
Members Present: Mark Abolins, Murat Arik, Tyler Babb, Tammy Bahmanziari, Martha Balachandran, Tom Black, Kathryn Blankenship, Alan Boehm, Andrew Brower, Larry Burriss, William Canak, Laura Cochrane, Tricia Farwell, Justin Gardner, Joey Gray, Tim Greer, Tina Hall, Joshua Harms, Pippa Holloway, Robert Kalwinsky, Yang Kim, Paul Kline, Vanessa Lefler, Alfred Lutz, Preston MacDougall, Mary Martin, Scott McDaniel, David Otts, Joshua Phillips, Terry Quinn, Deana Raffo, Michael Rice, Lauren Rudd, Saleh Sbenaty, Kristi Shamburger, Mary Ellen Sloane, Donald Snead, Sherri Stevens, Deborah Wagnon, Kristen West, Zhifu Yang

Members Absent: Don Aliquo, Mamit Deme, Michael Principe, John Pennington, Nat Smith, Shane Smith, Michelle Stevens

Members Excused: Mark Doyle, Ariana Postlethwait, Jason Reineke, Zhifu Yang

Agenda

1. Roll Call: President Mary Martin called the meeting to order at 3:32 p.m. and acknowledged the presence of a quorum.

2. Assistant University Counsel Sondra Wade was scheduled to speak to the senate but was unable to attend the meeting. Heidi Zimmerman, University Counsel, provided a briefing on permissible faculty communication with state legislators. While often mentioned in other contexts, the Little Hatch Act, TCA § 2-19-201, applies to actions relating to campaigns and elections, and not to actions outside an election. However, the Public Employee Political Freedom Act of 1980, TCA § 8-50-601, states that “no public employee shall be prohibited from communicating with an elected public official for any job-related purpose whatsoever.” Furthermore, “it is unlawful for any public employer to discipline, threaten to discipline or otherwise discriminate against an employee because such employee exercised that employee's right to communicate with an elected public official.” Zimmerman noted that faculty are free to communicate with legislators as long as they do not represent themselves as speaking on behalf of MTSU.

Zimmerman also mentioned the “McNally Amendment,” TCA § 49-7-1002, which states that legislative proposals for state funding toward public higher education items, including new academic programs and research activities, are to be first “considered

and acted upon through established processes and procedures” with knowledge of appropriate institution and governing board officials. The related TBR Policy is [1:10:00:00, Policy Regarding Legislative Proposals](#).

The [MTSU Board of Trustees](#) will hold its first meeting on April 10, 2017, probably in the afternoon, in the Student Union Building. The Board will also meet in June this year in order to accommodate the budget cycle. The first meeting will address organizational matters, bylaws adoption, approval of the student trustee, and committee organization.

Zimmerman addressed questions from several senators about proposed Board of Trustees policies, including the policies for Channel of Authority and Communications and Board Committees:

Q: If we can currently communicate directly with TBR Vice Chancellor of Academic Affairs Tristan Denley without going through the MTSU President, why does proposed policy state that communication with the Board must flow through the President?

A: The Vice Chancellor is an administrative employee of TBR and not a Trustee.

Q: Why are actions related to faculty tenure and promotion under the oversight of the Finance and Personnel committee and not the Academic Affairs and Student Life committee?

A: This organization keeps all personnel decisions, regardless of employee classification, in the oversight of one committee. Further, we had had to limit the number of committees in order to adequately staff committees without overtaxing Trustees.

Q: How will appeal of a tenure or promotion decision be evaluated in the future without the equivalent of current TBR staff to provide a separate level of review?

A: The Board will look to MTSU academic affairs staff and the Provost to present their side of an appeal. “We’re losing TBR as a level of review and there’s nothing we can do about that.”

3. Following Heidi Zimmerman’s comments, President Martin addressed some of the previous questions related to proposed Board policies. One suggestion regarding appeal of tenure and promotion decisions is to form a sub-council with a representative from each of the six universities to review and report on an appeal. Several senators, notably Pippa Holloway, previously researched other university board policies and the degree to which they incorporate shared governance. Dr. Martin will distribute Dr. Holloway’s findings to the senate. Dr. Martin stated that unless the senate proposes specific language for inclusion in Board policies, such as policy language about the

Faculty Senate or bylaws language regarding the mission and vision of MTSU, those issues will not be addressed.

