



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

August 7, 1990

Honorable Hugh Parmer
Chairman
Senate Intergovernmental Relations
P. O. Box 12068
Austin, Texas 78711

LO-90-54

Dear Senator Parmer:

You ask several questions about the Texas nepotism law, article 5996a, V.T.C.S.

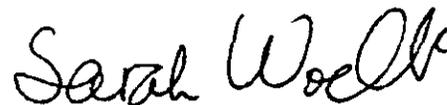
You first ask whether a community college may adopt a nepotism policy that is more restrictive than the state nepotism law. In Attorney General Opinion MW-540 (1982) this office concluded that the Texas Employment Commission could adopt a nepotism policy more restrictive than the state nepotism law. The opinion stated that the commission's authority to adopt such a policy stemmed from its general authority to administer the Texas Unemployment Compensation Act, V.T.C.S., article 5221b-1 et seq. Similarly, the board of trustees for a community college has broad authority over the operation of junior colleges. See Educ. Code §§ 130.84, 23.26. Consequently, based on Attorney General Opinion MW-540, we conclude that a community college may adopt a nepotism policy that is more restrictive than the state law. Of course, such a policy may not contain prohibitions that are in direct conflict with state law.

Your second question is whether the policy in question constitutes an "arbitrary, capricious and unreasonable violation of an individual's right to seek public office and thus create duress." You have submitted a copy of the community college's policy. The policy does not limit a person's ability to seek or hold office. It does, however, provide that a person may not remain in a position after the election of a close relative to the board unless the employee has worked for the community college for at least two continuous years at the time of the relative's election to the board. That policy might discourage a person from seeking a position on the board of the community college.

For the same reason, however, the state law is a potential deterrent to office-holding.¹, and you suggest no authority for the proposition that such a possible consequence would invalidate article 5996a. See generally Attorney General Opinion JM-636 (1987).

Finally, you ask about the nature of the relationship between an individual and the daughter of the individual's first cousin. They are related in the third degree of consanguinity. See Attorney General Opinion JM-518 (1986).

Very truly yours,



Sarah Woelk, Chief
Letter Opinion Section

SW/lcd

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1. The period of prior continuous service now required under the state law is shorter than the period required by the policy you submitted to us. For many years, however, the prior continuous services requirement under the state law was also two years. See Acts 1949, 51st, Leg., ch. 126, p. 227; Acts 1951, 52nd Leg., ch. 97, p. 159. In 1985, and again the 1987, the state law requirement was shortened. Acts 1985, 69th Leg., ch. 152, p. 682; Acts 1986, 70th Leg., ch. 427, p. 1988.