



THE ATTORNEY GENERAL  
OF TEXAS

AUSTIN 11, TEXAS

GERALD C. MANN  
~~XXXXXXXXXX~~  
ATTORNEY GENERAL

May 12, 1939

Honorable E. B. Lewis  
County Attorney  
Rusk, Texas

Dear Sir:

Opinion No. 0-791

Re: Whether the employment as a teacher in a public school of a daughter of a half-sister of a trustee is forbidden by Article 432, Penal Code.

We are in receipt of your letter of May 8, 1939, wherein you request our opinion as to whether Article 432, Penal Code, would be violated by the employment as a teacher in an independent school district of the daughter of a half-sister of one of the trustees of said district.

Said Article 432 reads as follows:

"No officer of this State or any officer of any district, county, city, precinct, school district, or other municipal subdivision of this State, or any officer or member of any State, district, county, city, school district or other municipal board, or judge of any court, created by or under authority of any general or special law of this State, or any member of the Legislature, shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of any person related 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, the Legislature, or court 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. Acts 1909, p. 85, Acts 1915, p. 149."

The statute plainly applying to the employment of school teachers by boards of trustees of school districts, the question which you present to us is the effect produced

upon the degree of relationship by the fact that the proposed teacher's mother is only a half-sister of the school trustee instead of being a full sister. Collateral consanguinity is the relation subsisting among persons who descend from the same common ancestor but not from each other. Lineal consanguinity is that relationship which exists among persons where one is descended from the other. In computing the degree of lineal consanguinity existing between two persons every generation in the direct course of relationship between the two parties makes a degree. Thus, brothers are related in the first degree. The mode of computing degrees of collateral consanguinity is to begin with the common ancestor and reckon downwards and the degree the two persons or the more remote of them is distant from the ancestor is the degree of kinship between them. Thus, an uncle and a nephew are related in the second degree. First cousins are related by consanguinity in the second degree. T. T. R. R. Co. v. Overton, 1 App. C. C., Section 533.

In the cause which you submit to us, either the mother or father of the trustee is the grandparent of the proposed teacher. Thus, one person is the common ancestor of both the trustee and the proposed teacher, satisfying the above recognized test. Reckoning downwards from that common ancestor to the teacher, we find that the teacher is related to the trustee in the second degree by consanguinity. We have found no case prescribing as a test that the reckoning downwards must begin with the point where the parties have two common ancestors and we believe that none will be found.

The trustee is related to his half-niece by consanguinity in the second degree and the employment is forbidden by the above statute.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Glenn R. Lewis  
Glenn R. Lewis

GRL:FL:wc

APPROVED  
s/Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE  
BY G. R. L. CHAIRMAN