

1977 S.C. Op. Atty. Gen. 140 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-182, 1977 WL 24524

Office of the Attorney General

State of South Carolina

Opinion No. 77-182

June 9, 1977

*1 The Honorable Donald H. Holland
Member
South Carolina Senate
Box 632
Camden, South Carolina 29020

Dear Senator Holland:

You have inquired as to whether an individual who is the owner of a child day care facility may serve as a member of the South Carolina Board of Social Services.

You have additionally requested the opinion of this Office upon the question of whether one whose spouse is the owner of a child day care facility may serve upon the Board of Social Services.

The answer to this question depends upon the application of Section 16 of Act 191, approved May 29, 1975, which Act constitutes the State Ethics law (75 Acts 217), and which provides:

‘Section 16. Unless otherwise provided by law, no person shall serve as a member or employee of a governmental regulatory commission that regulates any business with which that person is associated.’

The Ethics statute further defines the term ‘business with which he is associated’ as meaning ‘any business of which the person or a member of his household is a director, officer, owner, employee or holder of stock worth ten thousand dollars or more at fair market value—.’ Section 2(b), Act No. 191.

The above statutes therefore would preclude membership upon a body which regulates any business with which a member of that body or his spouse is associated if the Department of Social Services is a ‘governmental regulatory commission’ with respect to child day care facilities.

In my opinion, it is only necessary to refer briefly to the contents of Act No. R-294 of 1977 to conclude that it is such a governmental regulatory commission. The title to the Act recites its purpose as being ‘to regulate child day care facilities and to provide penalties for violations.’ Section 2(k) provides that the Department is ‘the agency designed to administer the regulation of child day care facilities under this Act;’ authority is given to the Department to issue licenses for private child day care centers and group day care homes and to revoke such licenses for proper cause; the Department has the right of inspection and the right to seek an injunction against the continuing operation of child day care centers in appropriate circumstances; and the Department is authorized to develop and promulgate regulations for the operation and maintenance of child day care centers and group day care homes and to enforce such regulations.

It is my opinion that the Department of Social Services, which is governed by the Board of Social Services, is a governmental regulatory commission and an individual who is a director, officer, owner, employee or the holder of stock worth ten thousand dollars or more in a child day care facility is prohibited by the terms of the Ethics law from serving as a member of the Board of Social Services. An individual whose spouse has an interest in a child day care facility of the nature referred to is similarly prohibited by the Ethics statute from serving as a member of the Board of Social Services.

Very truly yours,

*2 Daniel R. McLeod
Attorney General

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