



OFFICE OF THE
STATE AUDITOR

Auditor Alert 2017-01

Date: May 17, 2017

Subject: Violations of State Nepotism Laws by Public Entities

The intent of this alert is to encourage public entities to review their compliance with state nepotism laws with the understanding that “direct supervision” may not be limited to “immediate” supervision.

The Office of the State Auditor (“Office”) has been advised of various instances in which public entities may have violated state nepotism laws by having a relative working under the supervision of a public official or employee within their entity. The current state nepotism statute, Utah Code 52-3, uses but does not define the term “directly supervise.” Direct supervision may include overseeing day-to-day activities where a supervisor is immediately available to furnish assistance and direction to a subordinate without an intermediary. However, the nepotism law is designed to prevent bias in hiring, performance evaluation, and consideration of salary increases due to familial relationships. Direct supervision is based on the duties and nature of the supervisor/subordinate relationship. Clearly, no employee should be exempt from disciplinary oversight or “untouchable” due to a familial relationship with another employee or supervisor.

Determining whether there is a violation of nepotism by a public official or agency often requires analysis on a case-by-case basis. The Office encourages entities to carefully consider their compliance with state nepotism laws. We recognize that every entity, the makeup of its governing board and staff, and the circumstances of each hiring scenario are unique. The Office encourages you to review Utah Code 52-3, note the various allowable exceptions, consult with legal counsel, and use prudent judgement in making hiring and employment decisions.