

**Joint Letter from Rabbi Pamela Barmash, Chair, CJLS, and Rabbi Lionel Moses, Chair,
JBD, Regarding Pesulei Edut**

Dear colleagues,

We have received many questions regarding relatives serving on a beit din together, especially in the case of conversion to Judaism, and with this letter we seek to clarify for our colleagues the levels of closeness of relatives that would make them pesulei edut.

For example, an uncle and a nephew may not serve on a beit din together; a father and a son may not serve on a beit din together, nor may a husband and a wife serve on a beit din together. Other degrees of close relationship are also not permitted, and to make clear what those are, we have attached to this letter in appendix 1 the degrees of relationships that render a person ineligible to serve as a witness. More analytical explanation is to be found in appendix 2.

We thank Rabbi Avram Reisner for his assistance in this matter.

If you have any questions about pesulei edut, please feel free to contact us.

Bivrakhah,

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Appendix 1: Pesulei Edut

The members of a beit din must be of age and shomrei mitzvot. The following relatives cannot serve together on a beit din (such as for conversion) and are pesulei edut. People who are in these relationships also cannot serve as witnesses for marriages or gittin.

The nuclear family of origin: (Note: a nuclear family spans 2 generations)

Father, mother, and their spouses; adoptive father, mother, and their spouses
Sister, brother, adoptive sister or brother, half-sister or half-brother (of a common parent), and their spouses; step-brother or step-sister, and their spouses.

Up 1 generation (one generation removed from nuclear family):

Maternal and paternal grandfather and grandmother and their spouses.
Maternal and paternal uncle, aunt, and their spouses.

Up 2 generations (two generations removed from nuclear family):

Maternal and paternal great-grand parents.
Maternal and paternal great uncle or great aunt.

***This does not include the spouse of great-grandparents who is not your great-grandparent or the spouse of a great uncle or great aunt.

Down 1 generation (one generation removed from nuclear family)::

Nephew, niece, and their spouses.
First cousins and their spouses.

Down 2 generations (two generations removed from nuclear family):

Children of nieces and nephews.
***This does not include their spouses.

The nuclear family of one's own creation:

Spouse
Brother-in-law or sister-in-law of one's spouse and their spouses.
Son, daughter, adoptive son, adoptive daughter, step-son, step-daughter, and their spouses.

Up 1 generation (one generation removed from nuclear family)::

Mother-in-law, father-in-law and their spouses.
Spouse's aunts and uncles and their spouses.

Up 2 generations (two generations removed from nuclear family):

Spouse's paternal and maternal grandparents and their spouses.

Down 1 generation (one generation removed from nuclear family)::

Granddaughter or grandson and their spouses.
Children of step-son or step-daughter and their spouses.
Brother-in-law or sister-in-law's children (niece / nephew thru spouse) and their spouses.

First cousins of one's spouse.

Down 2 generations (two generations removed from nuclear family:

Great-grandchildren.

***This does not include spouses of great-grandchildren.

Appendix 2: Determining closeness between two individuals analytically

An individual's family members are understood to be invalid witnesses (pesulei edut), beginning with the nuclear family (rishon berishon) until the third generation. (The spouse of a blood relative is also prohibited from testifying but not his or her relatives.) These may not appear together in a court proceeding, not as principals, nor as witnesses, nor as members together of a court.

This material is discussed in Shulhan Arukh, Hoshen Mishpat 33

To determine closeness, follow the following process:

First, determine the point in the genealogy of the two individuals where they are each connected to a person who shares a relevant nuclear family with the other.

(This is confused by the fact that one may be in several nuclear families during one's lifetime: one's family of origin, and one's marital families, of which there may be several. One should seek out the earliest such nuclear family that encompasses a genealogical point of connection. Thus, for example, may I and my second cousin jointly act as witnesses? My second cousin, by definition, is the grandson of my grandfather's brother. The first order relationship [rishon berishon] is between those two brothers. Then count steps on either side to each individual of the pair you are assessing. Grandfather and brother, in this example are each labeled 1. Their children, who are first cousins, are each labeled 2. You and your second cousin are each labeled 3.

A total [above four] [sheni besheni pasul, and so is shlishi berishon – at least ken raui l'horot] is a permitted distance for a witnessing relationship.

The spouse of a prohibited witness is themselves a prohibited witness, under the principal that בעל כאשתו, that husband and wife are treated equally (or today, that spouses, whatever their gender, should be treated equally). However, we do not prohibit two spouses one to another where the four making the principals invalid is made up of a 1 and a 3. [Thus, for example, although my grandfather and I cannot serve together as witnesses or one as witness about the other's case, since we are to each other 1 and 3, nor may I serve as witness with or regarding his wife, whose status is equal to his, his wife and mine may serve as witnesses together or one in regard to the other]. We do, however, prohibit the two spouses one to another where the basic four is made up of a 2 and a 2. [Thus with a pair of first cousins, who are two and two to each other since the 1-1 pair were their sibling parents, the spouses may not serve as witnesses together or with regard one to the other].

* The principal בעל כאשתו is enunciated on Sanhedrin 28a. Some take it to be rabbinic, and it is stated by the gemara as a side point (מילתא אגב אורחא) derived from Mishnah Sanhedrin 3.4 which is found on page 27b. However, the gemara derives that Mishnah from Deuteronomy 24:16: לא יומתו אבות על בנים / fathers will not be put to death on account of their sons, which it takes as בעדות בנים, on the basis of the testimony of sons, wherefore some take it as a biblical prohibition. Rav Huna proposes a different biblical derivation, from Leviticus 18.14: ערות אחי אביך לא תגלה. אל אשתו לא תקרב, דודתך היא / Do not expose the nakedness of your father's brother. Do not approach his wife, she is your aunt. Continuing to expound, he then asks: והלא אשת דודו היא? / but she is the wife of his uncle (n.b. what is this legal category of aunt?), and concludes: מכלל דאשה כבעלה / if follows that a wife is treated as her husband. It may also seem that the basic biblical derivation is more fundamental, to be understood from the biblical understanding of marriage described in Genesis 2:24: ודבק באשתו והיו לבשר אחד / he shall cling to his wife and they shall become one flesh.