

 Office of Mental Health  <hr/> Official Policy Manual	Date issued 05/30/2024	Page 1 of 4	Section # OM-250
	Section: Operational Management – Employee Relations		
	Directive: Nepotism		
	Policy Owner: Director, Bureau of Cultural Competence		

### **A. Policy Statement**

The Office of Mental Health (OMH) is committed to the highest standards of conduct and expects all employees to adhere to them. Members of the OMH community must avoid conflicts of interest, situations that might impair objective judgment or situations that may be perceived as conflicts of interest.

This purpose of the policy directive is to clarify and implement requirements of the New York State Public Officers Law with respect to nepotism.

Specifically, OMH employees are prohibited from engaging in any hiring, termination, disciplinary or promotional decision pertaining to a relative at any OMH facility or Central Office. Employees are also prohibited from engaging in State contracting decisions involving payments of greater than \$1,000 to themselves, their relatives, or any entity in which their relatives have a financial interest.

### **B. Relevant Statutes and Standards**

Public Officers Law Section 73, Business or professional activities by state officers and employees and party officers

Public Officers Law Section 74, Code of Ethics

### **C. Definitions**

1. *Chain-of-Command* means any position that is within the lines of reporting, supervision, oversight, and/or direction of another position.
2. *Policy Maker* means any person who is required to file an annual financial disclosure statement with the Joint Commission on Public Ethics due to their designation as a policy maker. [Public Officers Law Section 73-a(c)(ii)]
3. *Relative* means such term as defined in NYS Public Officers Law Section 73.1(m), any person living in the same household as the

individual or any person who is a direct descendant of that individual's grandparents or the spouse of such descendant. Examples include, but are not limited to: in-laws, siblings, cousins, uncles/aunts, and nieces/nephews.

#### **D. Body of Directive**

This policy directive consists of three components:

1. Criteria Pertaining to Nepotism
2. Employee Responsibilities
3. Management and Supervisor Responsibilities

##### **1) Criteria Pertaining to Nepotism**

(a) Employees are prohibited from:

- (1) Participating in any decision to hire, promote, discipline, or discharge a relative (Public Officers Law Section 73.14);
- (2) Participating in any State contracting decision involving payment of greater than \$1,000 to themselves, their relatives or any entity in which their relatives have a financial interest (Public Officers Law Section 73.15).

(b) To the extent practicable, an employee's assignment should not be within the chain-of-command of a relative. The chain-of-command includes any position to which the employee reports or for which the employee or relative is responsible for the supervision, oversight, and/or direction, such as: the employee/relative's direct supervisor or any higher-level supervisor within the same reporting structure as the employee/relative. Examples of such higher-level supervisory situations include:

- (1) An employee assigned to a position in which the employee's relative serves as a higher level supervisor within the same unit, ward, section, group, bureau, office, division, or facility.
- (2) to a facility in which the employee's relative serves as the Executive Director.
- (3) An employee assigned to a facility in which the employee's relative is a Central Office policy maker responsible for the programmatic oversight and direction of the employee's facility or group of facilities (i.e. adult, children/adolescent, or forensic facilities).

## 2) Employee Responsibilities

All employees are responsible for ensuring that they comply with the provisions of Public Officers Law Sections 73.14 and 73.15. As part of the employment application process, candidates shall be required to disclose on the OMH Application for Employment (80 ADM) relationships with any current OMH employee who is such candidate's relative, as that term is defined in this policy directive. Additionally, all employees shall be required to immediately inform the Facility or Central Office Ethics Officer of any additions or changes to the list of OMH employees who meet the definition of his or her relative and who are within the supervisory chain-of-command. Finally, all employees designated as policy makers for the purpose of financial disclosure filings are required to immediately inform the Facility or Central Office Ethics Officer of any additions or changes to the list of OMH employees who meet the definition of his or her relative, ***regardless of whether the employee is within the supervisory chain-of-command.***

## 3) Management and Supervisor Responsibilities

It is the responsibility of the designated Facility and/or Central Office Ethics Officer to track, monitor, and record employees' compliance with this policy directive and Public Officers Law Section 73.14 and 73.15.

- (a) Appropriate information should be shared with designated staff in the Human Resources Management Office in order to develop solution(s) to ensure compliance with Public Officers Law and this policy directive.
- (b) Appropriate managerial and supervisory staff must also be notified of the actions taken/to be taken to mitigate a potential conflict-of-interest.
- (c) Supervisors and managers are responsible for implementing mitigating actions (as directed) and for reporting any violations of non-compliance with these mitigating actions to the Facility Ethics Officer.
  - (1) Human Resources Management staff are responsible for ensuring that any mitigating actions are not contrary to Civil Service Law and/or negotiated agreements pertaining to merit system administration and the assignment of staff and resources.
  - (2) If a reported relative relationship cannot be practicably mitigated without jeopardizing appropriate merit system administration and/or the

negotiated agreements, designated ethics officers, with the assistance of Human Resources Management staff and/or other necessary supervisors and managers, are responsible for monitoring any approved exceptions to the chain-of-command policy to ensure that no favoritism is exercised and that employees do not engage in activities that violate Public Officers Law Section 73.14.

- (d) In the case of a candidate for employment, Human Resources Management staff shall review any information regarding relatives disclosed on the employment application to ensure that the candidate's relative is not involved in the hiring and/or selection process. Staff shall be instructed not to share disclosed information with those involved in the selection and hiring process, so as to avoid any potential appearance of undue influence based on the relative relationship.

Facility ethics officers shall be directed to contact Central Office Human Resources Management/Bureau of Central Office Personnel Services for further guidance and direction on exceptions.