of review is among the hiring manager/supervisor, the senior manager, and the local Human Resources Office. The second level of review is between the senior manager and, depending on the location of the position, either the Chief Justice for Supreme Court positions; the Presiding Judge for Administration of the Appellate Division for Appellate Division positions; the Assignment Judge for vicinage positions; the Presiding Judge of the Tax Court for Tax Court positions; or the appropriate AOC Director for positions in the Administrative Office of the Courts. If an exception to the policy is deemed warranted after both levels of review, the exception request, including the justification for an exception based on the above criteria, would be submitted to the Administrative Director for assessment and recommendation to the Supreme Court.

To address future position changes for judges' relatives who are approved by the Supreme Court for appointment as exceptions, the revised policy also specifies that "[e]ven where exceptions are approved, in no circumstances, whether on appointment or later in the judge's or the relative's career, may a judge and that judge's close relative work as supervisor and subordinate, either directly or indirectly." The policy is not intended to address the situation where a judge's relative is appointed as a judge.

On the recommendation of the Judicial Council and its Committee on Labor Relations and Personnel, the Court has determined to grandfather existing staff who are related to judges so as to permit them to retain their current positions. However, the grandfathering applies only to the employee's current position. Any grandfathered employee's relationship to a judge would be considered when the employee is selected for an interview for any different Judiciary position.

Attachment

cc: Chief Justice Stuart Rabner
Associate Justices
AOC Directors and Assistant Directors
Trial Court Administrators
Human Resources Division Managers
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

JUDICIARY OF THE STATE OF NEW JERSEY

**POLICY ON THE APPOINTMENT OF JUDGES’
RELATIVES TO JUDICIARY POSITIONS**

1. Policy

No appointment of judges’ close relatives to Judiciary positions, with the exception of law clerk positions, may be made without the prior approval by the Supreme Court, by application through the Administrative Director’s office.¹

2. Purpose

Unregulated appointment of judges’ close relatives to Judiciary positions could render the Judiciary vulnerable to charges of nepotism. The results could be diminution of the Judiciary’s reputation for scrupulously fair administration of justice and a loss of public confidence in the integrity and impartiality of the state’s judges as a whole. The unregulated appointment of judges’ close relatives could also result in the perception of constraints on the exercise of management responsibilities and of noncompliance with the Judiciary’s Equal Employment Opportunity/ Affirmative Action Master Plan.

3. Opportunity for Exceptions

The policy of not hiring or appointing close relatives of judges is important to the Supreme Court, and exceptions should be rare. Even where exceptions are approved, in no circumstances, whether on appointment or later in the judge’s or the relative’s career, may a judge and that judge’s close relative work as supervisor and subordinate, either directly or indirectly.

As noted above, this policy does not apply to law clerks. Law clerkship positions to judges are temporary in nature and are generally limited to one-year appointments. The anti-nepotism policy has not applied to these positions, except that a judge shall not hire his or her own relative. An individual judge’s relative, however, may be selected by another judge as law clerk for one year.

Criteria:

Regarding all other positions, there are three criteria for consideration of an exception to the general policy of not hiring or appointing a judge’s close relative: (1) the unusual nature of a particular position and any difficulty in recruiting for it, (2) the outstanding qualifications of the applicant compared to others who were qualified and interviewed,

¹ The policy is not intended to address the situation where a judge’s relative is appointed as a judge.

or (3) any extraordinary or unusual circumstances present in the situation. These three criteria shall guide the review of hiring recommendations for recruitments in which a judge's relative is the preferred candidate.

Review Process:

Multiple levels of review against the above criteria are required to ensure that appropriate consideration is given to nepotism concerns when a judge's close relative applies and is selected for a position and to ensure that any request for an exception to the policy is warranted. The first level of review is among the hiring manager/supervisor, the senior manager, and the local Human Resources Office. The second level of review is between the senior manager and, depending on the location of the position, either the Chief Justice for Supreme Court positions; the Presiding Judge for Administration of the Appellate Division for Appellate Division positions; the Assignment Judge for vicinage positions; the Presiding Judge of the Tax Court for Tax Court positions; or the appropriate AOC Director for positions in the Administrative Office of the Courts. If an exception to the policy is deemed warranted, the request, including the justification for the exception based on the above criteria, shall be submitted to the Administrative Director for assessment and recommendation to the Supreme Court.

When the position to be filled is for a judge's secretary, this review process is abbreviated. There is not always a recruitment notice, the Human Resources office may not be as closely involved, and other details may be different. The section below on responsibilities for judges therefore sets out a slightly different process for review.

