



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

October 29, 1973

Overruled by *pp-234*

The Honorable Oscar B. McInnis
Criminal District Attorney
Hidalgo County
Edinburg, Texas 78539

Letter Advisory No. 68

Re: Nepotism - whether
employee with more
than two years service
may receive increase
in salary or a promo-
tion.

Dear Mr. McInnis:

Your two questions concern the effect of promotions under the nepotism laws of the State of Texas, Articles 432, et seq., Vernon's Texas Penal Code. The first asks whether a teacher, who is the wife of a school board member, and who has over two years service as a teacher, may receive an increase in salary above the regular increment provided by law.

In Attorney General Opinion M-671 (1970), this office considered whether, under similar circumstances, the employee could receive a promotion. Referring to that portion of Article 432 that excepts from its prohibitions those who had been "continuously employed in any office, position, clerkship, employment or duty for a period of two (2) years prior to the election or "appointment" of the board member, the opinion said:

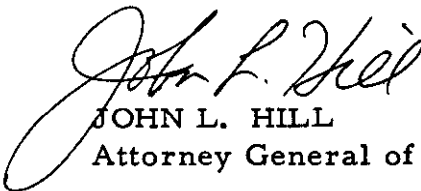
"It is our opinion that the Legislature intended by the underscored language of the Article, supra, only that a person would not lose his job if a relative were elected to an office within the Article's purview. We cannot conclude that the Legislature, in view of the spirit of the other provisions of the Article, intended that a relative of such an office holder could be promoted to a position whereby his financial remuneration would be enhanced."

We agree with that conclusion. Therefore, it is our opinion that the teacher in question may have the increase in salary only if it is an increase given to other teachers occupying the same position and with like experience and training.

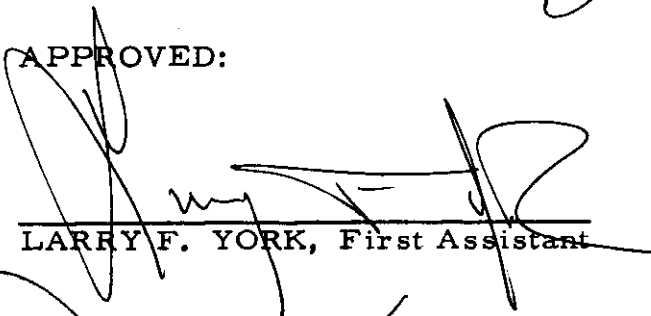
The second question asks whether a woman employed as a secretary in a department of the school system for more than 2 years may be assigned to the position of secretary to the school superintendent at an increased salary. She is the sister-in-law of a school board member.

Attorney General Opinion M-671 (1970) and what we have said above indicate, we believe, that the question must be answered that the person in question may not have the promotion.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee