



To: Karla Green, Human Resources Director

From: Miriam Soler Ramos, City Attorney for the City of Coral Gables *MSR*

RE: Legal Opinion Regarding hiring of a relative

Date: November 17, 2020

---

The Human Resources Department has requested an opinion from this office regarding the potential hiring of a current employee's relative. The current employee is a Department Head, and the applicant is the Department Head's son. The applicant has applied for a regular, full-time position in the department in which his parent is Department Head. In the regular hiring process the Department Head works with the City's Human Resources Department to review potential candidates, interview them, and the Department Head recommends candidates for hiring to the Human Resources Director, who then obtains the ultimate approval from the City Manager.

Florida Statute 112.3135, Florida's Antinepotism law, states generally that "a public official may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the agency in which the official is serving or over which the official exercises jurisdiction or control any individual who is a relative of the public official". For purposes of applying F.S. 112.3135, the Department Head at issue is a public official as defined in F.S. 112.3135(1)(c) as the Department Head has the authority to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion or advancement. In addition, the Department Head's son is a relative as defined in F.S. 112.3135(1)(d).

The Florida Attorney General's office has opined on the application of this statute various times, see for example, AGO 77-144, AGO 80-70, and AGO 82-57. AGO 74-255 opined that, "The antinepotism statute was clearly not intended to prevent relatives from working together in public employment. The statute simply prohibits one who has the authority to employ, appoint, promote, advance, or recommend same from using that authority with respect to his or her own relatives."

Coral Gables' personnel rule 18.2 additionally provides that two or more members of the immediate family may be employed in the same department on a regular, full-time basis, providing that one immediate relative does not supervise the other at any time. In addition, Rule 18.2.1 states that "no Department Head or supervisor may hire, promote, or otherwise affect the employment

status of a relative, nor advocate such action on behalf of a relative.” Immediate family as defined in this personnel rule includes the Department Head’s son.

Though the hiring of this applicant would be done through the Human Resources Department, and ultimately approved by the City Manager, the Department Head would participate in reviewing all applicants for the position, would make the recommendation on whom should be hired, and ultimately the applicant would be supervised by his parent. Furthermore, any promotions of the son would be approved by his parent, the Department Head. As such, this office opines that the applicant in question may not be hired for a position in his parent’s Department.

This opinion is issued in accordance with Section 2-252(e)(1) of the City Code authorizing the City Attorney’s Office to issue opinions and interpretations on behalf of the City.

November 2020

## Paulk, Enga

---

**From:** Ramos, Miriam  
**Sent:** Tuesday, November 17, 2020 1:41 PM  
**To:** Paulk, Enga  
**Subject:** Nepotism opinion  
**Attachments:** Opinion re. Employing Relative - nepotism.docx

Enga, please publish.

Thank you,

*Miriam Soler Ramos, Esq., B.C.S.*

**City Attorney**

*Board Certified by the Florida Bar in City, County, and Local Government Law*

City of Coral Gables

405 Biltmore Way, 2<sup>nd</sup> Floor

Coral Gables, FL 33134

(305)460-5084 direct dial



**Public Records:** This e-mail is from the City of Coral Gables – City Attorney’s Office and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you have received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer, and do not copy or disclose to anyone else. The State of Florida has a broad public records law. Most written communications to or from State and Local Officials regarding State or Local business are public records available to the public upon request.

**Confidentiality:** The information contained in this transmission may be legally privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication may be prohibited.