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Pg 336

NEPOTISM IN CITY
EMPLOYMENT

Mr. J. Anthony Abbott, Attorney-at-law of the firm of Mayall, Hurley, et al, addressed the Council presenting the following information which was contained in a letter addressed to the Lodi City Council dated December 27, 1984:

"As you know, the undersigned appeared at the City Council Meeting on December 19, 1984, to bring to the Council's attention the case of Michael Faught, whose application for employment by the City of Lodi Fire Department is currently pending. As regards the facts of the case, I refer you to my letter of December 18, 1984, which by now you should have received. At the meeting of December 19, I was informed by the Mayor and by Mr. Stein that it was not proper for the Council to overrule the decision of the City Manager, Henry Graves, with regard to Mr. Faught. Rather, the City Council could only grant relief by amending its policy, contained in Resolution Number 83-15, and applying that amendment to Mr. Faught's case. It is to this question that this letter is addressed.

The pertinent portion of Resolution 83-15 is (2), which allows the City to refuse employment to any person who has a relative already working in the department, division, or facility, where application for employment is made. I am sure that the language of the exception is well known to you, but for convenience sake I repeat it here:

"2. To refuse to place both spouses or relatives in the same department, division, or facility where such has the potential for creating adverse impact on supervision, safety, security, or morale, or involves potential conflicts of interest."

As stated in my previous letter, I have been informed by Mr. Stein and Mr. Graves that normally this exception would be applied on a case by case basis, and judged by the merits of the particular situation. However, Mr. Graves stated that in the case of the Police Department or Fire Department, employment would be refused uniformly. That is, the existence of a familial relationship alone would preclude employment by one in Michael Faught's position.

STOCKTON CHIEF OF POLICE. TO OUR KNOWLEDGE, THERE HAS BEEN NO ADVERSE FALLOUT FROM THIS SITUATION, OF CALLS FROM THE COMMUNITY FOR A POLICY PROHIBITING EMPLOYMENT OR MORE THAN

If this is in fact the City's policy as applied, it is certainly not a policy which can be deduced from an examination of the language of the Resolution. Nowhere in the language is the Police Department or Fire Department specifically mentioned by name. There is simply the general statement to the effect that where determination is made that employment of two relatives in the same department has the potential for creating supervision, safety, security or moral problems, the City reserves the right to refuse employment. This would seem to imply, as Mr. Stein and Mr. Graves have indicated, that a case by case evaluation will occur.

The policy as applied by the City Administration in the case of the Fire Department and Police Department, and specifically in the case of Michael Faught is an easy standard to apply: Once the determination of familial relationship has been made, the decision follows automatically. However, while this standard is easy on those making the employment decision, it is very hard on those against whom the standard is invoked. Conceivably, Michael Faught could be the best fireman in the land, and he would still be denied employment based solely on his familial status.

In deciding whether you wish to amend your Resolution 83-15 to change this policy, you must of necessity ask yourselves "is this the result we intended?" If not, the solution would seem to be to amend the Resolution to give the City Administration more specific guidance as to how it is to decide whether family members may be placed in the same department. In this connection, it should be noted that Police and Fire Departments across the Country have long employed fathers and sons together. We have all heard of "police families" in cities such as New York and Los Angeles, where generation after generation of fathers and sons have served in the police department. It is the wide perception that this type of tradition builds esprit, commitment, and dedication. One such case which appeared in the news some months ago was that of Stockton Police Officer Cecchetti who was tragically killed in the line of duty. Officer Cecchetti's father, of course, is Julio Cecchetti, the Stockton Chief of Police. To our knowledge, there has been no adverse fallout from this situation, of calls from the community for a policy prohibiting employment or more than one family member in the same department.

