

# The State of South Carolina



## Office of the Attorney General

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June 11, 1985

Ms. Debbie Owens, Staff Attorney  
City of Florence  
Drawer AA, City-County Complex  
Florence, South Carolina 29501

Dear Ms. Owens:

By your memorandum submitted to this Office on June 4, 1985, you have asked whether the nephew of a member of Florence City Council may be employed as a fireman by the City of Florence Fire Department. You have advised that such hiring would clearly go against the policy set forth in Section 1.6 of the City of Florence Employee Handbook. We concur with your conclusion for the reasons following.

The nephew of a member of Florence City Council has applied for employment as a city fireman. The Fire Department is governed by the Fire Chief, who answers to the City Manager. It is possible that City Council would vote on an ordinance or resolution affecting the Fire Department; furthermore, Council must approve across-the-board cost-of-living raises for all city employees, including firemen. Merit raises based on performance are approved by the City Manager rather than by Council.

The City of Florence Employee Handbook, at Section 1.6, provides the following:

Two or more members of a family shall not be employed by the City if such employment will result in one's supervising a member of his family, or where one member of a family occupies a position which has influence over another's employment, promotion, salary administration and other related management or personnel consideration. A family shall include: spouse, parents, parent-in-law, grandparents, brothers, sisters, children,

REQUEST LETTER

Continuation Sheet Number 2  
To: Ms. Debbie Owens, Staff Attorney  
June 11, 1985

aunts, uncles, brothers and sisters-in-law,  
nieces and nephews and grandchildren.  
[Emphasis added.]

The Employee Handbook, of which this is a part, was adopted by resolution of Florence City Council on January 10, 1983.

Among the powers given to municipalities by Section 5-7-30, Code of Laws of South Carolina (1984 Cum.Supp.) is the following:

All municipalities of the State shall, in addition to the powers conferred to their specific form of government, have authority to enact regulations, resolutions and ordinances, not inconsistent with the Constitution and general law of this State . . . .

We would point out that adoption of this resolution would not appear to be inconsistent with any statutory or constitutional provisions, and adoption may well be consistent with Section 8-5-10 of the Code, forbidding nepotism. The subject of the resolution, employment practices, does not appear to be one of those acts for which an ordinance is required by Section 5-7-260 of the Code. It thus appears that the enactment of such a resolution would be binding on City Council.

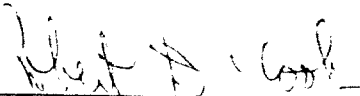
Because the resolution appears to have been properly adopted, at least on its face, and further because the uncle on City Council would have power over the nephew's salary administration should the nephew be hired as a city fireman, we concur with your conclusion that Section 1.6 of the City of Florence Employee Handbook would be violated by the hiring of the nephew as a city fireman.

Sincerely,

*Patricia D. Petway*  
Patricia D. Petway  
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

  
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Robert D. Cook  
Executive Assistant for Opinions