By Don Phin, Esq.

Nepotism: The Pitfalls and Challenges

Nepotism implies old school ties, cliques, and clubs; daddy over-ruling the manager to protect his daughter or promoting the incompetent son. According to Webster's, nepotism is the *"appointing or hiring relatives to positions based on family status rather than on merit."* Given my position as an employment lawyer and family business coach, I've seen plenty of drama result from nepotism gone wrong!

Problems include many of those listed below. Favoritism and inequality are the most common complaints from non-family members. Often, those believed to be harmed by nepotism say nothing. For others, it seems as if it is all they can talk about. This tension often leads to lower productivity, lower morale, and higher turnover, as employees go elsewhere where they believe they will be treated "fairly."

Even when owners or supervisors try not to favor family members, other employees will question the motives and actions of the supervisor and family employee, leading to claims of conflict of interest, favoritism, or discrimination. Hiring relatives in the same work unit, even when complying with existing nepotism policies, can limit flexibility and the ability to promote individuals.

And yet, many employees claim to prefer a "family atmosphere" where there are close ties and relationships that hold their value. Here is a sampling of how strongly some people feel about nepotism:

> You should never expect to rise high up in a family-run business if you're not a family member, but if you can rise up high enough to be happy...then what the heck!"

> I have a whole webpage dedicated to my co-worker who is the boss's daughter. She is hardly ever at work and when she is, she gets in late and leaves early. It's effin bullshit. She recently decided to say she was having a nervous breakdown so she could have two weeks off...PAID! It's completely unfair to anyone else because if that was the case with someone not related to the bosses, they'd be fired in an instant."

> I wouldn't have a problem with this if the person hired was competent and all things remained equal."

> Sometimes nepotism isn't too bad. I have two top-notch employees who had kids looking for work, so I suggested to the big dogs we hire them. It works great, whenever they screw up (which is rarely) I don't have to say much, their dads are on them before anything gets out of hand. Their dads aren't going to let their reps get tarnished by the kids."

> Any company, big or small, has personality differences, power plays, performance problems, and communication problems. But when you add family relationships to the mix, the soup really gets thick. It's tough enough confronting a problem with an employee—a relative stranger. But when you have to tell your sister or son they're not performing, your family relationships are at stake."

> Nepotism also demonstrates that popularity is more important than quality. While it may be quicker and easier to hire someone that you know is qualified, unless you spend the time and energy to conduct an open hiring process, how can you know that you are hiring the *best* person for the job?"

> I'm currently a senior-level administrator. It's a good job, but I feel uncomfortable because my manager hired his daughter as a junior administrator. She's the worst worker I've ever seen, but the problem is that she does what she wants—not what I assign. She screws up once in a while, too."

Here is a laundry list of nepotism pitfalls:

- Being labeled as "the bosses wife, or "the bosses kid", etc.
- Improper hiring.
- Improper promotional and compensation decisions.
- Inability to discipline or fire.
- Perceptions of favoritism.
- Perceptions of limited career advancement.
- High turnover of non-relatives.
- Exposure to discrimination type claims.
- Bringing family feuds to work.
- Maintaining employee privacy related to financial, health, disciplinary and other issues.
- Fear of speaking up related to opportunities or challenges.
- Vacation scheduling.
- Security and theft issues.
- Inbreeding and stagnation.

Fortunately, there is an upside to nepotism:

- Greater loyalty, trust, and commitment (at least by family members).
- Readily available talent and lower recruiting costs.
- Plenty of wonderful relationships are formed or strengthened in the workplace.
- Succession planning (passing the torch to a family member).
- Sense of "ownership."
- Less employee turnover.
- A "family atmosphere."

So, wishing to avoid the downside and to enhance the upside, companies have established nepotism, conflict of interest, and dating policies.

Attached to the end of this report is a sample Nepotism Policy.

Here are good guidelines to follow:

1. It is OK to honor all our families. There is nothing inherently wrong with relatives working together.

2. All employees are to be treated equally, whether related or not.

3. We will always hire or promote the best person for the position. All things being equal a family member can be preferred.

