

September 23, 2019

NOTICE OF RULE DEVELOPMENT

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-208.004

RULE TITLE: Employment of Relatives

PURPOSE AND EFFECT: Rulemaking is necessary to align the language of the rule with relevant statutes in order to better serve the needs of the Department as it relates to the employment of relatives. The new language is intended to clarify that staff are not permitted to directly supervise family members within the Department.

SUBJECT AREA TO BE ADDRESSED: Employment and supervision of relatives within the Department.

RULEMAKING AUTHORITY: 945.0311 F.S.

LAW IMPLEMENTED: 112.3135, 945.0311 F.S.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Paul Vazquez, 501 South Calhoun Street, Tallahassee, Florida 32399.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

Substantial rewording of Rule 33-208.004, F.A.C., follows. See Florida Administrative Code for present text.

33-208.004 Employment of Relatives.

(1) Definitions.

(a) "Direct supervision" means being an employee's immediate supervisor, or the rater or reviewer of the employee's performance.

(b) "Employee" means any individual on the payroll of the Department of Corrections.

(c) "Line of authority" means any position having supervisory authority within the direct chain of command or supervisory path that organizationally links any position in the Department to the Secretary.

(d) "Organizational unit" includes:

1. A unit of a state correctional institution such as security, medical, dental, classification, maintenance, personnel, or business. A work camp, boot camp, or other annex of a state correctional institution is considered part of the institution and not a separate unit.

2. An area of a regional office such as personnel, medical, administrative services, probation and parole, or community facilities.

3. A correctional work center, road prison, or work release center.

4. A probation and parole circuit office or a sub-office within a circuit.

5. A bureau of the Office of the Secretary or of any of the assistant secretaries.

(e) "Public Official" means an employee of an agency in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency.

(f) "Relative" means any individual who is related to another as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

(2) Direct supervision of a relative employee is prohibited.

(3) An employee must not appoint, promote, advance, advocate for, or discipline any relative employee within their line of authority or organizational unit.

(4) In accordance with Section 112.3135, F.S., 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 Department in which the official exercises jurisdiction or control of the employee relative. Mere approval of budgets shall not be sufficient to constitute "jurisdiction or control" for the purposes of this section. In the event of an emergency as defined in Section 252.34(3), F.S., the Secretary is authorized to approve the temporary employment of individuals whose employment would otherwise be prohibited by Section 112.3135, F.S.

Rulemaking Authority 945.0311 FS. Law Implemented 112.3135, 945.0311 FS. History—New 3-3-13, _____

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