

1981 WL 157830 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 23, 1981

*1 Dr. William H. Knisely
President
Medical University of South Carolina
171 Ashley Avenue
Charleston, South Carolina 29425

Dear Dr. Knisely:

You have asked the opinion of this office on whether the Medical University should adopt an 'anti-nepotism' policy. It is the opinion of this office that such a policy is not required by law, but would be advisable.

The State nepotism statute is [§ 8-5-10, Code of Laws of South Carolina \(1976\)](#). That section states that the head of 'any department of this government' shall not hire someone related to him within the sixth degree. This office has interpreted this section as applying only to the head of a department of the State government (1963-64 Ops. Att'y Gen. No. 1681, page 131). This office has also said that the Medical College of South Carolina was not a 'department' of State government: therefore, [§ 8-5-10](#) did not apply to the Medical College (1968-69 Ops. Att'y Gen. No. 2625, page 24).

Since these interpretations of the nepotism statute, the State Ethics Act was enacted (in 1975; the Act is codified at [§ 8-13-10, et seq.](#)). That Act declared that 'public employment' was a public trust'. Section 8-13-10. The Act found that 'the people of South Carolina want legislation to insure that conflicts of interest of public officials and employees be eliminated to the extent possible . . .'. Id.

The Act does not have a 'nepotism' section. It does, however, have a section that could apply in a situation in which a public official or employee is planning to hire a relative. That section, [§ 8-13-460](#), says in part:

Any public official or public employee who, in the discharge of his official duties, would be required to take action or make a decision which would substantially affect directly his personal financial interest or those of a member of his household, or a business with which he is associated, shall instead take the following actions:

(a) Prepare a written statement describing the matter requiring action or decisions, and the nature of his potential conflict of interest with respect to such action or decision.

. . . .

(c) If he is a public employee, he shall furnish a copy to his superior, if any, who shall assign the matter to another employee who does not have a potential conflict of interest. If he has no immediate superior, he shall take such action as prescribed by as [sic] the State Ethics Commission. If the public official is a member of the governing body of any agency, commission, board, or of any county, municipality, or other political subdivision, he shall furnish a copy to the presiding officer and to the members of that governing body, who shall cause such statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists, and shall cause such disqualification and the reasons therefor to be noted in the minutes.

*2 The employees of MUSC and the Board of Trustees would, in the opinion of this office, be 'public employees' or 'public officials' under the Act. See § 8-13-20(d)(e).

It appears, therefore, that the policy behind the Ethics Act—see § 8-13-10, above—would apply to nepotism in hiring, even if no section in the Act mentions 'nepotism'.

For your information, I have enclosed a copy of State Ethics Commission opinion 79-048, which illustrates the Commission's view on the application of § 8-13-460 to nepotism. (Note that § 8-13-460 has been amended since that opinion, to make more specific what is required of a public official when he has a conflict.)

In conclusion, it is the opinion of this office that (a) the law neither specifically prohibits nepotism at MUSC nor requires an anti-nepotism policy, but (b) such a policy would be both desirable and advisable.

Sincerely,

Eugene W. Yates, III
Assistant Attorney General

1981 WL 157830 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.