

Former court administrator avoided nepotism rule

Jennifer Phillips

By [Jameson Cook](#), The Macomb Daily

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Macomb County Probate Judge Carl Marlinga. Macomb Daily file photo

Jennifer Phillip's advancement from Macomb County Circuit Court administrator to a state court administrative post couldn't have been timed better for her and her father, Carl Marlinga.

Phillips, who started her new job as the state courts Region 6 administrator last Monday, would have had to leave her old job next Jan. 1 because under current state nepotism rules. Marlinga will begin serving as a Macomb Circuit Court judge. Marlinga, currently a Macomb probate judge, is running unopposed for a six-year term on the circuit bench.

If Phillips had remained employed in Macomb, the set up would violate the state Supreme Court's current policy adopted in 1996 that bans any relative of a judge to be employed at the same court. However, the rule may change because the nepotism policy is under consideration for revision. A public hearing on the changes is scheduled for Sept. 14 in Lansing.

Still, the situation produced some fretting for Marlinga, who said he would have resigned his newly-elected post if it the potential scenario became a reality.

"No way is a father going to force one of his children to lose their job because he wants to get elected to something," Marlinga said. "That would be stupid."

Marlinga stated while deciding whether to run for circuit court, he began inquiring with the high court justices about the rule. He learned that due to other similar situations statewide, the justices planned to revisit the current policy that says, "Relatives of justices, judges or court administrators shall not be employed within the same court or judicial entity." No exceptions.

On March 23, the Supreme Court issued "Proposed Administrative Order No. 2016-XX" as a new "antinepotism policy" that includes proposed language to continue the current policy or to only have it apply to the chief judge and court administrator. If the latter rule

was adopted, Phillips could have remained in her post because Marlinga would not be the chief judge, a role held by Judge James Biernat Jr.

All four public court officials who have commented in writing on the rule so far favor having it only apply to the chief judge. They say an employee shouldn't lose his or her job because a relative is elected judge.

“Relatives of judges who are well-qualified candidates for positions should not be precluded from employment consideration solely because they are related to a sitting judge within the same court entity,” wrote Nanci Grant, chief judge of Oakland County Circuit Court, on May 27. “Nor should a court have to miss out on the knowledge, skills and abilities that a prospective candidate offers merely because the candidate is related to a sitting judge.”

A relative in the old and new policy is defined as “spouse, child, parent, brother, sister, grandparent, grandchild, first cousin, uncle, aunt, niece, nephew, brother-in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law and father-in-law, whether adopted, step or foster.”

The proposed policy adds as a relative: “same-sex or different-sex individuals who have a relationship of a romantic, intimate, committed or dating nature.” The additional language would not be retroactive.

The proposed policy would prevent relatives in a “superior-subordinate relationship” on the job.

But the matter became moot for Marlinga and his daughter after former regional administrator Deb Greene announced her retirement and [Phillips was chosen to replace her](#). Phillips oversees Macomb, Oakland, St. Clair and Lapeer counties. Greene's former region was split into two regions, with Wayne County categorized as a single region.

When Phillips told her dad she planned to apply for the job, he told her not to do it for his sake, according to Marlinga. But she told him she wanted the job because it is a promotion, pays more and allows her more flexibility in her schedule. The Oakland County resident can work at home more often. Her office is in Detroit.

To replace Phillips, the county is accepting applications for a new court administrator until July 12.

Biernat will appoint the new administrator with input from county Human Resources Director Eric Herppich and his colleagues on the bench, including Chief Judge Pro Tem Matt Switalski.

Biernat said he hopes to fill the post by September.

He said the duties aren't easy.

“It’s a difficult job,” he said. “You’re the administrator over 300 employees. You work with the Board of Commissioners, the County Executive, the judges. ... You have to somebody whose brilliant at multi-tasking.”

The circuit court administrator’s salary range is \$89,868 to \$112,335.

About the Author

My beat is the courts of Macomb County and general assignment. Read more of Jameson Cook's court coverage on his blog <http://courthousedish.blogspot.com/> Reach the author at jamie.cook@macombdaily.com or follow Jameson on Twitter: [@jamesoncook](https://twitter.com/jamesoncook).