Of course, where there is a demonstrated potential for nepotism, such as that situation described in (1) of the Resolution or where it is demonstrably probable that employment of relatives in the same department would create difficulties of the type described in the Resolution, the Resolution would seem to have a rational basis. However, we do not think that it was the intention of the Council, when it enacted Resolution 83-15, to bar in all cases employment of more than one family member by the Police or Fire Departments. Hence, if the Council feels it necessary to amend its Resolution to create its intended result, I would suggest that (2) of Resolution 83-15 be amended to read as follows:

"2. To refuse to place both spouses or relatives in the same department, division, or facility, when it is demonstrably probable that such placement will create adverse impact on supervision, safety, security, or moral, or involves demonstrably probable conflicts of interests."

Under the foregoing standard, Michael Faught could and would be hired by the City of Lodi as a Fireman. This is true because, as everyone agrees, there are no specific facts in Mr. Faught's situation which speak against his employment other than his familial status itself. In other words, it is not demonstrably probable that his employment will cause problems in the area of supervision, safety, security, or moral; in fact, in view of his support from the community and from the Department itself, all indications are that his employment will have the opposite effect.

Thank you for your attention to the foregoing. We look forward to presenting Michael Faught's case in further detail at the Council Meeting of January 2, 1985.

Sincerely,

MAYALL, HURLEY, KNUTSON, SMITH & GREEN

BY: s/J. Anthony Abbott"

A very lengthy discussion followed with questions being directed to the City Manager, City Attorney, Fire Chief MacLeod and other members of the Staff who were present.

On motion of Mayor Snider, Hinchman second, Council directed the City Attorney to draft an amendment to current City policy that would restrict the hiring of relatives (of second consanguinity) within the same department by the City Manager, Council, employees with appointive authority or employees with supervisory responsibilities. The City Attorney was further directed to have the subject draft available for discussion by the Council at a future Informal Informational Meeting.

The motion carried by unanimous vote of all Council Members present.

Mayor Snider directed the City Manager not to fill the vacant Firefighter position until this matter is resolved.

COUNCIL COMMUNICATION

TO: THE CITY COUNCIL

DATE

NO.

FROM: THE CITY MANAGER'S OFFICE

December 27, 1984

SUBJECT: Nepotism in City Employment

At the City Council meeting of December 19, 1984 Mike Faught, a candidate for the position of Fire Fighter with the City of Lodi, appeared before you to seek the help of the City Council in his effort to be appointed to the City service. He has been denied appointment to the position because the appointment would be in conflict with provisions of Resolution No. 83-15.

Resolution No. 83-15 defines the family members affected to include child, brother, sister, parent or parent-in-law.

The pertinent provision of the Resolution reads "...the City of Lodi retains the right:

2. To refuse to place both spouses or relatives in the same department, division or facility where such has the potential for creating adverse impact on supervision, safety, security or morale or involves potential conflicts of interest."

Mike Faught's father is presently employed as a Fire Engineer with the Lodi Fire Department. It was my finding that the appointment of Mike Faught would present a potential adverse impact on supervision, safety and morale in the department.

Supervision. By the nature of its function, the members of the fire department are generally required to serve on shifts and live together twenty four hours a shift. Members of an immediate family generally have a different relationship involving loyalty and emotional concern than is found with unrelated individuals. To avoid the problem as much as possible in the past, the department head has scheduled relatives (we have had brothers in the department since 1956 and 1958) on different shifts or different fire houses. This precaution requires an added element to the function of supervisor. There is a limit to the number of people that can be accommodated in this way. There is no reason why this burden should be undertaken in any event.

In addition, family members can present other special scheduling problems, i.e. vacations, switching shifts, etc.

Another supervisory problem has already been demonstrated in the case at hand. The protective instincts of a parent. When one member of the family is perceived by the other to have been unfairly dealt with by supervisors, the supervisor may be confronted with both family members. In the instant case, the father has been very prominent in the dispute. He protested to the Fire Chief, City Manager, and Council Members for weeks before the son appeared to speak for himself. This concern of a parent is certainly understandable, but does it belong in the work place?

I think the public is entitled to the assurance that the City organization is reasonably free of the complications of this nature which can affect the delivery of services.

