

1976 S.C. Op. Atty. Gen. 80 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4265, 1976 WL 22885

Office of the Attorney General

State of South Carolina

Opinion No. 4265

February 18, 1976

*1 When the duties of a county board of education have been placed by statute on the county school district board of trustees, the district trustees may approve the employment of a teacher related to a trustee.

TO: C. D. Padgett
Attorney
Cherokee County School District

QUESTION PRESENTED:

Can teachers be employed by a school district in which their spouse serves as a district trustee?

STATUTES:

Code of Laws of South Carolina, 1962, as amended, Section 21–351 and 21–1710.

DISCUSSION OF ISSUES:

Code Section 21–351, supra, requires that no school district may employ certain relatives of a member of the board of trustees, unless certain conditions are met. One of the conditions for such employment requires the approval of the county board of education for such employment.

The duties of the Cherokee County Board of Education have been placed by statute upon the County School District Board of Trustees, and the Board of Education has been abolished. See Code Section 21–1710.

Because the duties of the Board of Education have been vested in the Board of Trustees, it becomes the duty of the Board of Trustees to approve contracts of employment with teachers who are related to Trustees within the statutory degree of kinship.

Naturally, such an assumption of duties creates the potential for confusion in any area which formerly required the separate action of the County Board of Education and the County Board of Trustees. However, this problem must have been foreseen by the legislature, and absent statutory directives, the duties of both boards should always be administered by the County Trustees.

It is my opinion the Board of Trustees should formally approve the employment of those teachers related to board members, as required by § 21–351. The trustee whose relative's employment is under discussion should not be present or vote during the consideration of the relative's teaching contract.

CONCLUSION:

When the duties of a county board of education have been placed by statute on the county school district board of trustees, the district trustees may approve the employment of a teacher related to a trustee.

George C. Beighley
Assistant Attorney General

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