**\_\_\_\_\_\_\_\_\_Housing Authority**

**NEPOTISM POLICY**

**Individuals Related Within a Prohibited Degree Fall under the Government Code Section 573.002, Civil-Law Method of Determining Nepotism**

Two individuals are related "within a degree described by Section 573.002" of the Government Code as computed by **the civil-law method** if the relationship is:

(a) **"within the third degree by consanguinity**

"Consanguinity"denotes a blood relationship: one individual is descended from the other or they share a common ancestor. "An individual's relatives within the third degree by consanguinity" (computed by the civil-law method) are:

**(1) first degree: the individual's parent or child;**

**(2) second degree: the individual's brother, sister, grandparent, or grandchild; and**

**(3) third degree: the individual's great-grandparent, great-grandchild, aunt who is the sister of a parent, uncle who is a brother of a parent, nephew who is a child of a brother or sister, or niece who is a child of a brother or sister.**

Under the nepotism statutes, the term "child" includes an independent, adult child. Consanguine relationships include those by half-blood and legal adoption. The degree of a relationship by half-blood or by adoption is computed just as though the individuals are related by full blood..

or

(b) **“within the second degree** by **affinity**,"

"Affinity" refers to a relationship created by marriage. Two individuals are related by affinity if they are married to each other or if the spouse of one of the individuals is a blood relative of the other. An individual's relatives within the second degree by affinity are:

**(1) first degree: anyone related by consanguinity to the individual's spouse within the first or second degrees; or**

**(2) second degree: the spouse of anyone related to the individual by consanguinity within the first or second degrees.**

A relationship by affinity extends only to blood relatives of an individual's spouse. It does not include a relative-in-law of the individual's spouse. Accordingly, a public official is related within a prohibited degree to the official's spouse, but is not related at all (unless there is some other relationship) to the spouse's sibling's spouse.

For the purpose of determining the existence of a relationship by affinity, a marriage that has ended in divorce or the death of a spouse generally is considered to continue so long as a child of that marriage lives. In the case of an officer under the civil service test, a relationship by affinity created by a marriage that has ended through divorce or death terminates when the youngest child of that marriage reaches the age of twenty-one years.

**Only \_\_\_\_\_\_\_\_\_Housing Authority employees who "may exercise control over hiring decisions" is subject to the anti-nepotism statute**.

“Whether an official has hiring authority over a particular position is determined by examining the statutes that create and empower the office. In Attorney General Opinion DM-163, for instance, this office stated that, "to decide whether the executive director of a municipal housing authority is subject to the nepotism statute, and thereby precluded from appointing to any position any" close relative of the executive director, the municipal housing authority's enabling act must be consulted to determine the scope of the executive director's authority.“

In the finding above, as Executive Director, the Director is charged with direct hire and fire responsibilities. At no time could the Director employee a relative as noted in the above definitions of **consanguinity** or **affinity.**

However, the civil law test also similarly concluded that:

 “This office has concluded that a nephew of a school district trustee may officiate a high school football game in which district schools participate because the board of trustees had no control over the choice of officials. Under the applicable athletic association rules, referees are selected either by the coaches themselves or by the local chapter of the Southwest Football Association.

Further statues have indicated the following:

“Any member of the governing authority which employs an immediate family member shall recuse himself/herself from any decision involving the promotion, discipline, discharge, or assignment of work of his immediate family member.

In final determination of Nepotism for \_\_\_\_\_\_\_\_\_Housing Authority employment is based on civil law there are several overriding considerations:

1. A relative of another employee may be employed by the \_\_\_\_\_\_\_\_\_Housing Authority as long as that relative

 is not in the decision making processes of hire, fire, promotion, discipline, discharge, or

 assignment of the employee’s work.

 *Example, the Administrations Supervisor can have a relative by consanguinity or affinity employed by the \_\_\_\_\_\_\_\_\_Housing Authority in the Operations Section by the Operations Supervisor and conversely, the Operations Supervisor can have a relative by consanguinity or affinity employed by the \_\_\_\_\_\_\_\_\_Housing Authority in the Administrations Section by the Administrative Supervisor.*

2. The Executive Director can at no time have any other relative who is a relative

 employed at the \_\_\_\_\_\_\_\_\_Housing Authority unless they can pass the civil law tests of consanguinity or

 affinity. This is further expanded to read ‘at no time’ will the Executive

 Director employee a relative.

3. All employees of the Housing Authority will be hired based on their personal merits.

 However, even if it is in the best interest of the housing authority to employee a family

 member of another employee, at no time will an employee be hired if the supervisor

 cannot pass the civil-law tests of consanguinity or affinity.

4. Accordingly, employees who are not in a Supervisory position may have other relatives working at the \_\_\_\_\_\_\_\_\_Housing Authority as long as they are not in the same section even if they have the

 same supervisor.

 *Example: An employee works who in maintenance is related to another*

 *Employee who is working as a counselor. They have the same supervisor*

 *but are not in the same section.*