

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
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Opinion No. 04-011

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, Hamilton, Knox, Madison, Montgomery, Rutherford, Shelby, Sumner, and Williamson counties at a price per issue of \$1.00. While billing itself as “Tennessee’s Leading African-American Weekly Newspaper,” it contains news of interest to the general public, including a variety of local, regional, state and national news. The January 22-28, 2004, issue contains a front-page article on various observations of Martin Luther King Day, a story announcing the new Director of Communications for the Tennessee Department of Economic and Community Development, and a discussion of “The Challenge of Policing Police Brutality.” The issue has a 14-page section A; a 12-page section B; and a separate, 8-page entertainment section. Articles include those discussing business, education, health, politics, and sports. The publication contains an editorial and opinion page, classified ads, and various other advertisements. Page 4A of the issue reflects that the *Tribune* was founded in 1991, and its application to mail at periodicals postage rates is pending at Nashville¹. The newspaper is available by subscription, and it may be purchased through newspaper racks.

Based on the information you have provided, the *Tennessee Tribune* qualifies as a “newspaper” and/or “newspaper of general circulation” in Davidson, Hamilton, Knox, Madison, Montgomery, Rutherford, Shelby, and Williamson counties. Further, assuming that the application to mail at periodicals postage rates is granted, the *Tennessee Tribune* qualifies as a “newspaper of general circulation” under the Election Code.

¹ We are informed by the United States Postal Service that the periodicals postage rate is the equivalent of a second class mailing privilege.

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