

1982 Ky. Op. Atty. Gen. 2-407, Ky. OAG 82-373, 1982 WL 177039 (Ky.A.G.)

*1 Office of the Attorney General
Commonwealth of Kentucky
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JULY 7, 1982

Mr. James A. Nelson
State Librarian and Commissioner
Department of Library and Archives
Frankfort, Kentucky 40602

Dear Jim:

Thank you for your letter in which you ask several questions concerning library boards.

Your letter first asks about nepotism.

As a preliminary matter it should be noted that there are no common law prohibitions against a board hiring as an employee someone related to a board member. Neither are there any constitutional or general statutory prohibitions to a board hiring a relative of a board member as an employee. Therefore, unless a specific statutory prohibition exists, such employment would not create a conflict of interest.

As your letter mentions, [KRS 173.340\(3\)](#) prohibits a county library board, a regional library board, or a library board of a city from the second to the sixth class, from employing, as a member of its library staff, any member of the board or any person related closer than a second cousin to any member of the board. No such statutory prohibitions exist for libraries of first class cities, public library districts or library districts formed by petition.

Your letter asks if the prohibition found in [KRS 173.340\(3\)](#) would apply to the other categories of libraries listed above.

This office is of the opinion that it would not. Since KRS Chapter 173 categorizes libraries according to the manner in which they are established, the doctrine of *pari materis*, which under other conditions might allow these statutory provisions to be read together, does not apply.

[KRS 173.340\(3\)](#), therefore, would only apply to county and regional libraries and to libraries in cities from the second to sixth class established under [KRS 173.300 - 173.410](#); and would not apply to libraries in first class cities ([KRS 173.010 - 173.107](#)), public library districts ([KRS 173.450-173.650](#)) or library districts formed by petition ([KRS 173.710-173.800](#)).

Your letter also asks "if a library board has trustees who are not appointed in accordance to statutes (for whatever reasons), are actions taken by the board of no effect?"

A reading of Kentucky case law leads me to believe that if an entire board is improperly appointed, the actions of the board would be of no effect. [Lowe v. City of Bowling Green, Ky., 247 S.W.2d 386 \(1952\)](#).

On the other hand if only some board members were improperly appointed, a board's action could still be effective if the board had enough properly appointed members to constitute a quorum and thus taken action on an issue. [Lile v. City of Powderly, Ky. App., 612 S.W.2d 762 \(1981\)](#).

I hope that I have adequately answered your questions.

Sincerely,
Steven L. Beshear
Attorney General

John H. Gray
Assistant Attorney General

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