



County Technical Assistance Service

Published on e-Li (<https://eli.ctas.tennessee.edu>)

April 17, 2021

Nepotism

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Nepotism

Reference Number: CTAS-1080

While there is no direct statutory prohibition against the employment of relatives in county offices, it is possible that there are some instances in which it could cause a conflict of interest, particularly where the relatives commingle their assets.^[1] It also is easy to see how relatives supervising other relatives could cause management problems in the workplace, and many county offices have adopted policies against this. The county legislative body, however, is not authorized to enact a resolution prohibiting other elected officials from employing relatives.^[2]

The General Assembly has enacted a statutory anti-nepotism policy that applies to employees of the state (excluding the legislative branch), which is found in T.C.A. § 8-31-101 *et seq.* The state's policy does not absolutely prohibit relatives from working within the same governmental entity, but it does prohibit relatives from being placed within the direct line of authority whereby one relative is responsible for supervising the job performance or work activities of another relative. These statutes could be used as a guide for county officials wishing to adopt nepotism policies.

With regard to employees within the local school system, while there is no statutory prohibition against relatives working for the local education agency (LEA) there are provisions requiring members of local school boards having relatives employed by the board to disclose the relationship before voting on any matters affecting the relative, including but not limited to the annual budget, tenure, and personnel policies. The director of schools must notify the board when there is intent to employ a relative of either a school board member or of any other elected county official, certifying that the person is qualified to occupy the position. If two or more relatives are, or become, within the same line of direct supervision by marriage or promotion, the director of schools must attempt to resolve the situation by transferring one of the employees, and if that fails, must devise an alternate evaluation plan. T.C.A. § 49-2-202(a).

[1] See T.C.A. § 12-4-101.

[2] Op. Tenn. Att'y Gen. 82-68 (Feb. 12, 1982). Some counties have adopted county-wide nepotism policies by private act and while the Attorney General has opined that this is permissible, the constitutionality of such a private act has not been tested in court. See Op. Tenn. Att'y Gen. 82-283 (June 3, 1982).

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