



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable A. T. Fribble
County Attorney
Mills County
Goldthwaite, Texas

Dear Sir:

Opinion No. 0-6330

Re: Whether nepotism statute
(Art. 432 P.C.) is violated
when trustee of common
school district continues
to serve on board after
teacher, who has taught
several months under con-
tract with Board, marries
said trustee's first cousin
(by consanguinity)

We are in receipt of your letter of recent date re-
questing the opinion of this department on the above stated
matter. Your letter, in part, reads as follows:

"At the beginning of the school year the trustees
as a common school district, in good faith, employed
a young lady to teach school in the district. After
the contract was made, approved, and the teacher had
taught several months, the teacher marries a first
cousin (by consanguinity) of a member of the school
board. May the trustee who became so related to the
teacher lawfully continue to serve on the school
board of the district?"

Article 432, Vernon's Annotated Penal Code, reads,
in part, as follows:

"No officer of this State or any officer of any
. . . school district . . . shall appoint, or vote
for, or confirm the appointment to any office, position,
clerkship, employment or duty, of any person related

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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, of which such person so appointing or voting may be a member, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever"

Article 433, Vernon's Annotated Penal Code, reads, in part, as follows:

"The inhibitions set forth in this law shall apply to and include members of any and all Boards . . . established by or under the authority of any general or special law of this State members of school boards of incorporated cities and towns, public school trustees"

Heretofore, this department has passed on questions similar to that raised by your inquiry. In opinion No. O-667 this department held that Article 432 of the Penal Code was satisfied when the prohibited degree of relationship between a teacher and trustee did not exist at the time the contract was made, and that a contract would not become void by a changed relationship between the trustee and teacher after said contract was made.

From the facts stated in your letter, it is apparent that the prohibited degree of relationship between the teacher and trustee did not exist at the time the teaching contract was made. It is therefore the opinion of this department that the teacher may complete the term of the present contract without the resignation of said trustee, since the prohibited degree of relationship did not exist at the time of the employment under the contract. However, it is our opinion that Articles 432-433, P.C., would be violated should the board of trustees and said teacher make a new contract when said trustee, who is a first cousin of the teacher's husband, is a member of the board of trustees, for the prohibited degree of relationship (second degree by affinity) would exist at the time of the employment of said teacher under such new contract.

Director
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Trusting that the foregoing fully answers your
inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

J. A. Ellis
J. A. Ellis
Assistant

JAE:dct

APPROVED JAN 25 1945
Carlos P. Ashley
FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED
OPINION
COMMITTEE
BY _____
CHAIRMAN

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