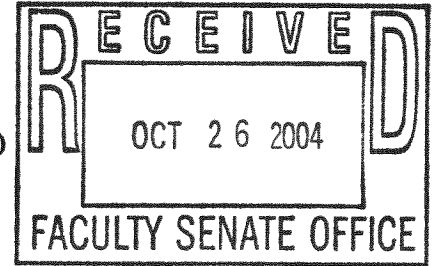




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MEMORANDUM (Revised 10/22/04 to include effective date of Policy)

To: Donna E. Shalala, President

From: Mary Coombs, Chair, Faculty Senate (with signature)

Date: September 8, 2004

Subject: Faculty Senate Legislation #2004-02(B) - Nepotism Policy

The Faculty Senate, at its August 25, 2004 meeting, voted unanimously to approve the proposed Nepotism Policy, which was created to avoid conflict of interest and favoritism toward employees and consultants employed or supervised by a relative or domestic partner in any employment-related activity. The proposed policy is enclosed for your reference. If approved, this policy will be placed in the back section of the Faculty Manual directly following the Faculty Policy on Sexual Harassment to become effective December 31, 2004, so that notice of its existence can be sent to all faculty before it takes effect.

This legislation is now forwarded to you for your action.


MC/kl

cc: Luis Glaser, Executive Vice President and Provost

Faculty Senate
1252 Memorial Drive, 325 Ashe Admin. Bldg.
Coral Gables, Florida 33124
Phone: (305) 284-3721 • Fax: (305) 284-5515
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CAPSULE: Faculty Senate Legislation #2004-02(B) - Nepotism Policy
(revised 10/22/04 to include effective date)

PRESIDENT'S RESPONSE

APPROVED:  DATE: 10/22/04
(President's Signature)

OFFICE OR INDIVIDUAL TO IMPLEMENT: Provost

EFFECTIVE DATE OF LEGISLATION: 12/31/04
(if other than June 1 next following)

NOT APPROVED AND REFERRED TO: _____

REMARKS (IF NOT APPROVED): _____

EMPLOYMENT OF RELATIVES (NEPOTISM)

PURPOSE:

To provide guidelines designed to avoid conflict of interest and favoritism toward employees and consultants employed or supervised by a Relative or Domestic Partner in any employment-related activity.

DEFINITIONS:

For purposes of this policy, a "Relative" means spouses, children or stepchildren, parents, step-parents, grandparents, brothers and sisters, half-brothers, half-sisters, step-brothers and step-sisters, grandchildren, uncles, aunts, nieces, nephews, first cousins, and the following in-laws: mother, father, sister, brother, son and daughter. Foster children and other family members living in the same household are also included in the definition.

A "Domestic Partner" means (1) an individual who has a signed declaration on file at the University certifying an emotionally committed and affectionate relationship with someone of the same sex or (2) an individual who is cohabiting with another.

A "Consultant" means an individual hired by the University, through established procedures, to give professional advice or service.

A "Unit" means an organized working group of individuals in which the head of the Unit is in a position to influence, directly or indirectly, employment-related decisions affecting a Relative or Domestic Partner. Examples of Units include a school, college, division, department, center, work group, etc.

A "Supervisor" means an individual who is responsible for directly overseeing another employee's work performance.

POLICY:

I. Employment and Consulting Contracts:

An individual cannot be employed as an employee in, or retained as a Consultant by a Unit that is supervised by a Relative or Domestic Partner, nor can he or she be directly supervised by a Relative or Domestic Partner. Faculty members who are married to or Domestic Partners of another faculty member may be employed or retained as a Consultant in a Unit that is supervised by a Relative or Domestic Partner, but only if approved in writing by the Dean and Provost, who shall give consideration, among other things, as to whether there is another reasonable employment opportunity within the University.

II. Disclosure:

(a) Seeking Employment

Individuals seeking employment with or retention as a Consultant by the University must disclose in writing the existence of any Relative or Domestic Partner working at the University whether or not the Relative or Domestic Partner is in the same unit in the University in which the individual is seeking employment.

