

Opinion No. 57-224

September 10, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Santiago E. Campos,
Assistant Attorney General

TO: Mr. Albert I. Cornell, Assistant District Attorney, Second Judicial District, Belen,
New Mexico

QUESTION

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Do the laws on nepotism prohibit the employment of a daughter of County Commissioner as a stenographer in the County Health Department of the county where the Commissioner serves?

CONCLUSION

No.

OPINION

ANALYSIS

Section 5-1-10, N.M.S.A., 1953, is the applicable statute and it provides:

"It shall hereafter be unlawful for any person elected or appointed to any public office or position under the laws of this state or by virtue of any ordinance of any municipality thereof, **to employ as clerk, deputy or assistant, in such office or position**, whose compensation is to be paid out of public funds, any person related by consanguinity or affinity within the third degree to the person giving such employment, unless such employment shall first be approved by the officer, board, council or commission, whose duty it is to approve the bond of the person giving such employment: Provided, that this act shall not apply where the compensation of such clerk, deputy or assistant shall be at the rate of \$ 600 or less a year, nor shall it apply to persons employed as teachers in the public schools." (Emphasis supplied)

The underlined language above is dispositive of your question. A stenographer in the County Health Department is not, as we see it, a clerk, deputy or assistant in the office of the County Commissioner.