



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

February 19, 2025

Carlos D. Palmer, Esq.  
Attorney, Clarksdale Municipal School District  
115 Fulton Street  
Greenwood, Mississippi 39205

Re: School Board Conflicts of Interest

Dear Mr. Palmer:

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

### **Questions Presented**

1. Are there any legal prohibitions against a board member voting on the approval of a family member to work within the same school district? If so, to which “family members” do such prohibitions apply?
2. Are such potential prohibitions affected where a quorum could be eliminated due to recusals of said board members?
3. Is there any legal prohibition against a board member voting on the salary of a family member hired within the same school district? Would such prohibition still apply if the board member is considering a salary scale for a category of employees instead of a specific salary for the family member?
4. Is there any legal prohibition for a board member to vote on the docket of claims where said docket includes a prospective approval of his or her travel reimbursement?
5. Is the potential prohibition contemplated by the fourth question affected where a quorum could be eliminated due to recusals of said board member?

### **Brief Response**

1. Mississippi Code Annotated Section 37-9-21 prohibits school board members from voting “for any person as a superintendent, principal or licensed employee who is related to him

within the third degree by blood or marriage or who is dependent upon him in a financial way.”

2. No authority exists to create an exception to Section 37-9-21 for procedural constraints such as a lack of quorum.
3. This question raises issues contemplated by Mississippi’s Ethics in Government Laws, Miss. Code Ann. §§ 25-4-101, *et seq.* For further guidance, we refer you to the Mississippi Ethics Commission.
4. See the response to your third question.
5. See the response to your third question.

### **Applicable Law and Discussion**

As an initial matter, pursuant to Mississippi Code Annotated Section 7-5-25, official opinions of the Attorney General are limited to prospective questions of state law only and can neither validate nor invalidate past action. *See MS AG Op. Turnage* at \*1 (Oct. 11, 2021). We provide guidance for prospective application only.

Further, the scope of this opinion is limited to Mississippi’s general nepotism statute, Section 25-1-53, and public school-specific nepotism statute, Section 37-9-21. Your third, fourth, and fifth questions raise issues of general conflicts of interest, which are governed by Mississippi’s Ethics in Government Laws, Miss. Code Ann. §§ 25-4-101, *et seq.* For further guidance, we refer you to the Mississippi Ethics Commission.

As to your first question, 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).

Municipal school board members are municipal officers for the purposes of Section 25-1-53. *See MS AG Op. Knoblock* at \*1 (Mar. 20, 2024); *see also MS AG Op. Hammack* at \*1 (Apr. 10, 2015). In addition, Mississippi’s public school-specific nepotism statute provides, in relevant part:

No member of the school board shall vote for any person as a superintendent, principal or licensed employee *who is related to him within the third degree* by

*blood or marriage* or who is dependent upon him in a financial way. Any contract entered into in violation of the provisions of this section shall be null and void.

Miss. Code Ann. § 37-9-21 (emphasis added).

Our office has previously opined that school board members “should be careful not to vote in matters involving a . . . [licensed] employee who is related within the third degree.” MS AG Op., *Cocke* at \*1 (Aug. 18, 2008). In *Cocke*, we suggested that “the board member completely remove him/herself from the room during any discussion involving the employment” of the family member. *Id* at \*1.

Thus, pursuant to Sections 25-1-53 and 37-9-21, and consistent with prior opinions of this office, school board members are prohibited from voting on the school district employment of family members to whom they are related within the third degree by blood or marriage.

For further guidance on what qualifies as a third-degree familial relationship, see prior opinions of this office, including but not limited to the following: MS AG Op., *Mitchell* (Feb. 25, 2000) (stepdaughter), MS AG Op., *Ainsworth* (Feb. 2, 2004) (niece), and MS AG Op., *Lawrence* (Aug. 7, 2009) (brother-in-law).

As to your second question, there is no exception to Mississippi’s public nepotism statute for procedural constraints such as a lack of quorum due to the necessary recusals.

Your last three questions raise issues contemplated by Mississippi’s Ethics in Government Laws, Miss. Code Ann. §§ 25-4-101, *et seq.* For further guidance, we refer you to the Mississippi Ethics Commission.

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/ Caleb A. Pracht

Caleb A. Pracht  
Special Assistant Attorney General