(b) Transfer or Employment in a Unit

An individual who is a Supervisor of or head of a Unit in which a Relative or Domestic Partner is seeking to be employed or to transfer must disclose the relationship in writing to his or her supervisor prior to the date of appointment or transfer into the Unit. An individual who seeks to transfer or be employed as a Supervisor of or head of a Unit in which a Relative or Domestic Partner is employed must disclose the relationship in writing to his or her supervisor prior to the

date of appointment or transfer to the Unit. Transfer to or employment in that Unit will not be allowed unless an exception is granted under Section IV.

Faculty who are or will be in a position to vote on or evaluate a Relative or Domestic Partner must disclose that relationship in writing to their Chair or Dean prior to the appointment of their Relative or Domestic Partner to the Unit. Failure to disclose the relationship may lead to disciplinary action in accordance with the applicable provisions of the Faculty Manual or University personnel policies.

III. Change of Circumstance:

In cases where a Supervisor or head of a Unit marries or becomes a Domestic Partner or Relative of another individual in the same Unit, those employees will be given the option of electing who will seek another position within or outside the University. The individual who is the Supervisor or head of the Unit must notify his or her supervisor in writing prior to the change in circumstances if possible and in any event within thirty (30) days after the change in circumstances. If no election is made within thirty (30) days of notification of the change in circumstances, the individual with less seniority within that Unit must find employment in another Unit within the University or must find employment outside of the University. In such cases, a transitional period of up to one year will be granted.

IV. Exceptions:

The President, Executive Vice President and Provost, Senior Vice President for Business and Finance or the Senior Vice President for Medical Affairs and Dean of the School of Medicine may make an exception to this policy in their respective areas only in unusual cases where the hiring of a Relative or Domestic Partner as an employee or Consultant is considered essential to the function of the Unit. The Vice President for Human Resources will be notified of these exceptions for record-keeping purposes.

V. Employment related decisions:

In the event (1) an exception is made pursuant to Section IV to allow an employee to be hired in the Unit supervised by a Relative or Domestic Partner, or (2) the Supervisor or head of the Unit and employee who are married or Domestic Partners are both Faculty Members and the arrangement was approved by the Dean and Provost pursuant to Section I, or (3) the individuals are "grandfathered" pursuant to Section VI, the Unit head or Supervisor may not be involved in decisions relating to the employment of the Relative or Domestic Partner. In the case of Faculty, this includes voting or recommending for appointment, reappointment, promotion, or granting of tenure to a faculty member by another faculty member who is a Relative or Domestic Partner. Appropriate alternative arrangements must be made with the approval of the Vice President for Human Resources (for evaluation of non-faculty employees) or Executive Vice President and Provost of the University (for evaluation of faculty members).

VI. Effective Date:

This policy is effective December 31, 2004. In Units where a supervisory relationship between Relatives or Domestic Partners existed prior to the effective date of this policy, the individuals will be "grandfathered" but encouraged to sever the supervisory relationship in accordance with this policy. The person who is the supervisor or head of a Unit where a Relative or Domestic Partner is employed must notify his or her supervisor in writing within ninety (90) days of the effective date of this policy. Failure to disclose the relationship may lead to disciplinary action in accordance with the applicable provisions of the Faculty Manual or University personnel policies, as appropriate.

VII. Responsible Office:

The appropriate Human Resources and Faculty Affairs Office have the responsibility for implementation of this policy. Appropriate notifications will be distributed periodically to faculty and staff reminding them of this policy.

VIII. Disputes:

Any dispute concerning the interpretation, application or enforcement of this policy to non-faculty employees shall be brought to the Executive Vice President and Provost for resolution and that determination shall be deemed final. Any dispute involving faculty shall be governed by the Faculty Manual.

- IX. In the event of a conflict between this policy and the Policy Statement on Consensual Amorous Romantic or Sexual Relationships, this policy shall govern.