4. Dr. Martin mentioned several [proposed MTSU policy revisions](#) that require review.

- Policy 2:03:00 00, Admissions: Appears to be copied over from current TBR policy, but requires a rereading and Dr. Martin requested senator review and input.
- Policy 1:05:50, Preventing and Reporting Fraud, Waste and Abuse: Appears to be copied from current TBR policy.
- 4:03:03:60, Reports of Expenditures by the President: THEC has provided input on the proposed policy and it will likely be revised.
- Standard I:01:16, Faculty and Staff Support for Educational Expenses: Although not employed in recent years because of budget restrictions, this is also a restatement of current TBR policy.

5. Proposed revisions to the Faculty Appointments policy are forthcoming and will require comment. The revisions establish four levels of rank for non-tenurable, temporary appointments but do not provide for a review of qualifications before promotion comparable to the review process for promotion of tenured faculty.

6. Dr. Martin and other senators have been gathering information about faculty concerns with recent actions of the Disability & Access Center, particularly actions that appear to impinge upon faculty academic freedom. Concerns include:

- accommodations granted without apparent documentation from a healthcare provider.
- questions about privacy of information handled by the third-party online portal vendor.
- accommodations that if applied in the workplace, would prevent professionals from performing vital job functions (e.g., in programs such as Nursing or Speech-Language Pathology and Audiology), and thus hinder faculty ability to fully prepare students for professional practice.

Dr. Martin will prepare a statement about these concerns for consideration at the next senate meeting.

7. Dr. Martin asked about situations where faculty or academic departments have had to pay to use space on campus for presenting a program. There was general agreement in the room that departments should not have to pay to use campus space to host events that enhance curriculum.

8. The Faculty Senate Steering Committee proposed that the senate form subcommittees to draft proposed bylaws amendments in order to:

- establish an ombudsperson position in the senate (the ombudsperson would help faculty settle disputes when the results of normal university process are unsatisfactory).
- establish a policy consultant in the senate (this individual would be sufficiently familiar with MTSU policy in order to advise the senate on applicable matters).

The proposal was accepted by a unanimous voice vote. President-Elect Joey Gray began soliciting volunteers to serve on the subcommittees.

9. Bill Canak shared highlights from the January 27, 2017 TBR Faculty Subcouncil meeting (his report was previously emailed to senate members). This was the last meeting of the subcouncil as organized. In the future, quarterly meetings will include representatives from the six universities in a morning informational session with other subcouncil members, and the university representatives will meet together in the afternoon to discuss issues of common interest.

10. Student Recruitment Update: Dr. Martin reported that early indicators of Fall 2017 enrollment, including non-refundable housing deposits, point to increased enrollment.

11. The Tennessee State Employees Association (TSEA) has expressed interest in speaking at a future senate meeting and has indicated a willingness to advocate for higher education employees.

Mary Martin adjourned the meeting at 4:51 p.m.

Attachments:

TCA § 2-19-201 (Little Hatch Act)

TCA § 8-50-601 (Public Employee Political Freedom Act of 1980)

TCA § 49-7-1002 ("McNally Amendment")

Respectfully submitted,

Kristen West
2016-2017 Faculty Senate Recording Secretary

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Title 2 Elections

Chapter 19 Prohibited Practices

Part 2 Offenses by Public Officers and Employees ("Little Hatch Act")

GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY

Tenn. Code Ann. § 2-19-201 (2016)

2-19-201. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Election" includes all elections, local, municipal, primary, general, state, federal and special and any election in the state or any county, municipality or other political subdivision thereof, but does not include referenda or issues submitted to a vote of the people, political convention or caucus;

(2) "Public funds" and "public lands, offices, buildings, vehicles and facilities" include those owned and supported principally by public money appropriated from the state treasury. "Public lands, offices, buildings, vehicles, and facilities" include those owned and used by a local education agency (LEA);

(3) "Public officers and employees" means all employees of the executive branch of the state government, or any department, division, or agency thereof, and all appointed officers and employees of any educational institution, establishment, corporation or agency supported principally by state funds, including teachers. Popularly elected officials, officials elected by the general assembly, qualified candidates for public office, members of the governor's cabinet, and members of the governor's staff are expressly excluded from the provisions of this part, except for the provisions of § 2-19-202; and

(4) "Teacher" means any person employed in a public school system as a teacher, helping teacher, teacher's aide, librarian, principal, supervisor, director of schools, or member of the administrative staff.

