

1981 WL 157923 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 18, 1981

\*1 Mrs. Elizabeth B. Foley  
City Clerk  
City Hall  
E. Gibson Avenue  
McColl, South Carolina 29570

Dear Mrs. Foley:

You have written to this office for an opinion as to whether you would be in violation of any law regarding nepotism if you continue to work as a part-time clerk in the town where your brother has recently been elected mayor. [South Carolina Code Section 8-5-10](#) provides 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 management any person related or connected with him by consanguinity or affinity within the sixth degree. (Emphasis added)

By the words, ‘. . . any department of this government . . .’, the application of this statute is restricted to state departments and not political subdivisions such as the Town of McColl. Consequently, your position as Clerk would not be affected by this statute. Please note the two (2) enclosed copies of opinions dated May 26, 1964 and June 5, 1981, where this office held that [Section 8-5-10](#) would not apply to political subdivisions.

Accordingly, barring any local ordinance to the contrary, you may continue to work as part-time Clerk of the Town of McColl while your brother is mayor there without violating the State statute prohibiting nepotism.

I trust this answers your question. Please contact me if you have further questions.

Very truly yours,

James W. Johnson, Jr.  
Assistant Attorney General

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