



May 10, 2024

Adequate Public Notice

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county 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 county 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 CTAS website material.

Sincerely,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

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Reference Number: CTAS-2423

In order to meet the requirements of the Sunshine Law, "adequate public notice" must be given before all meetings to which the act applies. T.C.A. § 8-44-103. The statute does not elaborate on the requirements for this notice. The Tennessee Supreme Court considered the phrase "adequate public notice" as contained in the statute and observed, "We think it is impossible to formulate a general rule in regard to what the phrase 'adequate public notice' means. However . . . adequate public notice means adequate public notice under the circumstances, or such notice based on the totality of the circumstances as would fairly inform the public." *Memphis Publishing Co. v. City of Memphis*, 513 S.W.2d 511 (Tenn. 1974).

If the meeting is one that would not be expected to be of interest to the general public, the notice requirements may not be as stringent as if the issue is one that is expected to be of great public concern.

For example, adequate public notice was found to have been given for a special meeting of a city council to hear the appeal of a police officer who had been dismissed, where the meeting had been advertised by posting notice inside city hall where water bills were paid and over the entrance to the police department and council room and on the bulletin board at the post office because this was a personnel matter involving one individual. *Kinser v. Town of Oliver Springs*, 880 S.W.2d 681 (Tenn. Ct. App. 1994). On the other hand, in *Neese v. Paris Special School District*, 813 S.W.2d 432 (Tenn. Ct. App. 1990), the court found that the issue of clustering students in the same grade at one school was of "pervasive importance" and "arguably the most important action taken by the Board in many years." The notice was held to have been inadequate under the circumstances because the public was not notified that clustering would be discussed. Even though at that time Tennessee law did not require notice of a regularly scheduled meeting include an agenda of the meeting, the court found that the importance of the clustering issue required that the public be advised that it would be discussed at the meeting.

When faced with determining whether notice of a special meeting fairly informed the public under the totality of the circumstances, the Tennessee Court of Appeals outlined a three-prong test for "adequate public notice" of special meetings under the Sunshine Law, which includes the following: (1) Notice must be posted in a location where a member of the community could become aware of the notice, (2) the contents of the notice must reasonably describe the purpose of the meeting or the action to be taken, and (3) the notice must be posted at a time sufficiently in advance of the meeting to give citizens an opportunity to become aware of the meeting and to attend. *Englewood Citizens for Alternate B v. Town of Englewood*, 1999 WL 419710 (Tenn. Ct. App. 1999). In *Englewood*, the court noted that the town could provide adequate public notice by simply choosing reasonable public locations and posting notices at these locations on a consistent basis.

The notice requirements of the Sunshine Law are in addition to, and not in substitution for, any other notice that may be required by law. T.C.A. § 8-44-103(c). Meetings of county legislative bodies, for example, are also governed by the provisions of T.C.A. §§ 5-5-104 and -105, under which regular meetings must be set by resolution of the county legislative body, and special called meetings require newspaper notice at least five days prior to the meeting that contains the agenda for the meeting. When publishing notices in the newspaper, you should be aware that newspapers are now required to also publish the notices on their own websites as well as on a statewide website maintained by Tennessee newspapers at no extra charge. T.C.A. § 1-3-120.

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