



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

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Workplace Protection

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Workplace Protection

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Workplace Violence

Workplace violence is any physical assault, threatening behavior or verbal abuse occurring in the workplace. The workplace, however, may be any location, either permanent or temporary, where an employee performs any work-related duties.

Workplace violence is classified by OSHA as four types:

- Type I — Violence by strangers
- Type II — Violence by customers or citizens
- Type III — Violence by co-workers
- Type IV — Violence by personal relations

Employers, including local governments, that have an employee who has suffered workplace violence may seek restraining orders and injunctions against further violence by the individual against the employee while the employee is in the workplace or performing work. T.C.A. §§ 20-14-101, *et seq.* "Unlawful violence" means assault, aggravated assault, stalking, intimidation, or extortion as prohibited by T.C.A. §§ 39-13-101, 39-13-102, 39-17-315, 39-17-309 and 39-14-112.

The TN Healthy Workplace Act

Per T.C.A. §§ 50-1-503:

(a) No later than March 1, 2015, the Tennessee advisory commission on intergovernmental relations (TACIR) shall create a model policy for employers to prevent abusive conduct in the workplace. The model policy shall be developed in consultation with the department of human resources and interested municipal and county organizations including, but not limited to, the Tennessee municipal league, the Tennessee county services association, the municipal technical advisory service (MTAS), and the county technical assistance service (CTAS).

(b) The model policy created pursuant to subsection (a) shall:

- (1) Assist employers in recognizing and responding to abusive conduct in the workplace; and
- (2) Prevent retaliation against any employee who has reported abusive conduct in the workplace.

(c) Each employer may adopt the policy created pursuant to subsection (a) as a policy to address abusive conduct in the workplace.

And, T.C.A. §§ 50-1-504:

Notwithstanding § 29-20-205, if an employer adopts the model policy created by TACIR pursuant to § 50-1-503(a) or adopts a policy that conforms to the requirements set out in § 50-1-503(b), then the employer shall be immune from suit for any employee's abusive conduct that results in negligent or intentional infliction of mental anguish. Nothing in this section shall be construed to limit the personal liability of an employee for any abusive conduct in the workplace.

Whistle-blower Protection (TN Public Protection Act)

To "blow the whistle" on a city is to report violations of the law or of the public trust. Tennessee has two distinct whistle-blowing statutes. Cities are prohibited from discharging an employee solely for refusing to participate in or remain silent about illegal activities. T.C.A. 50-1-304(b). The second statute protects public and private employees from retaliation when speaking out about an occupational safety or health violation. T.C.A. 50-3-409.

Under the TPPA an employee must prove: 1) they are an employee, 2) refusal to participate in or remain quiet about illegal activities, 3) termination, and 4) a causal relationship between (2) and (3). An employee who prevails in a retaliatory discharge lawsuit against an employer may recover reasonable attorney fees and costs. T.C.A. § 50-1-304(f).

Tennessee Anti-Slapp Act

The Tennessee Anti-Slapp (Strategic Lawsuits Against Political Participation) Act of 1997 grants immunity to individuals who, in good faith, report wrong doing involving a public or government issue to the appropriate local, state, or federal government entity. The act's purpose is to protect concerned individuals and the information they provide, which is vital to effective law enforcement and efficient government operation. T.C.A. § 4-21-1002(a). This act allows the appropriate government agency to intervene in a lawsuit brought against a person because he or she communicated the information. Immunity does not apply if the person knew the information was false, if the informant recklessly disregarded the information's falsity, or if the information pertained to a person or entity other than a public figure. T.C.A. § 4-21-1003(b). The winner in a case based on the immunity defense is entitled to recover costs and reasonable attorney fees. T.C.A. §§ 4-21-1003(c), *et seq.*

Employee's Right to Contact Elected Officials

T.C.A. § 8-50-602(a) provides that "no employee shall be prohibited from communicating with an elected official for any job-related purpose whatsoever. Disciplining or discriminating against a public employee for communicating with an elected public official is prohibited, with triple damages permitted for violations. T.C.A. § 8-50-603(a). However, an employer may correct or reprimand an employee "for making untrue allegations concerning any job-related matter." T.C.A. §§ 8-50-601–604.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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