



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

March 20, 2024

The Honorable Gary Knoblock  
Councilman, City of Bay St. Louis  
688 Highway 90  
Bay St. Louis, Mississippi 39520

Re: Nepotism

Dear Mr. Knoblock:

The Office of the Attorney General has received your request for an official opinion.

### Question Presented

Would it be a violation of the nepotism statute for the mayor of Bay St. Louis to appoint his son to the Bay-Waveland School District if the son does not receive any compensation as a school board member?

### Brief Response

If the son waives all payments or reimbursements that come from public funds, it would not be a nepotism violation for the mayor to appoint his son to the local school board.

### Applicable Law and Discussion

Mississippi's general nepotism statute provides, in relevant part:

It shall be unlawful for any person elected, appointed or selected in any manner whatsoever to any state, county, district or municipal office, or for any board of trustees of any state institution, to appoint or employ, as an officer, clerk, stenographer, deputy or assistant *who is to be paid out of the public funds*, any person related by blood or marriage within the third degree, computed by the rule of the civil law, to the person or any member of the board of trustees having the authority to make such appointment or contract such employment as employer. . . .

Miss. Code Ann. § 25-1-53 (emphasis added). We use a three-part analysis to determine whether an employment relationship violates the nepotism statute. "First, are the parties related within the

third degree? Second, is the relative who is a public official the ‘appointing authority’? Third, is the job included in the list of prohibited positions? If the answer to any of these three questions is ‘no’, there is no violation of the statute.” MS AG Op., *Nowak* at \*1 (June 5, 2020) (internal citations omitted).

In your factual scenario, the answer to all of these questions is yes. Father and son are related within the third degree, the father is the appointing authority, and a school board member is considered an officer under the nepotism statute. MS AG Op., *Hammack* at \*1 (Apr. 10, 2015). However, you further state in your request that the son does not receive any payment or reimbursement using public funds for his service as a school board member. This office has previously opined that a nepotism violation can be avoided if the appointee waives all payments or reimbursements using public funds. *Hammack* at \*1. “With regard to a school board member, the waiver must apply to payments under Section 37-6-13, including the salary or per diem, and payment in reimbursement for expenses and travel . . . otherwise available to school board members for travel to school board meetings and any training sessions or regional or national education meetings.” *Id.* (internal citation omitted). Accordingly, it would not be a nepotism violation for the mayor to appoint his son to the local school board if the son waives all payments or reimbursements that come from public funds for his service as a school board member.

To the extent that your question raises other possible ethics issues, we recommend you contact the Mississippi Ethics Commission regarding any potential conflicts of interest governed by Mississippi’s Ethics in Government Laws. Miss. Code Ann. §§ 25-4-101, *et seq.*

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ *Beebe Garrard*

Beebe Garrard  
Special Assistant Attorney General