

1980 WL 121173 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 17, 1980

*1 Honorable Daniel E. Winstead
Member
House of Representatives
District No. 117, Charleston County
State House
Post Office Box 11867
Columbia, South Carolina 29211

Dear Mr. Winstead:

You have requested an Opinion of this Office as to whether the board of a constituent school district in Charleston County may renew the contract of a teacher whose brother now serves on that board. The teacher had been teaching in that district for a number of years before her brother was elected. The Charleston Consolidated School District Board has now requested that the teacher not be rehired because of conflicts of interest that may be created by her brother's being on the Board. ¹

Those statutes which address the employment relationships between teachers and trustees clearly indicate that the teacher in question here may continue to teach. [Section 59-25-10 of the Code of Laws of South Carolina \(1976\)](#), as amended, provides that no person who is a member of the board of trustees or who is a member of the immediate family (including sisters) of a board member shall be employed as a teacher unless certain specified approval is given; however, these requirements expressly exclude teachers employed prior to the time they or their family members became board members. Although an Opinion of this Office dated March 21, 1980, which I wrote, concluded that [§ 59-25-10](#) controlled nepotism rather than prevented conflicts of interest in employment, the specific exclusion of existing teachers from its provisions indicates a legislative intent that their positions not be disturbed. This conclusion is supported by the fact that those statutes which do address conflicts of interest in teacher-trustee employment bar only the same person from serving as both a teacher and a trustee. See [§§ 59-15-10 and 59-19-300 of the Code](#). See Opinion of this Office dated March 19, 1980, written by J. Emory Smith, Jr. Thus, construing all of these sections together, the legislature has indicated that a teacher may continue to teach in a district even though one of her relatives is elected to its board of trustees. In addition, the laws for the State Ethics Commission do not indicate that they would regulate any conflict of interest that might arise in this situation (See [§ 8-13-10, et seq. of the Code](#) and the amendments thereto), but any inquiries concerning their application should be directed to the Commission.

If you have any questions or if I can be of further assistance, please let me know.

Sincerely,

J. Emory Smith, Jr.
State Attorney

Footnotes

- ¹ In Charleston County, the constituent school district board employs all teachers subject to the approval of the Board of Trustees of the Consolidated District. See Act 340, §§ 5 and 6, Acts and Joint Resolutions of South Carolina, 1967, as amended by Act No. 721, 1978.

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