



THE COMMONWEALTH OF MASSACHUSETTS
 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
HUMAN RESOURCES DIVISION
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 Governor

ERIC KRISS
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 Lieutenant Governor

RUTH N. BRAMSON
 Chief Human Resources Officer

TO: Cabinet Secretaries, Division Directors, Agency Heads and Human Resources Directors
FROM: Ruth N. Bramson, Chief Human Resources Officer *Ruth N. Bramson*
DATE: August 18, 2004
RE: **Revisions to the Sunshine Policy**

What is the Purpose of This Memorandum?

The purpose of this memorandum is to provide the following policy change and clarification, and to provide the policy in its entirety using a simplified format:

- The Sunshine Policy has been clarified with respect to state employees who apply for positions (other than management positions at M V and above) within their own agencies, whether in response to a job posting or due to a posting waiver; these employees do not have to complete a Sunshine disclosure, but must abide by all other provisions of the policy.
- **The policy has been changed as of August 18, 2004 to require Sunshine disclosures by candidates for Manager V and above, to be reported through the Notice of Intent to Hire (NIH) system to the Chief Human Resources Officer, HRD.**
- **The disclosure requirements have been amended to include the disclosure of the named relative’s relationship to the applicant, in addition to reporting the named relative’s job title and state agency where the named relative is employed. These changes are reflected in the standard Commonwealth of Massachusetts Application for Employment and Contract Employee Disclosure forms.**
- The policy is presented below in its entirety, and the format has been simplified for ease of use by using a Q and A approach.

What is the Sunshine Policy?

The Sunshine Policy was authorized by Executive Order 444 issued by Governor Romney on January 9, 2003. The Executive Order requires **anyone seeking employment** with the Commonwealth to disclose the names of all immediate family members, and those related to the immediate family by marriage, who are employees or elected officials of the Commonwealth.

- o “Immediate family” means spouse, child, parent, and sibling; and the spouse’s child, parent and sibling.
- o “Employees and elected officials of the Commonwealth” means an employee or elected official of any branch of state government (judicial, legislative, executive, higher education and state authorities); both regular employees and contract employees are included.

This "sunshine disclosure" is intended to ensure that the citizens of our Commonwealth have full confidence in their government and its hiring process. The disclosure will not be used to exclude any qualified applicant seeking a position within the Executive Branch from receiving full consideration based on the merits of his/her credentials and the requirements of the job.

Executive Order 444 also requires the official with whom such information has been filed to make those disclosures for applicants who are hired available for public inspection. In the case of the Executive Branch, this official would be the Agency Head.

In addition to the disclosures, the Sunshine Policy requires that Agency Heads:

- o Establish internal controls that ensure close review of all steps in the hiring process, validation that the candidate selected was the most qualified, and determination that there was no undue influence exerted by the named family members in the process.
- o Ensure that no employee is supervised, directly or indirectly, by an immediate family member.
- o Ensure that employees excuse themselves from participation in any part of the hiring process for individuals who are members of their immediate family.

Who Must Make Disclosures?

- The disclosures are required of all candidates for Executive Branch positions who are hired into those positions on or after January 9, 2003. Retroactive disclosure for hiring transactions completed prior to January 9, 2003 is not required.
- The following individuals do **not** have to make disclosures, although they are still bound by the provisions of this policy that forbid the supervision by or of family members and involvement in the selection process of family members, as well as other provisions of the State Ethics Commission statutes that apply to state employees:
 - o State employees whose hire occurred before January 9, 2003.
 - o State employees who on or after January 9, 2003 are promoted, demoted or transferred to any Executive Branch position as a result of a posting waiver rather than in response to a job posting.*
 - o State employees who apply for a position within their own agencies (whether the position was posted externally or internally).*

*Those state employees who apply for a management position at M V or above must disclose, **without exception**.
- The public disclosure provision applies to those applying for both regular and contract positions. It does not apply to independent contractors or those applying for seasonal positions.
- In addition to public disclosures, Agency Heads must report disclosures to the Chief Human Resources Officer, HRD for candidates for Managers V and above only, using the Notice of Intent to Hire (NIH) system.

How are Disclosures Made?

- Consistent with the Human Resources Division's (HRD's) Model Hiring Plan, all candidates subject to disclosure who have reached the final candidate pool for a position within the state must complete and submit the Application for Employment form prior to the interview.

- The Application for Employment may be customized by adding pages to it, but may not involve removal of any information contained in it unless it is designated as an “insert” to the application. The exception to the use of this form is candidates for State trooper positions, for which there is a more extensive application form used by the Department of State Police. The Application for Employment may be found at: http://www.hrd.state.ma.us/agency_services/AS_Recruit_Workforce/Hiring_Process/employment_application_8_18_04.doc
- The Contract Employee Disclosure form is required of all contract employees seeking possible contract positions with the state. The contract employee disclosure form may be found at http://www.hrd.state.ma.us/agency_services/AS_Recruit_Workforce/Hiring_Process/employee_disclosure.doc
- Both the Application for Employment and Contract Employee Disclosure forms have been revised to include the disclosure of the named relative’s relationship, in addition to the named relative’s job title and state agency where the named relative is employed.

What Records Must Be Kept and for How Long?

- Applications should be kept active for at least 30 days. The department will have the discretion to determine the length of time beyond 30 days that the application form is active. Application forms that have reached an inactive status (as determined by the department) must be kept on file for a minimum of two years, in accordance with the Secretary of State’s current disposal schedule.
- When a candidate is hired, the candidate’s application form should be kept in his/her personnel file. Confidential medical/Affirmative Action /ADA information should be given to the designated agency person who keeps those types of records.

What if the Person I Am Hiring Has a Concern About the Policy?

- If a potential new hire or contract employee has a concern about the language or intent of this policy, the Agency Head should discuss this issue with the Chief Human Resources Officer, HRD before proceeding with the hiring process.

Who do I Go To for Answers to My Questions?

- If you are an employee or candidate, please speak to the agency’s HR Director about this policy.
- HR staff may direct any questions concerning this policy to their agency’s Organizational Development Group Account Analyst at 617-727-3777.