

**CAUTION:** The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

**IC 4-15-7-1 Nepotism**

A field supervisor for the Division of Elevator Safety was permitted to serve as a division director since he would not be in a supervisory position over his relatives who served as field inspectors in the Division.

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No. 97-I-6

**BACKGROUND INFORMATION**

The State Ethics Commission received a request for an opinion concerning the State's nepotism law (IC 4-15-7-1) from a field supervisor for the Division of Elevator Safety, of the Department of Fire and Building Services.

The field supervisor said that he has been told in the past that he is ineligible for consideration as division director because he has relatives that serve as inspectors for the division. During an ethics training class, however, he understood that the nepotism law only applied to direct supervision of employees. Thus he asked for the advisory opinion to ascertain whether or not the nepotism statute disqualified him from future consideration.

**QUESTION**

Is a person disqualified, under IC 4-15-7-1, from serving as director of the division of elevator safety because that person has relatives who serve as inspectors in that division – even if there are one or more supervisors between the director and inspector positions?

**RELEVANT LAW**

IC 4-15-7-1

**FACTS**

The Elevator Safety Division is a unit of the Office of the State Building Commissioner. It is comprised of a division director, two supervisors, and currently 15 field inspectors. The division inspects amusement park rides as well as elevators.

The field supervisor who requested the opinion, concentrates on the southern half of the State. He began working for the division in 1982, resigned in 1987, and returned in 1989. He's been in his current position since 1995. His brother and a nephew serve as field inspectors for the division. One has worked for the department for 13 years, the other approximately 8 years. They work primarily in the northern half of the state, under the other field supervisor. Thus, under normal circumstances, the southern district supervisor does not supervise his relatives in the division. Nevertheless, circumstances do arise that require when this supervision does occur, such as when the supervisor for the northern part of the state is unavailable. Similarly, there may be circumstances when both supervisors are unavailable, and only the division director is available to respond to or otherwise direct the field inspectors. The two supervisors are under the direction of the division director.

Inspector's job performance is evaluated by their immediate supervisor, although the division director "signs off" on these evaluations, and could choose to make changes in them.

**CONCLUSION**

Because the division director does not directly supervise the inspectors, the Commission concluded that IC 4-15-7-1 does not preclude the field supervisor from serving as the division director - so long as his relatives (brother and nephew) are in positions of field inspectors and not field supervisors.