Safety. It is common knowledge that there is an element of hazard in the work of fire fighters. The safety of the fire fighter depends, to a large extent, on adequate training in fire fighting and safety techniques and the proper adherence to this training at the scene of a fire. When members of the same family are involved at the scene of the fire it is important for the safety of all involved that the split second decisions that sometimes must be made, be made in accordance with learned practices and made objectively. Under certain circumstances there is no room for split loyalties that might endanger others. This could present a conflict of interest that goes beyond monetary gain. I think it would be hard for anyone to predict his action under these circumstances.

Morale. In an organization of any size, it is not uncommon to find dissatisfaction from time to time with the actions and decisions of supervisors or the operation of the organization. Having family members involved in an organization provides another element of concern, whether real or imaginary, about the fairness with which all are treated. In a sense, there is a competitiveness present and the perceptions of an unfair advantage can be destructive to morale. A common example is in assignments, schedules, shift trading, or the request for special consideration of a personal problem.

Background of Policy. Prior to 1973 the City did not have a formal policy on nepotism. When a situation arose that was questionable, a decision was made in accordance with the perception of the appointing authority as to what was proper or improper public policy. Many years ago a department head was denied the right to carry on a family tradition by the hiring of his son. At another time a supervisor was denied permission to hire his daughter. These are just two examples that come to mind because each created a minor incident.

Two brothers were hired in the fire department in 1956 and 1958. Earlier than that we had two brothers in the Public Works department. There were no special problems other than the need to make arrangements to avoid the possibility of conflict.

In 1973 the Fire Chief came to me with concern about the number of family members of firemen who had made application for appointment as firemen. The Chief's position was that he could manage the two brothers at the present time but if he was confronted with relatives without limit he would have problems that could no longer be managed by different shifts. At this time judicial decisions, etc. made it apparent that a formal policy was needed and the matter was brought to the City Council. Resolution 3805 was adopted by the City Council on August 1, 1973. This resolution defined affective relatives and denied approval of hiring of relatives in the same department, the employment anywhere in the city service of relatives of employees in the City Manager's office; or the employment anywhere in the city service of relatives of Councilmen or department heads. This policy worked satisfactorily until 1983. In 1983 a court decision was rendered bringing into question the policies that might unconstitutionally discriminate against individuals because of marital status. At that time a revised resolution was presented and adopted by the City Council (Resolution No. 83-15). The presentation to the City Council did not propose a change in direction of policy, but rather a rewording and recitation to comply with current law. In fact, the structure and wording of Resolution No. 83-15 follows the provisions of the Government Code very closely. It was certainly my understanding and my presentation to the City

Council that the Resolution would accomplish the same thing as Resolution 3805, but was worded differently to avoid any unconstitutional or illegal affects.

It is now apparent to me that some staff members misinterpreted the affects of the revised resolution, even to the extent that they believed our former policy had been abandoned and no restrictions existed. I believe this has been corrected. In discussing the reason for misinterpretation, I believe much of the problem arises from the individual understanding of the word "potential". Others, including Mr. Faught and his attorney, seem to believe the resolution provides the City Manager to make individual subjective determinations. I believe this is not correct, nor would it be upheld in court. It should be obvious that any standard must have an objective criteria. I do not believe the resolution to authorize the appointing authority to make a case by case judgement based on the individuals involved in the identical circumstances. Rather, it requires him to examine the potential for conflict in a given situation and treat all individuals alike.

I have no doubt about the qualifications or character of Mike Faught and I think it improper for me to render a decision under these circumstances based upon my perception that he is a nice person or bad person, exceptionally qualified or marginally qualified. I have repeated to all concerned the question relies on the potential for conflict not on the question of whether these particular individuals will be guilty of the conflict. Further, the policy covers the need to avoid unnecessary complications in carrying out operations of the city service.

The Resolution No. 83-15 says we will not deny employment on the basis of familial or marital statics. It also says that in certain circumstances we reserve the right to refuse to place family members where there is potential to create problems or conflicts. Mr. Faught has not been denied employment with the City of Lodi. He has been denied the placement in the same department where his father is employed. Under our policy he could be employed in many places in the city organization without question. It is his desire, in this instance, to be placed in the fire department that places the matter before the City Council.

