S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
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Opinion No. 01-095

Tennessee Tribune as a "newspaper" for purposes of publication of official notices

QUESTION

Does the *Tennessee Tribune* qualify as a "newspaper" or a "newspaper of general circulation" for purposes of publication of official notices?

OPINION

The *Tennessee Tribune* qualifies as a "newspaper" and/or a "newspaper of general circulation" for purposes of publication of official notices.

ANALYSIS

With the exception of a definition in the Election Code, Tenn. Code Ann. §§ 2-1-101, *et. seq.,* the terms "newspaper" and "newspaper of general circulation" are not defined in any of the state statutes that require publication of official notices in a "newspaper" or "newspaper of general circulation." *See generally* Op. Tenn. Atty. Gen. 00-160 (October 17, 2000); Op. Tenn. Atty. Gen. U93-112 (November 30, 1993) and Op. Tenn. Atty. Gen. U92-99 (September 1, 1992). However, the Election Code does define the term "newspaper of general circulation" and lists a number of requirements for meeting that definition. The publication must bear a title or name, be regularly issued at least as frequently as once a week for a definite price, and have a second class mailing privilege. It must be not less than four pages, be published continuously during the immediately preceding one-year period and be published for the dissemination of news of general interest. Finally, it must be circulated generally in the political subdivision in which it is published and in which notice is to be given. Tenn. Code Ann. § 2-1-104(13).

With respect to the statutes in which the terms "newspaper" or "newspaper of general circulation" are not defined, three criteria have been established in order for a publication to satisfy the requirements of those various statutes. *See* Op. Tenn. Atty. Gen. 00-160 (October 17, 2000) and Op. Tenn. Atty. Gen. U91-164 (December 23, 1991). First, the publication should be available in all parts of the county. Op. Tenn. Atty. Gen. U92-99 (September 1, 1992). Second, it should be published at least weekly. Op. Tenn. Atty. Gen. U91-164 (December 23, 1991); Op. Tenn. Atty. Gen. U91-09 (January 22, 1991). Third, it should contain news of general interest to the public. Op. Tenn. Atty. Gen. 93-19 (March 11,

1993); Op. Tenn. Atty. Gen.U92-99 (September 1, 1992); Op. Tenn. Atty. Gen. U91-09 (January 22, 1991); Op. Tenn. Atty. Gen. U90-118 (August 15, 1990); Op. Tenn. Atty. Gen. U90-55 (March 28, 1990).

These criteria are supported by the case of *Cook v. McCullough*, 1989 WL 155926 (M.S. Tenn. Ct. App. December 29, 1989), *p.t.a. denied* (1990). In that case, the Court of Appeals determined that *The Nashville Record* was a newspaper for purposes of Tenn. Code Ann. § 67-5-2502. The Court stated:

> *The Nashville Record* is a "newspaper" in the sense of the applicable statute. It is published weekly. It is intended for circulation among the general public. It contains matters of general interest. It is in the form of a newspaper.

Cook v. McCullough, 1898 WL 155926 at 7.

According to information supplied with the opinion request, the *Tennessee Tribune* is published in Davidson County and is distributed weekly throughout Davidson County at a price per issue of $1.00. While billing itself as "Middle Tennessee's Leading African-American Weekly Publication," it contains news of interest to the general public, including a variety of local, regional, state and national news. The *Tribune* highlights the accomplishments of local and regional individuals, as well as announces local and regional events. The copy of the 16-page April 12-18, 2001, issue supplied with the request contains a front-page article on a grant from the National Cancer Institute for expansion of a partnership between Meharry Medical College and Vanderbilt-Ingram Cancer Center, to be used "to close the gap between Blacks and Whites in cancer incidence and death." Other articles discuss health and education issues, youth happenings, arts and leisure, religion and sports. The opinion request states that the publication's sports coverage features the Nashville Kats, Tennessee Titans, the Nashville Predators and secondary school athletics. The publication contains a commentary and opinion page and classified advertisements. The issue provided reflects that the *Tribune* was founded in 1991 and that it has the requisite mailing privilege. It is also available for purchase through newspaper racks.

Based on the information supplied to this Office, it is our opinion that the *Tennessee Tribune* qualifies as a "newspaper" and/or a "newspaper of general circulation" for purposes of publication of official notices.

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