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-1936; Acts 2015, ch. 239, §§ 1-4.

NOTES: Compiler's Notes.

Section 49-1501, referred to in subdivision (3), was repealed by Acts 1972, ch. 814, § 18. Prior to its repeal § 49-1501 defined "teacher" as follows:

"Teacher" shall mean any person employed in a public school as a teacher, helping teacher, librarian, principal, or supervisor, and shall include any superintendent of public schools, or administrative officer of a department of education, or of any educational institution supported in whole or in part by and under the control of the state. In all cases of doubt, the board of trustees hereinafter defined shall determine whether any person is a teacher as defined in

this chapter."

Amendments.

The 2015 amendment added "'Public lands, offices, buildings, vehicles, and facilities' include those owned and used by a local education agency (LEA)" at the end of (2); in (3), added ", including teachers" at the end of the first sentence and deleted "teachers, as defined by § 49-1501," preceding "members of the governor's cabinet"; added the definition of "teacher"; and made related punctuation changes.

Effective Dates.

Acts 2015, ch. 239, § 8. July 1, 2015.

Cross-References.

County Sheriff's Civil Service Law, political activity of persons in classified service restricted, § 8-8-419.

Extortion, § 39-14-112.

Attorney General Opinions.

Prohibitions on state employees running for public office, OAG 98-030 (1/29/98).

Department of children's services employee running for county commission, OAG 05-141 (9/12/05).

Employee of a state institution of higher education holding elected office. OAG 14-17, 2014 Tenn. AG LEXIS 18 (2/11/14).

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Tenn. Code Ann. § 2-19-202 (2016)

2-19-202. Interference with election or nomination.

(a) It is unlawful for any public officer or employee to use such person's official position, authority or influence to interfere with an election or nomination for office or directly or indirectly attempt to intimidate, coerce or command any other officer or employee to vote for or against any measure, party or person, or knowingly receive or pay assessments of any kind or character for political purposes or for election expenses from any other officer or employee.

(b) It is the intent of this section to prohibit any political intimidation or coercion of any public officer or employee.

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-1937.

NOTES: Section to Section References.

This section is referred to in § 2-19-201.

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Tenn. Code Ann. § 2-19-203 (2016)

2-19-203. Soliciting contributions for political purposes.

(a) It is unlawful for any public officer or employee knowingly to solicit directly or indirectly any contribution of money, thing of value, facilities or services of any person who has received contracts, compensation, employment, loans, grants or benefits, or any person whose organization, agency or firm has received such benefits financed by public funds, state, federal or local, for political purposes or campaign expense.

(b) (1) As used in this subsection (b), unless the context otherwise requires, "contribution" means any advance, conveyance, deposit, distribution, transfer of funds, loan, loan guaranty, payment, gift, or subscription, of money or thing of value, including, but not limited to, use of a facility or provision of personal services, for use on behalf of any candidate for political office, or for any political purpose or campaign expense.

(2) It is unlawful knowingly to solicit, accept, or collect, directly or indirectly, any contribution from a public officer or employee if the solicitor or the solicitor's principal is, directly or indirectly, in a supervisory capacity over such officer or employee or is otherwise able to control the retention, promotion, demotion, or terms or conditions of employment of such officer or employee.

(3) The provisions of this subsection (b) shall not be construed to prevent voluntary contributions from political action committees and associations of public officers and/or employees.

HISTORY: Acts 1972, ch. 740, § 1; 1979, ch. 280, § 1; T.C.A., § 2-1938; Acts 2006 (1st Ex. Sess.), ch. 1, § 5.

NOTES: Compiler's Notes.