I do not believe an individual has a constitutional right to a job with the city government. Since any other individual would be treated the same under the same circumstances, I do not believe unlawful discrimination is the issue.

If Mr. Faught is hired we must still meet the following issues in the future:

1. How many combinations of relatives can be absorbed within the fire department before the problem manifests itself into an unmanageable situation.
2. When or who will decide when the situation is unmanageable.
3. How do you tell the third, fourth or fifth combination that we have reached that point where we can't accept another.
4. If and when one member of the family combination qualifies for promotion to a supervisory position, will he be denied the promotion?

5. Regarding City wide implementation of the policy, whose definition of the word "potential" will be used?

In summary, I believe Mr. Faught's attorney is incorrect in arguing that we should follow the practice of making subjective determinations on a case by case basis based on the individuals involved.

I believe he is incorrect in arguing that the city is denying his client employment with the city in violation of the City Councils resolution.

I believe he is obscuring the issues when he points to policies in large cities which permit members of the immediate family in the same fire department. First, I do not believe these cities are more right than we are or that we should use these cities as models. Secondly, if we had a dozen or two dozen fire stations with staff numbering in the hundreds, or even thousands, the potential for problems might be less and the alternatives for managing the problems would be much greater.

Respectfully submitted,


Henry Graves
City Manager

CITY COUNCIL

JOHN R. (Randy) SNIDER, Mayor
DAVID M. HINCHMAN
Mayor Pro Tempore
EVELYN M. OLSON
JAMES W. PINKERTON, Jr.
FRED M. REID

CITY OF LODI

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HENRY A. GLAVES, Jr.
City Manager
ALICE M. REIMCHE
City Clerk
RONALD M. STEIN
City Attorney

CONFIDENTIAL MEMORANDUM

TO: Mayor and City Council
FROM: City Manager
SUBJECT: Implementation of Resolution 83-15 - Nepotism

Coincidentally with the Faught dispute over the implementation of Resolution 83-15 the City is recruiting for two positions - Public Works/Parks Laborer and Parking Enforcement Assistant (Meter Maid). The Personnel Staff informed me that a sizable number of relatives of present employees were among the applicants and asked for guidance in determination and implementation of the city policy. The question arises because current implementation has been challenged and is thus in doubt until the question is resolved.

One issue is whether all applicants should be permitted to take the examination and apply the policy as applicable at time of appointment, or reject all applications of those in conflict with the existing policy. Either method could be used in the case of the Parking Enforcement Assistant but we would have to change our recruiting and testing procedure in the case of the combined Public Works and Park Laborer if we decide to reject prior to testing. This requires explanation.

It has been our practice to hold one examination and establish one eligible list for Parks and Public Works laborers since the qualifications for each is the same. Once the list is established the respective department head can interview and select from the same list. During the interview stage the specific experience can be evaluated and the selection made on the basis of the position best suited for the individual. Hence, the nepotism conflict can be dealt with at this stage.

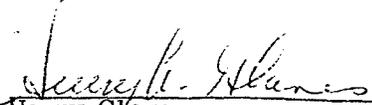
If we were to rule applicants out before the examination, it would be necessary to give two different examinations and create two eligible lists, one for each department. This would result in many applicants taking two tests which for all extents and purposes would be identical.

I have marked this memo confidential because I wanted to attach the lists of applicants with family members in the city service. I see no purpose in publicizing these names, in fact it could cause harm to the applicants.

By including the lists, it will give the Council a feel for the number of cases we deal with on a routine basis. It also affords an opportunity to identify those applicants that might be judged ineligible for employment because of the closeness of relationship and those with distant relationship that fall outside the restrictions in the city policy.

I used the word "might" in referring to those affected by the policy. Since our policy only affects those that have a potential for creating a problem as defined, there can be circumstances where the potential is not present. In the Parks Department I suspect the potential will generally be present because of the way we are structured and operate. In the Public Works Department with its variety of functions there may be circumstances within the department where the potential does not exist, i.e., sewer plant and a mechanic or a street maintenance worker. In other words, we would be looking at the division in many cases. We look at the career ladder, supervision, etc.

