

## The State of South Carolina



## Office of the Attorney General

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October 21, 1987

The Honorable John William McLeod  
Member, House of Representatives  
Route 1, Box 130  
Florence, South Carolina 29501

Dear Representative McLeod:

You have advised that the Florence County Legislative Delegation is considering for appointment to the governing commission of the Florence-Darlington Technical Education Center an individual whose spouse is employed at the Center. You have asked whether there is any legal prohibition which would prevent the individual from being appointed.

The governing commission of the Florence-Darlington Technical Education Center is established pursuant to Section 59-53-710 et seq. of the Code of Laws of South Carolina (1976). Nowhere in these statutes is there a prohibition against an individual serving on the commission if a member of his or her family should be employed at the Technical Education Center. There does not appear to be a policy of the State Board of Technical and Comprehensive Education which would prohibit such an individual from serving on the Commission; we are unaware of any policy at the local level which might affect this situation, however, and you may wish to inquire at the local level to be certain that no such policy exists.

This Office has addressed similar situations, in terms of nepotism, in which an individual was already employed with a particular agency at the time an individual related to him assumed a position of leadership (i.e., became head of the agency or was appointed to the governing body). The nepotism statute is found in Section 8-5-10 of the Code, as follows:

It shall be unlawful for any person at the head of any department of this government to appoint to any office or position of trust or emolument under his control or

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management any person related or connected with him by consanguinity or affinity within the sixth degree.

Assuming, without deciding, that the nepotism statute would apply to a member of the governing body of the Florence-Darlington Technical Education Center, the statute would not be applicable because the individual's spouse would not begin employment after the individual assumed his position on the commission. Ops. Atty. Gen. dated February 1, 1979; September 18, 1979; and March 30, 1979 (copies enclosed). Nepotism laws apply only to situations of initial employment of individuals related to the affected public official when such employment begins.

Based on the foregoing, this Office cannot identify any legal prohibition which would prevent an individual's appointment to the governing commission of the Florence-Darlington Technical Education Center merely because the spouse of the individual is presently employed there. If the individual should be appointed to serve on the commission by the Florence County Legislative Delegation, he should be made aware of the Ethics Act and what actions he should take thereunder if he should be required to take actions or make decisions which would substantially and directly affect his (or his spouse's) personal financial interest. In that regard, he may wish to contact the State Ethics Commission, Suite 930, 1122 Lady Street, Columbia, South Carolina 29201.

We trust that we have provided a satisfactory response to your inquiry. Please advise if we may provide clarification or additional assistance.

With kindest regards, I am

Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP:wle  
Enclosures

REVIEWED AND APPROVED BY:

  
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