

1975 WL 29257 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 11, 1975

*1 Section 50-101, Code of Laws of South Carolina, prohibiting nepotism, is not applicable to school boards which are governed by § 21-351, *supra*. School boards may adopt more stringent qualifications concerning relationships to board members, but any such regulations must be equally applied to all teachers within the system.

Representative Robert R. Woods
District No. 109-Charleston County
P. O. Box 2115A
Charleston, SC 29403

Questions Presented:

If a school board can adopt a regulation more stringent than the state nepotism statute, must the regulation be applied alike to all teachers in the system?

Statutes, Cases cited:

Section 50-101, Code of Laws of South Carolina, prohibits the head of any department of the government from appointing any relative within the sixth degree. The above section applies to state agencies—not municipalities and counties. 1964 Opns. Atty. Gen. 1681.

Section 21-351, *supra*, prohibits the employment of teachers related within the second degree to a board member without written approval of the county board of education or a parental petition. Section 21-353, *supra*, provides: 'The trustees of any such school may also impose any . . . qualification they may deem proper before or after employing any teacher.'

'Generally, where qualification for teachers . . . are prescribed by statute, rules and regulations of school boards . . . cannot increase or override such requirements, but where the statute does not require a school board to accept such qualifications, the school board may adopt additional or higher qualifications'. 78 CJS, Schools, § 158, Rules and Regulations of Boards of Education. See also 78 CJS, § 122, Power to Make Rules and Regulations, and § 158, Relationship to Appointing Authority.

Employment standards adopted by school boards must be applicable to all teachers within the system. [Moore v. Board of Education of Chidester Schl. Dist. #59](#), 448 Fed.2d 709 (8th Cir.) 1971.

Discussion:

A school board does have the right to require more stringent qualifications for employment than the state law requires. Section 21-354, *supra*. Since relationship to board members is a qualification or disqualification, a school board may extend the disqualification beyond the second degree to exclude even more relatives than the statute covers or may refuse to hire a teacher who obtains a petition from parents. A school board may not employ teachers contrary to applicable statutes and its own rules and regulations.

Conclusion:

If a school board seeks to impose minimum requirements for employment, those requirements must be applied to all teachers within the system. Moore vs. Bd. of Ed. of Chidester Schl. Dist. #59, supra.

Hardwick Stuart, Jr.

Assistant Attorney General

1975 WL 29257 (S.C.A.G.)

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.