

1979 S.C. Op. Atty. Gen. 158 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-112, 1979 WL 29116

Office of the Attorney General

State of South Carolina

Opinion No. 79-112

September 18, 1979

**\*1** 1. Persons who may be appointed as members of the County Boards of Social Services may occupy those positions irrespective of their kinship to any individual who may they be employed by the County Department.

2. The force of the nepotism regulations must be concerned with initial employment of individuals who are related to board members at the time of such employment.

Honorable Virgil L. Conrad  
Commissioner  
South Carolina Department of Social Services  
Post Office Box 1520  
Columbia, South Carolina 29202

Dear Mr. Conrad:

Your letter of August 23, 1979, concerned the application of the nepotism statute to appointment to the Charleston County Board of Social Services, as well as consideration of the agency policy which was set forth in Circular Letter No. 2589 of the Department dated February 27, 1979.

Previous opinions of this Office on the first matter to which reference is made above were rendered when the statute under which appointments to membership on county Boards of Social Services provided that such appointments be made by the Director of the Department of Social Services on recommendation of the county legislative delegations. That law was changed in 1975 so that appointments are now made to the county boards by the Governor in recommendations of the delegations. Irrespective of this, however, I feel that any previous opinions which indicated that membership to the county boards could not be made if, at the time, relatives of the prospective appointee were employed already by DSS, are inoperative. I am uncertain whether or not department policy at that time made such a provision, but, in any event, it is my opinion that this construction is not authorized for the reason that the statute places the selection of such members initially upon the county delegations. Any relationship of personnel then employed to prospective appointees to the board would not be in conflict with the statute. Section 43-9-10, Code of Laws, 1976.

The State Department regulation can only be directed at employment by the county board of personnel within the county department, including the director. The county boards act as representatives of the State Department in administering welfare activities within the county and it acts as an agent of the State Department in the performance of its functions, subject to the rules and regulations of the State Department. [Section 43-3-60, Code](#) of Laws, 1976.

The personnel employed in the county agencies are subject to such regulations as the State Department may require and, to that extent, the agency policy designated in Circular Letter No. 2589 is, in my opinion, fully supported by its statutory authority. Certain exemptions from nepotism requirements are set forth in this Directive and the only further exemption which I submit for your consideration is for pre-existing relationships which would not come into play until a relative within the prohibited degree may be appointed as a county board member or when a new director may be selected. This, however, is a matter fully within the discretion of the State Department and is suggested only by reason of the fact that it has come into consideration in other contexts.

\*2 In summary, it is my conclusion that:

1. Persons who may be appointed as members of the county Boards of Social Services may occupy those positions irrespective of their kinship to any individual who may then be employed by the county department.
2. The force of the nepotism regulations must be concerned with initial employment of individuals who are related to board members at the time of such employment.

The nepotism statute contained in [Section 8-5-10, Code](#) of laws for 1976, has no application to counties or other political subdivisions, but is applicable only to departments of the State. Previous opinions of this Office to this effect are annotated below this section in the Code of Laws.

Very truly yours,

Daniel R. McLeod  
Attorney General

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