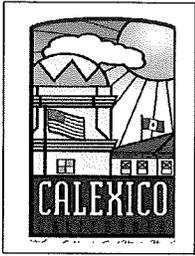


AGENDA  
ITEM

**11**



# AGENDA STAFF REPORT

**DATE:** March 21, 2018  
**TO:** Mayor Hurtado and City Council Members  
**APPROVED BY:** David Dale, Interim City Manager *DD*  
**PREPARED BY:** Rosalind Guerrero, Human Resources/Risk Management Manager *RJG*  
**SUBJECT:** Adoption of the Nepotism and Fraternization Policy

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**Recommendation:**

Adopt the Nepotism and Fraternization Policy

**Background:**

The Human Resources/Risk Management office prepares policies that will provide guidance to city administration and city employees to reduce future risks.

The draft has been reviewed by the Labor Management Committee represented by city staff and bargaining unit members and provided to department managers for their comments. Comments have been incorporated in this draft.

**Discussion & Analysis:**

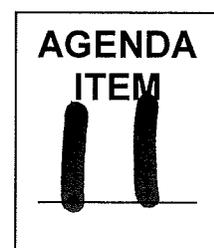
The attached policy is intended to avoid conflicts of interest between work-related and personal/family obligations; reduce favoritism or even the appearance of favoritism; prevent personal/family conflicts from affecting the workplace; and decrease the likelihood of sexual harassment and/or gender discrimination in the workplace.

**Fiscal Impact:**

Not applicable

**Coordinated With:**

Labor Management Committee and department managers.





# NEPOTISM AND FRATERNIZATION POLICY

## NEPOTISM AND FRATERNIZATION POLICY

### 1.0 Purpose

The purpose of this policy is to establish the nepotism and fraternization policy for the City of Calexico. This policy is intended to avoid conflicts of interest between work-related and personal/family obligations; reduce favoritism or even the appearance of favoritism; prevent personal/family conflicts from affecting the workplace; and decrease the likelihood of sexual harassment and/or gender discrimination in the workplace.

### 2.0 Definitions

The following definitions apply to each section of this policy.

- (a) A “romantic and/or sexual relationship” exists when two City employees become personally involved with each other to the point that there is dating, exchange of personal affection, sexual or physical intimacy and/or cohabitation.
- (b) The term “dating” includes but is not limited to one or more social meetings under circumstances that may lead to exchange of personal affection, and sexual or physical intimacy.
- (c) “A social meeting” occurs when co-employees gather for purposes not related to work for the City.
- (d) “Cohabitation” applies to those employees who live together, share room and board or sire children, without being married to one another.
- (e) A “significant other” means a relationship between an employee of the City and another individual as defined herein in (a), (b), (c) and/or (d) and elsewhere in the policy.
- (f) Department(s) is defined as:
  - Administration
  - City Clerk
  - Human Resources
  - Community Services
  - Library
  - Recreation
  - Community Development Services
  - Finance
  - Fire Department
  - Housing and Economic Development
  - Police Department
  - Public Works

### 3.0 Policy/Procedure

#### **Fraternization**

##### **A. Romantic Relationship Between Supervisors and Subordinate Employees Are Prohibited.**

Public trust, safety and City morale require that employees avoid the appearance of a conflict between their professional responsibilities and any involvement that they may have in a romantic or sexual relationship with other City employees. In order to promote efficient operation of the City and to avoid misunderstandings, complaints of favoritism, other problems of supervision, security, morale, and possible claims of sexual harassment and/or gender based discrimination, romantic and/or sexual relations between supervisors and subordinate employees are prohibited.

##### **B. Romantic Relationships Between Co-Employees In The Same Department Are Prohibited**

Public trust, safety and City morale require that employees avoid relations that may negatively impact the efficient operation of the City. In order to promote efficient operation of the City and to avoid formation of cliques and factions, claim of sexual harassment and gender based discrimination, and the blurring of professional and personal responsibilities and relationships in the workplace, romantic and/or sexual relationships between co-employees in the same department are prohibited.

##### **C. Enforcement**

The City reserves the right to investigate situations in the workplace to determine whether a romantic and/or sexual relationship exists and therefore presents a possible violation of this Policy. If the City determines that a proscribed relationship (as defined by this policy) exists, remedial and/or disciplinary measures, including but not limited to a transfer, reassignment, or dismissal, shall be utilized to mitigate issues that arise relevant to the enforcement of this policy.

1. The City retains the right to refuse to place employees engaged in relationships prohibited by this policy in the same department where it has the potential for creating adverse impact on supervision, safety, security or morale or involves potential conflicts of interest.
2. In order to implement such policies, and where the above circumstances exist and mandate that employees shall not work in a prohibited relationship, the City will attempt to transfer one party to the proscribed relationship to a similar classified position in another City Department, should such a position exist, be available, and should the employee possess the skills and qualifications necessary to perform the essential duties of the position. Although the wishes of the involved

parties as to which individual will be transferred will be given consideration by the City, the controlling factor in determining who is to be transferred shall be the positive operation and efficiency of the City. If any such transfer results in a reduction in salary or compensation, applicable and legally required due process procedures shall be applied.

3. In lieu of a transfer from one department to another, or in situations where no similar counterpart classification exists to which an employee in a proscribed relationship can be transferred, that employee may continue to be employed within the same City department subject to approval by the Department Director and the City Manager or his/her designee. However, any such continuing employment is predicated upon both subject employees not reporting to the same immediate supervisor; not being supervised by each other; not working the same shift at the same work site; or, otherwise becoming involved in a work environment having the potential for adverse impact on supervision, safety, security or morale.
4. If continuing employment of employees in a relationship prohibited by this Policy cannot be accommodated consistent with the City's interest in promotion of safety, security, morale and efficiency, then the City retains sole discretion to separate one of the parties from City employ. Absent resignation by one affected employee, the less senior in terms of overall City service, of the involved employees shall be subject to separation. In the event of separation, applicable and governing due process procedures shall be applied.

