

# THE AEL ADVOCATE

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## FILLING OF UNIT II POSITIONS:

### IS THERE, AND HAS THERE BEEN, STRICT ADHERENCE TO THE PROCEDURES REQUIRED BY THE AEL NEGOTIATED AGREEMENT AND THE BOE REGULATION ON NEPOTISM?

The BOE's internal and external hiring and promotional practices for Unit II employees require strict adherence to the terms of the AEL Negotiated Agreement, as well as the BOE's Nepotism Regulation, Regulation GAF-RA. This issue of the Advocate sets forth these requirements. Please review these requirements and if you feel you have not been afforded the required procedure or know someone who has been denied the same, contact your AEL leadership.

#### I. The AEL Negotiated Agreement

It is clear from Article I, "General Provisions of the Agreement" that the terms of the Negotiated Agreement control, among other things, certain aspects of the filling of all Unit II positions, even taking precedence over Board policy and regulation if inconsistent with the Agreement. Specifically, Article I, Section E, "Authority of the Board," provides:

**"...The determination and administration of school policy, the operation and management of the schools, and the direction of employees are vested exclusively in the Board, SUBJECT ONLY TO IT'S NEGOTIATED AGREEMENTS and state and federal laws. ..."** (emphasis added)

and Section H, "Effect of Agreement on Other Policies," states:

**"This Agreement shall affect EXISTING AND FUTURE Policy of the Board only to the extent that the provisions hereof are inconsistent with such policy in which case THE PROVISIONS HEREOF SHALL TAKE PRECEDENCE TO THE EXTENT OF SUCH INCONSISTENCY."** (emphasis added)

Article 13 of the Negotiated Agreement, "Nomination Procedures for Administrative and Supervisory Positions," sets forth the following required procedures which the Board must follow to avoid breach of the Negotiated Agreement. These procedures apply to all Unit II positions and can be summarized as follows:

#### BOARD OF EDUCATION:

Advertising the Vacancy: Within 30 days after the Superintendent determines a Unit II vacancy exists, EACH SCHOOL AND EACH CENTRAL OFFICE DEPARTMENT HEAD SHALL be sent, for immediate posting, an announcement containing the minimum requirements needed for the position and a job description including duties and responsibilities, qualifications and applicable salary scale.

In addition, AN ANNOUNCEMENT OF EACH VACANCY MUST BE SENT TO AEL.

### **UNIT II EMPLOYEES:**

Unit II employees interested in the advertised administrative or supervisory positions and other qualified employees who have indicated that they wish to apply for an administrative or supervisory position on a Declaration of Intention for that year must apply in writing within the announcements stated time limit.

### **BOARD OF EDUCATION:**

- a. Applications are to be screened by the personnel department to ascertain eligibility and if eligible, the employee is to be notified of the time and place for an interview. **All** eligible applicants must be interviewed by the Interview Committee. If the employee is deemed ineligible, the employee must be apprised of the reason for ineligibility.
- b. References: Confidential references are to be requested from four or more persons of the eligible applicant's choice. References obtained for this purpose in the prior three years may be used at the applicant's choice. **All** references must be considered by the interview committee.
- c. Makeup of Interview Committee:
  1. Department Head Appointments: The appropriate department head is to appoint five to seven employees broadly representative of the various departments with which the vacant position is involved.
  2. Organization Representation: If the applicant is a current Unit II employee, a representative of Unit II is to be appointed to the committee.
  3. Superior Named by Applicant: Each applicant may request a superior to be present at the interview and if that superior chooses to attend, the superior shall also participate in the evaluation.
- d. Evaluation; Nomination and Notification:

Each member of the interview committee is to evaluate each applicant based on:

  1. scores (if applicable),
  2. professional preparation,
  3. teaching and related experience,
  4. certification status,
  5. references and
  6. oral interview.

**Each evaluation is to be expressed as “recommended highly,” “recommended,” “recommended with reservations” or “not recommended.”**

Using the aforesaid recommendations, the appropriate central office department head shall nominate up to three candidates for each position to be recommended for the Board’s appointment. Each applicant is to be notified of the applicant’s acceptability for the position, including the number of members of the committee who gave the applicant each of the four ratings. Applicants not selected, who wish an explanation, are entitled to have a conference upon request.

- e. Exception for Emergencies: The aforesaid procedures **must** be followed **except** under emergency conditions created by:
  - 1. late resignations
  - 2. illness
  - 3. death.

In these cases, vacancies are to be filled from a list of candidates previously interviewed by the interview committee.

