

NEPOTISM: A school board member is not related in fourth degree, either by consanguinity or affinity, within meaning of Art. VII, Sec. 6, Const. of Mo., 1945, (1) to a bus driver of district whose wife is first cousin of board member's wife or (2) to a bus driver of district who is brother-in-law of wife of board member.



September 17, 1956

Honorable Wayne W. Waldo
Prosecuting Attorney
Pulaski County
Waynesville, Missouri

Dear Mr. Waldo:

We are in receipt of your recent request for our legal opinion, reading in part as follows:

"At a meeting of a Board of Directors a contract to drive a bus was awarded to one Emerson Storie. Board Member 'A' is related to bus driver Emerson Storie in the following manner. The wife of Board Member 'A' is a first cousin to the wife of Bus Driver Emerson Storie, since the mother of the wife of Board Member 'A' is a sister to the father of the wife of Bus Driver Emerson Storie. The questions presented here are as follows:

1. Is Board Member 'A' related within the fourth degree to Bus Driver Emerson Storie?

2. If they are related, is this in violation of the nepotism sections since all six of the members were present and all voted unanimously to approve the contract with bus driver Emerson Storie?

3. If they are related, and if the action of Board Member 'A' was illegal, would it have been proper for Board Member 'A' to refrain from voting, even though present at the meeting, and let the other five members who were present at the Board approve the contract with Bus Driver Emerson Storie?

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"At a meeting of the Board of Directors of Laquey Reorganized School R-5 the salary of a Bus Driver Snowden Quesenberry was raised \$12.50 per month. All six of the Board Members were present and voted unanimously to approve the raise in pay. Board Member 'S' is related to bus driver Snowden Quesenberry in the following manner: They are brothers-in-law, since the wife of board member 'S' is a sister to the wife of bus driver Snowden Quesenberry. The following questions are posed by the situation:

1. Is board member 'S' related within the fourth degree to bus driver Snowden Quesenberry?

2. Is the raising of the salary of the bus driver such an action or appointment as to come within the provisions of section 163.080, MRS 1949 or Article VII, Section six of the Missouri Constitution?

3. If such an appointment on the part of Board Member 'S' is illegal because of nepotism, does board member 'S' forfeit his office, what is the proper procedure to enforce such a forfeiture, and what is the status of the contract with bus driver Snowden Quesenberry?"

Our legal opinion written for you on August 27, 1956, involves the school district and individual members of the board of directors that are referred to in the present opinion request.

From the facts presented, it appears that Board Member A's wife's mother is a sister to the father of the wife of Bus Driver Emerson Storie, and A's wife and Storie are first cousins. Since there is no indication to the contrary, we assume no blood relationship exists between A and Storie, or between A's wife and Storie, and if there is any relationship between these parties it could be only by affinity.

Referring to the facts again, we find that Storie is related to his wife's blood relatives in the same degree as she is, by affinity, although he would not be related in any degree to his

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wife's relatives by affinity. While Storie's wife and her cousin's husband A are related only by affinity, Storie and A are not related in any degree since this could be only by affinity on affinity, which is not recognized as relationship in any instance.

In answer to the first inquiry, it is our thought that Board Member A and Emerson Storie are not related to each other in the fourth degree either by consanguinity or affinity.

The second and third inquiries appear to require answer only if the first answer is in the affirmative. Since the first inquiry was answered in the negative, it is believed that answers to the second and third inquiries are not required.

From the second statement of facts of the opinion request, it appears that at a meeting of the board of directors of said Laquey Reorganized School District R-5, the six board members present voted to increase the salary of Bus Driver Snowden Quesenberry \$12.50 per month. Board Member S is said to be related to the bus driver as a brother-in-law, since S's wife is a sister to the bus driver's wife.

The first inquiry on the second statement of facts asks if Board Member S is related within the fourth degree to Bus Driver Snowden Quesenberry.

In our previous discussion it was pointed out that the blood relatives of one spouse are related to the other spouse in the same degree, but by affinity. The husband and wife are said to be related by affinity, but the relatives of one spouse by affinity are not related in any degree to the other spouse, as relationship by affinity on affinity is not recognized.

In answer to the first inquiry upon the second statement of facts, it is our thought that Board Member S and Bus Driver Snowden Quesenberry are not related to each other in the fourth degree, either by consanguinity or affinity.

In view of the negative answer given to the first inquiry, it is believed to be unnecessary to answer the second and third inquiries.

CONCLUSION

It is therefore the opinion of this department that a member of a school board is not related in fourth degree, either by

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consanguinity or affinity, within the meaning of Article VII, Section 6, Constitution of Missouri, 1945, (1) to a bus driver of the district, whose wife is a first cousin of the wife of the board member, or (2) to a bus driver of the district, who is a brother-in-law of the wife of the board member.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Paul N. Chitwood.

Yours very truly,

JOHN M. DALTON
Attorney General

PNC: gm;ml