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. 07-62

Newspaper of General Circulation — The Murfreesboro Post

QUESTION

Whether *The Murfreesboro Post* is a newspaper of general circulation for the purpose of publishing official notices.

OPINION

The Murfreesboro Post is a "newspaper" or "newspaper of general circulation" for the purposes of publication of most official notices. It is not a "newspaper" or "newspaper of general circulation" for the purpose of publishing notices required by the Election Code.

ANALYSIS

You provided this Office with factual information about *The Murfreesboro Post* ("*The Post"*) and with two sample issues to review. *The Post* is published every Sunday in a newspaper format. It contains a minimum of fifty per cent (50%) general interest news and is widely available in Rutherford County, with a distribution of 45,000 papers in homes and pickup locations.

The newspaper has news of general interest. The April 15 issue of *The Post* carries articles on, among other things, the local production of a play, a proposed Bible Park, how to deal with recently frozen plants and a new city program that helps low-income home buyers, as well as religious and sports news. It also has numerous advertisements for real estate, employment and various local services and products. The articles mainly are focused on local area news.

The Post delivers approximately 45,000 copies of each issue through home delivery to driveways, racks, restaurants and businesses, and it is available by mail for a yearly subscription of $103.00 per year. *The Post* is otherwise free to the public and is distributed primarily in the Murfreesboro area but also in Smyrna, LaVergne, and rural Rutherford County.

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 state statutes that require publication of official notices in a "newspaper" or "newspaper of general circulation." *See* Op. Tenn. Att'y Gen. 06-091 (May 16, 2006).

With respect to 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 meet various statutory requirements. 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. Op. Tenn. Att'y Gen. 06-091 (May 16, 2006).

These criteria are supported by the case of *Cook v. McCullough*, 1989 WL 155926 (M.S. Tenn. 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, 1989 WL 155926 at 7.

The Murfreesboro Post meets the criteria laid out in *Cook v. McCullough* and thus may be considered a "newspaper" or "newspaper of general circulation" for the purposes of publication of most official notices. Because *The Post* does not have a definite price, however, it is not a "newspaper" or "newspaper of general circulation" under the Election Code. *The Post* is free to the public, except for the charge for mail delivery. *See* Tenn. Code Ann. § 2-1-104(a)(13).

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