



## Department of Transformation and Shared Services Office of Personnel Management

**Policy Title:** Employee Disclosure

**Policy Number:** 5

**Authority:** Ark. Code Ann. §§ 25-16-1001 *et seq.* and Governor's Executive Order 98-04

**Revised:** May 6, 2021

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Arkansas law prohibits an individual from working in certain positions for a state agency for the following reasons:

1. Public officials are prohibited from hiring a relative;
2. An employee is prohibited from supervising a relative; and
3. Employees working for the same department or independent state agency who plan to marry must disclose this to the department secretary or independent state agency director.

Applicants and employees are required to provide the name, relationship, and job title of all relatives, as defined below, who serve as a public official or who are currently employed by the department or independent state agency for which employment is sought. The human resources office of the department or independent state agency will determine if hiring the applicant or placing a current employee in a new position violates the law.

Departments should include information about nepotism and required disclosures in their employee handbook.

**Employee:** A person whose employment is not seasonal or temporary and whose actual performance of duty requires one thousand (1,000) or more hours during a fiscal year.

**Public official:** The Secretary of State, Governor, Lieutenant Governor, Treasurer of the State, Auditor of the State, Attorney General, Commissioner of State Lands, a member of the Senate, a member of the House of Representatives, and the executive head of any agency, department, board, commission, institution, bureau, or council of this state.

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

**State agency:** All boards, commissions, departments, agencies, institutions, state-supported institutions of higher education, and offices of constitutional officers of the State of Arkansas; and The General Assembly, including divisions, commissions, and bureaus operating under the authority of the General Assembly.

**Supervisory employee:** Any individual having authority in the interest of the state agency to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees of a state agency; or the responsibility to direct other employees of a state agency, to adjust their grievances, or to effectively recommend an action if the exercise of authority is not of a merely routine or clerical nature but requires the use of independent judgment.

### **Hiring or Supervising a Relative**

A public official shall not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the department or independent state agency in which the official is serving, or which the official exercises jurisdiction or control, a person who is a relative of the public



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official and who is an employee of the department or independent state agency or as a result of the public official's action could be an employee of the department or independent state agency.

Within each department or independent state agency, employees shall not be placed within the same line of supervision where one relative is in a supervisory position over the other. A temporary change resulting in the supervision of a relative will not be considered a violation of Arkansas law provided the supervision does not exceed 30 days. No hiring, firing, pay adjustments, or other personnel actions may occur during this temporary period of supervision.

### **Disclosure**

Prior to a formal offer of employment, departments or independent state agencies are required to obtain completed disclosures from the top applicant(s), whether the applicant is a current or former (within the last 24 months) state employee or has never been employed by the state. The required disclosure is part of the state's hiring system, [ARCareers](#).

### **Reports**

State agencies must submit relative disclosure reports to the Department of Transformation and Shared Services (TSS) Office of Personnel Management (OPM). Contract disclosure reports must be sent to the TSS Office of State Procurement. Institutions of higher education must submit reports to the Department of Education, Division of Higher Education.

All departments and independent state agencies are required to report relative disclosures no later than 10 business days after the end of each quarter as follows:

- Quarter 1 – January 1 to March 30 (report due April 10)
- Quarter 2 – April 1 to June 30 (report due July 10)
- Quarter 3 – July 1 – September 30 (report due October 10)
- Quarter 4 – October 1 to December 31 (report due January 10)

### **Married State Employees**

Employees working for the same department or independent state agency who plan to marry must both complete the [Marriage Disclosure Form](#). The employees must submit the form to their human resources office for review and approval. Failure to complete this form may subject the employees to termination for non-compliance.

If the marriage will result in a violation of the law prohibiting hiring or supervising a relative, the department secretary or independent state agency director shall provide written notice of the following alternatives to resolve the violation:

1. Transferring one of the employees to another position within the department;
2. Transferring one of the employees to another department; or
3. The resignation of one of the employees.



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The employees have the opportunity to choose among the alternatives; however, there is no guarantee that a position will be available. If the employees are unable to agree upon an alternative within 60 days, the department secretary or independent state agency director shall choose from the alternatives to correct the violation.

**Suspected violation**

If an employee suspects a violation of this law has occurred, they may submit a [Violation of Hiring Practices/Supervision of a Relative Form](#) to OPM for a determination of whether a violation has occurred. OPM will report violations to the Attorney General's Office for resolution. The nepotism prohibitions do not apply to an employee who was hired, transferred or promoted in a state agency prior to August 12, 2005.

**Penalty**

A public official or employee who approves a position and authorizes compensation to an employee in violation of this law will be charged with a Class A misdemeanor. A public official who knowingly violates this law is subject to a civil penalty of \$1,000.