The provisions of this fraternization policy are not applicable to individuals employed by the City on or before the date of adoption of this policy in their current state of marriage or non-marriage. As such, a change in marital status/cohabitation, etc. of any current employee, will result in the applicability of this policy. Furthermore, those employees are subject to any and all employment-related actions by the City, that are permissible pursuant to existing City policies and procedures to address conduct that may be negatively impacting the work environment.

### **Nepotism**

It is an express finding of the city that the situation specified in this section, the employment of relatives as that term is defined herein, is contrary to appropriate City goals of safety and efficiency. The purpose of this section is to define those specific circumstances and to delineate the manner in which such employment issues will be addressed.

For purposes of this policy, "relative" means spouse, child, step-child, parent, step-parent, grandparent, grandchild, brother, sister, step-brother, step-sister, aunt, uncle, niece, nephew, parent-in-law, brother-in-law, sister-in-law, legal guardian and/or significant other as defined herein and in the fraternization policy, and/or any other individual related by blood or marriage living in the same household as the City employee.

An employee is defined as any person who employed full or part-time for the City of Calexico.

Relatives of employees shall not be employed in the same department of such a relative at any time by the City as further proscribed below.

As of the effective date of this Policy, City employees who are related (as defined herein) shall not be affected in their current job status except when the City Manager or his/her designee determines that the circumstances of that employment raises an undue hardship upon the other employees within the particular work unit and that such continued employment is detrimental to the supervision, safety, security and/or morale of the particular work unit.

It is found by the City that a business purpose exists and dictates that a prohibition on employment of relatives within City departments is essential to safety and efficiency when such employment result in any of the following:

- A supervisor-subordinate relationship;
- The employees having job duties, which authorize performance of shared duties on the same or related work assignment;
- Both employees being under the jurisdiction of the same immediate supervisor; or
- An adverse impact on supervision, safety, security and/or morale.

**Effect of Post-Employment Marriage or Creation of Other “Relative” Status of City Employees**

In determining rules and regulations governing the employment of City employees who become related, as defined herein, after commencement of City employ, the City is guided by the principles enunciated in the California Fair Employment and Housing Act (FEHA) which prohibits discrimination on the grounds of marital status. However, FEHA and its Regulations defining the same do authorize restrictions being placed upon married City employees ( or upon people deemed related as a result of marriage [ i.e., in-laws]) where for business reasons of supervision, safety, security or morale, the employer may refuse to place one spouse or other relative under the direct supervision of another spouse or other relative and refuse to place both spouses or other relatives in the same department, division or facility if the work involves potential conflicts of interest or other hazards greater for married couples or other relatives than for other persons. (Cal. Code Reg., tit. 2, section 7292.5; Government Code section 12940(a)(3)).

Recognizing the principles stated above, the City determines that “marital status” is defined as an individual’s state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state for purpose of this policy. Further, a “spouse” is defined as a partner in marriage.

The City retains the right to refuse to place one spouse or other relative under the direct supervision of the other spouse where there is a potential for creating adverse impact on supervision, safety, security or morale.

The City retains the right to refuse to place both spouses or other relatives in the same department where doing so has the potential for creating adverse impact on supervision, safety, security or morale or involves potential conflicts of interest.

In order to implement these policies, and where the above circumstances exist and mandate that two spouses or other relatives shall not work in a prohibited relationship, the Human Resources

Department will attempt to do any of the following: Attempt to redefine the job responsibilities of the related employees within the Department to minimize the conflict, if the redefinition of job status is not feasible, will attempt to transfer one spouse or other relative to a similar classified position in another City department. Although the wishes of the involved parties as to which spouse or other relative is to be transferred will be given consideration by the City, the controlling factor in determining who is to be transferred shall be operation an efficient of the City. If any such transfer results in a reduction in salary or compensation, the transfer shall not be considered disciplinary in nature and shall not be the subject of any form of administrative appeal.

In lieu of a transfer from one department to another, or in situations where no similar counterpart classification exists to which a spouse or other relative can be transferred, the City may request the voluntary resignation of one of the employees and if one of the employees does not voluntarily resign, the employee with the least employment experience/service with the City in the City of Calexico may be discharged by the City Manager. Married or other related employees may continue to be employed within the same City department subject to approval by the Department Director and the City Manager or his/her designee. However, any such continuing employment is predicated upon both spouses or other similarly situated relative as defined in this Policy not reporting to the same immediate supervisor, not being supervised by each other, not working the same shift at the same work site; or, otherwise becoming involved at work environment having the potential for adverse impact on supervision, safety, security or morale.

It is the duty of all involved employees who are in a situation prohibited under the policy to immediately notify their supervisor either in person or through the chain of command that a situation exists in which the involved employee may be in violation of this policy. The City reserves the right to reasonably investigate the situation and determine whether the employee has violated this policy.

#### 4.0 Responsibility Assignments

Human Resources/Risk Manager: Responsible for coordinating the resolution of any concerns of nepotism/fraternization.

Responsible to ensure that appropriate hiring practices are upheld.

Department Director/Division Managers/Supervisors:

Responsible to inform the appropriate staff member of any potential breach of this policy.

City Manager:

Responsible for implementing the policy and adjudication instances of potential breach of this policy.