In any event, it is important to resolve the question. I have put these examinations on hold until after the next meeting. We need to know if the existing policy is correct from the point of view of the City Council. We need to know if our implementation is in conformity with the City Councils policy. And, most of all, we must determine where the responsibility rests for the implementation. If it is delegated, it is important that those responsible be free of intimidation or pressure if it is to work objectively.


Henry Graves
City Manager

PUBLIC WORKS/PARKS LABORER RECRUITMENT
 APPLICANTS WITH RELATIVES EMPLOYED BY THE CITY

<u>APPLICANT'S NAME</u>	<u>RELATIVE'S NAME</u>	<u>RELATIONSHIP</u>	<u>DEPT.</u>
David M. Brown	David L. Brown	Father	Parks & Rec.
-John M. Falos	Jack Falos	Father	Parks & Rec.
	Ann Falos	Mother	Administration (PT)
Keith W. Janke	Edwin A. Janke	Father	Public Works/WS
William D. Johnson	Ernest Nies	Brother in law	Police
Robert C. Knittel	Greg Nichols	Cousin	Parks & Rec.
Vernon Krenz	Tim Halstead	Brother in law	Parks & Rec.
Jerold Kyle	Gary O'Nesky	Brother in law	Public Works
Andrew C. Lemmon	Charles D. Lemmon	Father	Police
-Joe F. Lorimer	Laurey Lorimer	Nephew	P.W./W & S
-Reynaldo Molina	Martiniano Molina	Brother	Parks&Rec.(PT)
Lloyd N. Smith	Sandy Smith	Aunt	Finance
Ernesto D. Suavez	Duane Meacham	Father in law	Finance
-Maria G. Suavez	Jose L. Ordaz	Brother	Parks & Rec.(PT)
Francisco B. Valdez	Maria Inez Villa	Sister in law	Finance
Eugenio Villa	Maria Inez Villa	Sister	Finance
Thomas J. Wagner	Shirley Adolf	Mother	Finance
Michelle.R. Whiting	Steve Whiting	Brother	Utility
- Kurt A. Wood	Warren A. Wood	Father	P.W. - Streets
- Mark A. Wood	Warren A. Wood	Father	P.W. - Streets
- Dean D. Wright	Duane Wright	Brother	Parks & Rec.

PARKING ENFORCEMENT ASSISTANT RECRUITMENT
 APPLICANTS WITH RELATIVES EMPLOYED BY THE CITY

<u>APPLICANT'S NAME</u>	<u>RELATIVE'S NAME</u>	<u>RELATIONSHIP</u>	<u>DEPT./DIVISION</u>
Kenneth J. Baller	Jack Gerlack	father-in-law	Fire
Juan R. Barbosa	Mac Garcia	cousin	Police
Toni J. Bender	Jeffrey S. Bender	husband	Fire (volunteer)
Karen A. Benson	J. L. Benson, Sr.	husband	Police
Kelly Briggs	Thomas Briggs	husband	Police
Reno G. DeBenedetti, Jr.	Ed DeBenedetti	3rd cousin	Parks & Rec.
Eunice Friederich	Lester Schlabs	cousin	Public Works/Equip. Maintenance
Christine Graviet	Melvin Grandi	brother-in-law	Utility/Engineering
Margie A. Hammett	Arlon M. Thornesberry	father	Police
Julie Hernandez	Vickie Adrian	sister-in-law	Fire
Keith W. Janke	Edwin A. Janke	father	Public Works/W/S
Deborah Koenig	Judy Johnson	mother	Administration
Timothy Koenig	Judy Johnson	mother	Administration
Jerold Kyle	Gary O'Nesky	brother-in-law	Public Works/Streets
Marilee Mai	Gary Mai	husband	Utility/Engineering
Martha Moore	Roger A. Moore	husband	Public Works/WS (PT)
Debra L. Nies	Ernest A. Nies, Jr.	husband	Police
Jeanette Randolph	Daniel M. Randolph	husband	Police
	Jane Randolph	sister-in-law	Police
Steve Rice	Albert Thuman	uncle	Utility/Construction & Maintenance
Lloyd N. Smith	Sandy Smith	aunt	Finance
*Gloria V. Solis	Inez Villa	sister	Finance

*Notified 12/20/84, by letter, that we could not accept her application for employment in this position.

