

<p>U.S. DEPARTMENT OF EDUCATION</p> <p>PERSONNEL MANUAL INSTRUCTION</p>	<p>PMI: <u>310-1*</u></p> <p>DATE: <u>January 23, 1990</u></p> <p>APPROVED:</p> <p><i>Veronica D. Trietsch</i> Director of Personnel</p>
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* Supersedes PMI 300-1
dated May 18, 1981

SUBJECT: Employment of Relatives

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I. AUTHORITY

The contents of this Instruction conform to and, as appropriate, should be used in conjunction with the requirements of 5 U.S.C. Sections 2302 and 3110, 5 CFR Part 310, and FPM Chapter 310.

Applicable provisions of a negotiated collective bargaining agreement will be applied in conjunction with this Instruction for employees occupying positions in the bargaining unit.

II. POLICY

It is the policy of the Department of Education (ED) that relatives should not be assigned to positions in which one supervises the other. Further, it is the Department's policy to provide fair employment opportunity for all qualified persons while avoiding favoritism or the appearance of favoritism because of family relationships.

III. APPLICABILITY

This Instruction applies to appointment, employment, promotion or advancement in both the competitive service and the excepted service in the Department of Education.

IV. DEFINITIONS

Public Official - anyone, at any grade level, who, by law, rule, or delegation, has appointment or promotion authority within his/her organization, or authority to recommend individuals for appointment or promotion.

Relative - father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Strict legal definition is applied to these terms. Spouses of nieces, uncles, sisters-in-law, first cousins, etc., are excluded.

V. RESTRICTIONS ON EMPLOYING RELATIVES

A. No Public Official (i.e., ED Official) may appoint, employ, promote, advance, or advocate the appointment, employment, promotion, or advancement of a relative

for any position over which he/she has direct or indirect supervisory control. No ED official may advocate or recommend orally or in writing a relative for any position in the Department of Education.

- B. The restrictions in A, above, do not prohibit the appointment in the competitive service of a relative who is a preference eligible at the top of an OPM certificate. Any other preference eligible within reach on the OPM certificate must be selected before the relative, and no eligible may be passed over to select the relative.
- C. Should an ED official, through action of a subordinate [see FPM Chapter 310, Subchapter 1-3.b. (1)], reorganization, marriage, or in some other manner acquire supervisory control over a relative, the Department, at the request of either employee, will make every effort to reassign one of the individuals to another organization. Where this is not possible, the supervisory employee must recuse him/herself from any personnel action [as defined in 5 U.S.C. 2302 (a)(2)(A)] involving the relative.
- D. The Principal Offices of the Department may not place additional restrictions on the employment of a relative, if such restrictions would be inconsistent with 5 U.S.C., Chapter 23, prohibiting discrimination on the basis of sex and marital status, or with merit system principles.
- E. Restrictions on the employment of sons and daughters of Department employees under student and summer programs are discussed in FPM Chapters: 213, Appendix G; 332, Appendix J; and 338, Subchapter 2.

VI. EXCEPTION

When necessary to meet urgent needs resulting from an emergency posing an immediate threat to life or property, or a national emergency, the Department may employ relatives of ED officials without regard to restrictions of 5 U.S.C. Section 3110, 5 CFR Part 310, FPM Chapter 310, and Section V of this Instruction. Appointments under these conditions are temporary not to exceed one month, but may be extended for one additional month if the emergency still exists.

VII. PENALTIES

Payments made to an individual appointed in violation of 5 U.S.C. 3110 are subject to recovery. In addition, public officials who violate the regulations governing employment of relatives are subject to applicable penalties.