- f. **SELECTION OF NON-EMPLOYEES:**  
**THE AEL NEGOTIATED AGREEMENT WITH THE BOE SPECIFICALLY STATES THAT AN APPLICANT FOR A UNIT II POSITION WHO IS NOT AN EMPLOYEE OF THE BOARD MAY ONLY BE SELECTED IF:**

- 1. HE OR SHE HAS HELD A LIKE POSITION IN ANOTHER SCHOOL SYSTEM AND**
- 2. HE OR SHE HAS MET ALL OTHER REQUIREMENTS OF ARTICLE 13 OF THE AEL NEGOTIATED AGREEMENT, THAT IS, NOMINATION PROCEDURES FOR ADMINISTRATIVE AND SUPERVISORY POSITIONS (the requirements set forth on the previous pages herein).**

#### Timing of Assignments for An Ensuing Year

Finally, the Negotiated Agreement, Article 15 “Other Personnel Policies,” Section C “Notification of Assignment” mandates that all Unit II employees are to be notified of their assignments for the ensuing year by June 10<sup>th</sup>. As a consequence of budget reductions, however, an assignment may be changed after this date, but only after a conference with the Unit II employee to explain the reasons for the change. After July 15, an assignment may be changed only if the Unit II employee receives a promotion or if, following a conference in which the reasons are given, the employee agrees to a change.

## **II. Nepotism: BOE Regulation GAF-RA**

AACPS does, in fact, employ, promote and transfer immediate family members of other AACPS employees, contractors, consultants, and members of the BOE. The intent of BOE Regulation GAFRA

“Nepotism” is to provide guidelines to avoid favoritism or even the appearance of favoritism toward family members.

Specifically, Nepotism is defined by the BOE Regulation GAF-RA as favoritism shown to an individual who is a family member, including spouse, parent, child, sibling, grandparent, grandchild, aunt, uncle, niece or nephew, as well as all corresponding in-law and step relationships and any non-relative living in an employee’s household. Favoritism is forbidden in all employment decisions such as hiring, promoting, transferring, evaluating, awarding salary and terminating employees and all such decisions are to be based solely on qualifications for the position, ability and performance.

The regulation specifically states that AACPS intends to avoid not only “favoritism,” but also the appearance of favoritism and conflicts of interest in employment decisions. Accordingly, certain work relationships are prohibited. “Prohibited relationships” are defined as the professional working relationship of a family member where one employee has primary or secondary supervision over the other family member, or in any other way, has influence over the hire, transfer, layoff, promotion, discharge, assignment, evaluation or discipline of the other family member. Secondary supervision is indirect supervision, unusually within the chain of command.

### **Identification of Family Members/Prohibited Relationships:**

In order to identify “prohibited relationships,” the AACPS Nepotism Regulation requires all employees to complete an Acknowledgement of Nepotism Policy Form during the hiring process as well as applications for transfer or promotion. This form includes space for the employee to list all family members already employed by AACPS. If a family relationship develops during employment, a new Acknowledgement of Nepotism Policy Form must be submitted to both the employee’s supervisor and the Director of Human Resources.

If a “prohibited relationship” is discovered by Human Resources staff during a review of the Acknowledgement of Nepotism Policy, the employee, the employee’s supervisor and/or department head and the Director of Human Resources are to be notified. The Director of Human Resources and the Superintendent are to determine if any further action is required.

If approved by the Superintendent and Director of Human Resources, individuals who are family members are permitted to work in the same school or division **PROVIDED NO DIRECT REPORTING OR SUPERVISOR-TO-SUBORDINATE RELATIONSHIP EXISTS. THAT IS, NO EMPLOYEE IS PERMITTED TO WORK WITHIN THE “CHAIN OF COMMAND” IF ONE FAMILY MEMBER’S WORK RESPONSIBILITIES, SALARY, HOURS, CAREER PROGRESS, BENEFITS OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT COULD BE INFLUENCED BY THE OTHER RELATIVE.**

### **Recusal**

To prevent an actual conflict of interest or the appearance of a conflict of interest, employees working in the departments of Employee Relations, Finance, Internal Auditing or Human Resources must recuse themselves from decisions impacting the wages, hours, benefits, career progress and other terms and conditions of employment of other family members.

## **Exceptions**

Any exceptions to this policy must be approved by the Superintendent, except in cases where the Superintendent is in a “prohibited relationship.” (CLEARLY, ALWAYS THE CASE). In this case, any exception must be approved by the Board of Education.

BOE Regulation GAF-RA does not speak directly to exception procedures for family members of members of the BOE itself (ONCE AGAIN, ALWAYS A “PROHIBITED RELATIONSHIP”). This is an issue which does not seem to be adequately addressed by the Nepotism Regulation, but is clearly required. The BOE should address this issue and clarify the same through amendments to Regulation GAF-RA. How this policy directly or indirectly impacts contractual hiring and promotional practices may well be a matter requiring further study.