



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

September 12, 2001

The Honorable W. Greg Ryberg
Senator, District No. 24
P.O. Box 1077
Aiken, South Carolina 29802

**Re: Your Letter of August 17, 2001
Qualifications for Magistrates**

Dear Senator Ryberg:

In your above-referenced letter, you have requested from this Office "an opinion regarding the educational requirements for service as a magistrate in South Carolina." Specifically, you ask:

Does the statute currently require an associate's degree as the minimum education for a magistrate and does a certificate or diploma from a mortuary school constitute an associate's degree?"

By way of background, you indicate that you "have spoken with the staff at the Higher Education Commission and it is their opinion that it does not meet the requirements."

The statute you refer to is S.C. Code Ann. §22-1-10. Subsection (B)(2)(a) of §22-1-10 provides that "On and after July 1, 2001, no person is eligible for an initial appointment to hold the office of magistrate who (i) is not at the time of his appointment a citizen of the United States and of this State, (ii) has not been a resident of this State for at least five years, (iii) has not attained the age of twenty-one years upon his appointment, and (iv) has not received a two-year associate degree (emphasis added)." Further, §22-1-15 provides that "[t]he provisions of Section 22-1-10(B)(2)(a) and (b) do not apply to a magistrate serving on June 30, 2001, during his tenure in office." Accordingly, a person seeking an initial appointment as a magistrate would currently be required to hold at least a two-year associate degree. This requirement would not, however, apply to a magistrate who is currently serving and was appointed on or before June 30, 2001. It is doubtful that a magistrate who was appointed on or before June 30, 2001, would be required to hold the two-year associate degree upon reappointment, unless there was a break in service. See OP. ATTY. GEN. (Dated February 16, 1989) ("as to ... questions involving magistrates ... those judges who are 'grandfathered in' by Act No. 678 [setting educational requirements for magistrates] would appear

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to be authorized to continue in office but would not be eligible to be reappointed or reelected if they cease to hold office prior to being reelected or reappointed at a later date." However, legislative clarification may be needed to resolve the matter with finality).

As to whether a "certificate or diploma from a mortuary school" qualifies as an associate degree now required for new magistrate's court appointees by Section 22-1-10(B)(2)(a), this Office would defer to any determination made by the South Carolina Commission on Higher Education [hereinafter the "Commission"] on the issue. The Commission is responsible for regulating the program requirements for such degrees. I have contacted the Commission and received relevant information, as have you, on the various certificates, diplomas and degrees offered by post-secondary educational institutions. According to the Commission, there is a hierarchy of such programs which is fairly standard across the country. That hierarchy is as follows:¹

Certificates: These programs typically consist of one or more technical courses, usually completed in one to twenty-six weeks, with a single skill objective, requiring no more than twenty-four semester credit hours. Generally, at least ninety percent of the program consists of technical courses prescribed by the program's objectives.

Diplomas: These programs typically consist largely of technical courses, usually completed in approximately one academic year, ranging in credit hours from more than twenty-four to less than sixty semester credit hours. Generally, at least eighty percent of the program consists of technical courses prescribed by the program's objectives.

Associate Degree: These programs typically consist of a mixture of general education and technical courses, usually requiring a minimum of two academic years to complete, ranging in credit hours from at least 60 to a maximum not greater than 75 semester hours. These degrees are lower-division college programs, and their general education courses are of a collegiate level.

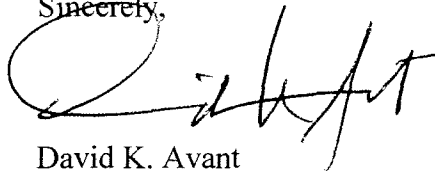
It is apparent that a certificate or diploma received from a post-secondary institution may not be the equivalent of an associate degree. However, this Office cannot make factual determinations regarding a particular program or award. See OP. ATTY. GEN. (Dated August, 5, 1992). Such an issue may have to be resolved by the specific institution involved or the state entity regulating the program.

¹ The hierarchy also includes a Baccalaureate Degree the details of which are not relevant to your query.

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This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,

A handwritten signature in black ink, appearing to read 'David K. Avant', written over the word 'Sincerely,'.

David K. Avant
Assistant Attorney General

DKA/an