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AMCCC

INFORMATION PAPER

23 July 2002

SUBJECT: Nepotism

PURPOSE: To provide information on a topic that is frequently discussed by senior leaders and counsel.

BACKGROUND:

- Nepotism is the term used to describe the granting of improper preference, assistance or advancement to an individual related by blood or marriage. It is prohibited under both 5 USC 2302(b)(7) and 5 USC 3110(b).
- Can a relative be employed in the same chain of command as another employee?

LAW:

- A public official may not appoint, employ, promote, advance, or **advocate** for appointment, employment, promotion, or advancement, in or to a civilian position in the agency in which he is serving or over which he **exercises jurisdiction or control** any individual who is a relative of the public official. 5 USC 3110 (b).

NOTES:

- Advocacy on behalf of a relative is defined in 5 CFR 310.103(c) as a recommendation to employ, advance or reward a relative. Delivering a daughter's summer employment application to a personnel specialist who is not his subordinate does not constitute improper advocacy. However, if the application were delivered to an employee that is subordinate to the public official, then this official would be improperly advocating his relative's employment.
- Nepotism can arise when relatives are placed in the public official's chain of command. It is improper for a public official to employ a relative below him regardless of how many layers of supervision exist below the public official. Also, an employee should not make performance evaluations of a relative or recommend that a subordinate be given a performance award. Thus, a relative should not supervise another relative.

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OTHER LAW:

- Also, an employee may not participate in any official matter that will have a direct and predictable effect on his financial interests. The financial interests of a spouse are imputed to the employee. 18 U.S.C. § 208. There is a regulatory exception, but the employee still may not "[m]ake determinations, requests, or recommendations that individually or specially relate to, or affect, the salary or benefits of [his spouse]." 5 C.F.R. § 2640.203(d).
- An employee may not participate in an official matter that affects the financial interest of a member of his household, or where a person with whom he has a "covered relationship" is a party (or represents a party), if a reasonable person with knowledge of the relevant facts would question the employee's impartiality in the matter. 5 C.F.R. § 2635.502. See also 5 C.F.R. § 2635.702(d).

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