

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
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Opinion No. 03-076

West Tennessee Examiner as a “newspaper” and/or “newspaper of general circulation”

QUESTION

Does *The West Tennessee Examiner* qualify as a “newspaper” and/or “newspaper of general circulation” for purposes of publication of official notices?

OPINION

We have opined previously that *The West Tennessee Examiner* is, in most aspects, a newspaper for purposes of publication of official notices. Op. Tenn. Atty. Gen. 00-160 (October 17, 2000). Because the paper does not meet all of the criteria set forth in Tenn. Code Ann. § 2-1-104(a)(13), however, Opinion 00-160 also stated that the newspaper is not suitable for publication of official notices under the Election Code.

We are now asked to revise our opinion because the *The West Tennessee Examiner* has increased its distribution area. Nevertheless, for the reasons previously stated, our opinion remains that while *The West Tennessee Examiner* qualifies in most aspects as a newspaper for purposes of the publication of official notices, it is not suitable for publication of official notices under the Election Code.

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 statutes that require publication of official notices in a “newspaper” or “newspaper of general circulation.” *See generally*, Op. Tenn. Atty. Gen. 02-050 (April 17, 2002) and Op. Tenn. Atty. Gen. U93-112 (November 30, 1993). However, the Election Code does define the term “newspaper of general circulation,” and lists among a number of factors the requirement that the publication be issued for a definite price. Tenn. Code. Ann. § 2-1-104(a)(13). Because *The West Tennessee Examiner* appears to remain a free publication with no definite price, it does not comply with the Election Code’s definition of a “newspaper of general circulation.” *See, e.g.*, Op. Tenn. Atty. Gen. 02-050 and the opinions cited therein. Thus, the paper is not suitable for the publication of notices required under the Election Code.

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 the various statutes. *See* Op. Tenn. Atty. Gen. 02-050. First, the publication should be available in all parts of the county. Second, it should be published at least weekly. Third, it should contain news of general interest to the public.

According to information supplied with the initial opinion request in 2000, *The West Tennessee Examiner* is published in Jackson, Tennessee and is distributed weekly throughout Gibson and Hardeman Counties. The present opinion request states that the distribution area has been expanded to include Crockett, Fayette, Haywood and Shelby Counties. It is unclear whether the paper is distributed throughout those counties or only in portions of them. The information provided with the current request is that distribution is throughout all of Madison County. The publication therefore complies with the first two requirements noted above as to Madison County, and it would also comply with respect to Crockett, Fayette, Haywood and Shelby Counties if, in fact, it is distributed throughout those counties. Further, *The West Tennessee Examiner* appears to meet the third requirement in that it covers news of general interest to the public. According to the information accompanying the initial request in 2000, it covers a wide variety of local, state and national news, along with a highlighting of the accomplishments of local and regional individuals and upcoming local and regional events. The information provided in 2000 states that the paper regularly features news stories of general interest to the public, including stories about the United Way of West Tennessee and news releases from area colleges and universities. Reportedly, the publication’s sports section features news from the West Tennessee Diamond Jaxx, Memphis Redbirds and local area sports teams.

Based on the information supplied to this Office, it is our opinion that *The West Tennessee Examiner* is a “newspaper” and/or “newspaper of general circulation” in most aspects. But because it is not issued for a definite price, it is not suitable for the publication notices required under the Election Code.

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