



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Charles T. Banister
Criminal District Attorney
Corsicana, Texas

Navarro

This Opinion is
Overruled by Opinion
0-2725

*insert as
conflicting
therewith.*

Reinstated by 0-7424

Dear Sir:

Opinion No. 0-1095

Re: Whether a school board may employ the wife of a man who is the brother of the wife of one of the board members.

We are in receipt of your letter of July 3, 1939, wherein you request our opinion as to whether or not it would be in violation of Article 432 of the Penal Code for the trustees of a common school district to employ (presumably as a teacher) the wife of a man who is the brother of the wife of one of the trustees.

Article 432 of the Penal Code provides that no officer of any school district or other municipal subdivision of this State shall appoint or vote for the appointment to any position of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing or so voting or to any other member of any such board when the compensation of such appointee is to be paid for out of or from public funds of any kind or character whatsoever, and Article 433, Penal Code, provides that the inhibitions set forth above shall apply to public school trustees.

The only question, therefore, presented is whether the person mentioned by you is related to the trustee within the second degree by affinity or within the third degree by consanguinity. As said in the Ohio case of *Chinn vs. State*, 26 N.E. 986; 11 L.R.A. 630, "Affinity is that tie which arises in consequence of marriage betwixt one of the married pair and the blood relations of the other; . . . there is no affinity between the husband's brother and the wife's sister, which is called by the doctors *affinitas affinitatis*, because then the connection is formed, not between one of the spouses and the kinsmen of the other, but between the kinsmen of both."

Hon. Charles T. Danister, Page 2

This was quoted with approval in the case of Seabrook v. First National Bank of Port Lavaca, 171 S. W. 247, wherein it was held that a district judge whose wife and the wife of one W. C. Noble were cousins was not related to Mr. Noble by affinity. Blood relations of the husband are not related to the blood relations of the wife. 2 C. J. 378. Our answer to your question is that said Article 432 would not be violated by the employment which you mention.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*

Glenn R. Lewis
Assistant

APPROVED JUL 14, 1939

GRL:N

[Signature]
FIRST ASSISTANT
ATTORNEY GENERAL