4. Non-relatives should be encouraged to express their concerns without fear of retribution.

5. The sharing of all information in employee files (including financial and medical) should be limited to a need-to-know basis only.

6. All employees must adhere to the nepotism and dating policies.

7. We must all do our best to avoid conflicts of interest.

8. If even the appearance of a conflict of interest exists, immediate steps must be taken to reduce or eliminate it.

9. Of particular concern are relatives within the chain of command. We will try our best to reduce or remove any conflicts that arise.

The following are examples of actions that are unfair practices under the law within the general rule against discrimination because of marital status or sex:

- Refusal to hire a person because her or his spouse has a job and is "making good money."

- Refusal to hire a person because his or her spouse is already employed by the company, except for positions where business necessity requires exclusion of relatives, consistently with this section.

- Discharge of a person because he or she has married another employee of the same employer, unless the spouses occupy positions where business necessity requires the exclusion of relatives, consistent with this regulation, and neither spouse can be transferred to a position where the business necessity reason doesn't apply.

The following are examples of business necessity situations where it is not an unfair practice for an employer to impose rules limiting the employment of spouses:

- Where one spouse would have the authority or practical power to supervise, appoint, remove, or discipline the other;

- Where one spouse would be responsible for auditing the work of the other;

- Where other circumstances exist that would place the spouses in a situation of actual or reasonably foreseeable conflict between the employer's interest and their own;

- Where, to avoid the reality or appearance of improper influence or favor, or to protect its confidentiality, the employer must limit the employment of close relatives of *policy level* officers of customers, competitors, regulatory agencies, or others with whom the employer deals.

Conclusion

Nepotism is here to stay, especially if it's a family business. Savvy business owners will harness its upside potential while ever vigilant of its many traps and exposures.

About Don Phin, Esq.

Don Phin is a keynote presenter and strategic advisor. He helps executives and their companies create transformative stories by design.

You can learn more about Don and find great free tools at www.donphin.com. Connect with him at www.linkedin.com/in/donphin or email don@donphin.com.

Employment of Relatives

Nep-o-tism: Favoritism shown or patronage granted to relatives, as in business. [French *nepotisme*, from Italian *nepotismo*, from *nepote*, nephew, from Latin *nepos*, *nepot-*.1] The American Heritage Dictionary of the English Language, Third Edition

While [Company Name] permits friends and members of the same family to work at the company, we remain aware of and concerned about the potential conflicts associated with nepotism.

Relatives are defined as follows: Aunt, brother, brother-in-law, daughter, daughter-in-law, father, father-in-law, first cousin, half-brother, half-sister, mother, mother-in-law, nephew, niece, sister, sister-in-law, son, son-in-law, stepbrother, stepdaughter, stepfather, stepmother, stepsister, stepson, uncle, wife, or any person with whom the employee has a close personal relationship such as a domestic partner, romantic partner, or co-habitant.

Nepotism often occurs when relatives are in the same chain-of-command. The company will not consider or accept employment applications from individuals whose employment would result in a supervisor/subordinate relationship or in a possible conflict of interest. A management official or supervisor with authority to take personnel management actions may not select a relative for a position anywhere in the organization under his or her jurisdiction or control. Anyone having the authority to appoint, employ, promote, or advance people or to recommend this action, may not advocate or recommend a relative for a position in the company. Employees should neither initiate nor participate, directly or indirectly, in employment actions (initial employment or appointment, retention, promotions, salary, work assignments, leave of absence, etc.) involving relatives.

If two employees become members of the same household, both may keep their positions, provided one is not under the direct or indirect supervision of the other. It is the responsibility of the supervisor/manager to advise the department administrator if this relationship is established.

The [Company Name] policy aids in creating a fair and merit-based employment environment. If you have a question regarding the possible or current employment of a relative or someone in a close personal relationship, please contact Human Resources.

[**Note:** when drafting this policy, consider if its provisions will apply to all family members of the ownership group. Fact is, you may not want that, or maybe that's exactly what you want, so draft carefully!]