The Supreme Court must approve any exception to this policy before an offer of employment is made.

4. Responsibilities

A. Regarding Appointment of New Hires and Current Judiciary Employees to Judiciary Positions

Local Human Resources Offices

When an applicant has been selected for an interview for a Judiciary position other than as a judge's secretary or law clerk, Human Resources shall ensure that the applicant completes a Judiciary employment application prior to the interview for review by the hiring manager/supervisor. This requirement applies to both external candidates, i.e., those from outside the Judiciary, and internal candidates, i.e., current Judiciary employees.

When the applicant indicates on the Judiciary employment application that he/she has a close relative who is a judge, the local Human Resources Office shall call that fact to the attention of the hiring manager/supervisor. The Human

Resources Office shall also provide the hiring manager/supervisor with a copy of this policy.

Hiring manager/supervisor

If an applicant who is interviewed and identified as the preferred candidate for a Judiciary position is a close relative of a judge, the hiring manager/supervisor shall advise the senior manager and the local Human Resources Office of this fact when submitting the Selection Disposition Form to the Human Resources Office. The notification shall include a justification for the selection based on the above criteria. This is the first level of review for staff positions other than judge's secretary.

Senior managers

Senior managers shall consult, depending on the location of the position, with the Chief Justice for Supreme Court positions; with the Presiding Judge for Administration of the Appellate Division for Appellate Division positions; with the Assignment Judge for vicinage positions; with the Presiding Judge of the Tax Court for Tax Court positions; or with the appropriate AOC Director for positions in the Administrative Office of the Courts. The purpose of this consultation is to determine whether, based on the justification provided by the hiring manager, an exception to the policy may be warranted. This is the second level of review for staff positions other than judge's secretary.

If an exception is recommended, the senior manager shall submit to the Administrative Director the request for approval of the appointment of a judge's relative, including the justification for the exception based on the above criteria. This is the third level of review for staff positions other than judge's secretary. The Administrative Director shall submit an assessment and recommendation to the Supreme Court.

Justices and Judges

In selecting their secretaries, justices and judges shall ensure that the preferred candidate completes an employment application. This requirement applies to both external candidates, i.e., those from outside the Judiciary, and internal candidates, i.e., current Judiciary employees. Justices and judges shall review the employment application to determine whether the individual is a close relative of a judge. Justices and judges shall consult with the Chief Justice, the Presiding Judge for Administration for the Appellate Division, the Assignment Judge, or the Presiding Judge of the Tax Court, as appropriate, to determine whether an exception to the policy may be warranted. If an exception is recommended, the Chief Justice, the Presiding Judge of the Appellate Division, the Assignment Judge, or the Presiding Judge of the Tax Court shall submit the request for approval of the appointment to the Administrative Director, including a justification for the exception based on the above criteria, for assessment and recommendation to the Supreme Court.

B. Upon the Appointment of New Judges

AOC Judges' Benefits Aide

The AOC Judges' Benefits Aide shall provide each newly appointed judge with a form for the judge to identify the name and work location, if known, of any close relative who is employed by the Judiciary. The Judges' Benefits Aide shall provide a copy of the completed form to the senior manager of the employee who is related to the newly appointed judge.

Senior managers

Senior managers shall take appropriate actions, if necessary, to ensure that the newly appointed judge and that judge's close relative do not work as supervisor and subordinate, either directly or indirectly.

5. Definitions

Judge's close relative:

The judge's spouse, civil union partner, or registered domestic partner;
The following relatives of the judge or the judge's spouse, civil union partner or registered domestic partner:

Child or legal ward;

Parent, grandparent, or grandchild;

Uncle or aunt;

Brother or sister;

Nephew or niece;

First cousin; or

The spouse, civil union partner, or registered domestic partner of any of the above.

Judiciary positions:

All positions in the New Jersey State Judiciary (with the exception of law clerk positions).

Hiring manager/supervisor:

The manager or supervisor to whom the selected candidate will report and who conducts the interview process to determine the best candidate, for recommendation to the Appointing Authority.

Senior managers:

Administrative Office of the Courts' Deputy Director and Directors; Clerk of the Supreme Court; Assistant Directors; Clerk of the Appellate Division; Clerk of the Superior Court; Directors of the Office of Attorney Ethics, the Office of Counsel to the Disciplinary Review Board, and the Lawyers' Fund for Client Protection; Trial Court Administrators; Counsel to the Administrative Director; Assistants to the Administrative Director; Clerk of the Tax Court; and others as may be appointed by the Administrative Director of the Courts.