FIRE DEPARTMENT

- 1 Fire Chief
- 3 Fire Administrative Officer
- 3 Fire Shift Supervisor
- 1 Fire Inspector
- 6 Fire Captain
- 18 Fire Engineer
- 15 Fire Fighter (one vacancy)

Title 2

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Div. 3

DISCRIMINATION PROHIBITED

§ 12940

Chapter 6

DISCRIMINATION PROHIBITED

Article	Section
1. Unlawful Practices, Generally	12940
2. Housing Discrimination	12955

Chapter 6 was added by Stats.1980, c. 992, § 4.

Article 1

UNLAWFUL PRACTICES, GENERALLY

- Sec.
- 12940. Employers, labor organizations, employment agencies and other persons; unlawful employment practice; exceptions.
 - 12941. Age; unlawful employment practice by employers; exceptions.
 - 12942. Continuation of employment beyond normal retirement date; effect on pension or retirement plans; compulsory retirement.
 - 12943. School districts; unlawful employment practice based on pregnancy or temporary disability.
 - 12944. Licensing boards; unlawful acts based on examinations and qualifications; determination of unlawfulness; inquiries; records.
 - 12945. Pregnancy; childbirth or related medical condition; unlawful practice by employers; benefits and leaves of absence; transfer of position.
 - 12945.5. Unlawful employment practice; sterilization.
 - 12946. Retention of applications; records and files for two years; failure to retain as unlawful practice by employers, labor organizations and employment agencies.
 - 12947. Child care services for employees and members; not an unlawful practice.
 - 12948. Denial of civil rights as unlawful practice.
 - 12950 to 12951. Repealed.

Article 1 was added by Stats.1980, c. 992, § 4.

§ 12940. Employers, labor organizations, employment agencies and other persons; unlawful employment practice; exceptions

It shall be an unlawful employment practice, unless based upon bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

- (a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to refuse to hire or employ the person

or to refuse to select the person for a training program leading to employment, or to bar or to discharge such person from employment or from a training program leading to employment, or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

(1) Nothing in this part shall prohibit an employer from refusing to hire or discharging a physically handicapped employee, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of a physically handicapped employee, where the employee, because of his or her physical handicap, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger his or her health or safety or the health and safety of others.

(2) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others.

(3) Nothing in this part relating to discrimination on account of marital status shall either (i) affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission, or (ii) prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to exclude, expel or restrict from its membership such person, or to provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training

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Div. 3

DISCRIMINATION PROHIBITED

§ 12941

program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex, or any intent to make any such limitation, specification or discrimination. Nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness, medical condition, physical condition or medical history of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for or directly related to a determination of whether the applicant would endanger his or her health or safety or the health or safety of others.

(e) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified or assisted in any proceeding under this part.

(f) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(g) For the governing board of a school district to violate Section 44066 or 87402 of the Education Code.

(Added by Stats.1980, c. 992, § 4.)

Historical Note

Former § 12940, added by Stats.1963, c. 1786, p. 3571, § 1, requiring the department to maintain records and other evidence of the state's title to all proprietary lands, was repealed by Stats.1965, c. 371, p. 1529, § 149. See, now, § 14730.

§ 12941. Age; unlawful employment practice by employers; exceptions

(a) It is an unlawful employment practice for an employer to refuse to hire or employ, or to discharge, dismiss, reduce, suspend, or demote, any individual over the age of 40 on the ground of age, except in cases where the law compels or provides for such action. This section shall not be construed to make unlawful the rejection or termination of employment where the individual applicant or employee