Acts 2006, ch. 1 (1st Ex. Sess.), § 1 provided that the act is and may be cited as the "Comprehensive Governmental

Ethics Reform Act of 2006."

Attorney General Opinions.

Prohibitions on state employees running for public office, OAG 98-030 (1/29/98).

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Tenn. Code Ann. § 2-19-204 (2016)

2-19-204. Promises of benefits for political activity.

It is unlawful for any public officer or employee, directly or indirectly, to promise employment, position, work, compensation, contracts, loans, grants, appropriations or other benefits provided principally from public funds as a consideration, favor or reward for any political activity, support or opposition to any candidate, party or measure in any election.

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-1939.

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Tenn. Code Ann. § 2-19-205 (2016)

2-19-205. Deprivation, attempts to deprive, or threats to deprive persons of benefits.

It is unlawful for any public officer or employee, directly or indirectly, to deprive, attempt to deprive, or threaten to deprive any person of employment, position, work, compensation, contracts, loans, grants, appropriations or benefits provided principally from public funds for any political activity, support or opposition to any candidate, party or measure in any election.

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-19-205.

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Tenn. Code Ann. § 2-19-206 (2016)

2-19-206. Use of state-owned property for campaign advertising or activities.

(a) It is unlawful for any elected or appointed official of the state, or any employee of the state or any department, division or agency thereof, to display campaign literature, banners, placards, streamers, stickers, signs or other items of campaign or political advertising on behalf of any party, committee or agency or candidate for political office, on the premises of any building or land owned by the state, or to use any of the facilities of the state, including equipment and vehicles, for such purposes.

(b) It is unlawful to use public buildings or facilities for meetings or preparation of campaign activity in support of any particular candidate, party or measure unless reasonably equal opportunity is provided for presentation of all sides or views, or reasonably equal access to the buildings or facilities is provided all sides.

(c) This section shall not be construed to prohibit an employee from displaying a decal or bumper stickers on the employee's personal vehicle while parked on state property.

(d) (1) Subsections (a), (b), and (c) shall not apply to teachers.

(2) It is unlawful for any teacher to display campaign literature, banners, placards, streamers, stickers, signs, or other items of campaign or political advertising on behalf of any party, committee or agency, or candidate for partisan or nonpartisan public office elected by the people, on the premises of any building or land owned by a local education agency (LEA), or to use any of the facilities of the LEA, including equipment and vehicles, for such purposes. This subdivision (d)(2) does not apply to the display of campaign banners, placards, streamers, stickers, signs, or other items of campaign or political advertising on LEA-owned property or the use of LEA equipment, when the display or use is a part of and solely for the purpose of the LEA's program of student education relative to the electoral process. Except for

the use of LEA-owned equipment and vehicles, this subdivision (d)(2) does not apply to a teacher during hours in which the teacher is not performing school duties.

(3) This subsection (d) shall not be construed to prohibit any teacher from displaying a decal or bumper sticker on the teacher's personal vehicle while the vehicle is parked on LEA property.

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-19-206; Acts 2008, ch. 650, § 1; 2015, ch. 239, § 5.

NOTES: Amendments.

The 2015 amendment added (d).

Effective Dates.

Acts 2015, ch. 239, § 8. July 1, 2015.

Attorney General Opinions.

Prohibitions on state employees running for public office, OAG 98-030 (1/29/98).

It would not violate T.C.A. § 2-19-206(b) for a state legislator to use his or her office for fundraising phone calls for a not-for profit entity formed to promote the lottery referendum on the 2002 ballot, OAG 02-114 (10/16/02).

It would violate T.C.A. § 2-19-206(b) for a state legislator to use his or her office to disseminate information regarding the state lottery referendum for a not-for-profit entity formed to promote the lottery referendum on the 2002 ballot, OAG 02-114 (10/16/02).

A legislative staff member does not violate T.C.A. § 2-19-206(b) by responding on behalf of the legislator to requests for information regarding a referendum or assisting the legislator in carrying out his or her duties informing the public about a referendum election, so long as this response or information does not directly advocate voting in favor of the referendum issue, OAG 02-114 (10/16/02).

Distributing information, addressing specific issues, or responding to specific events that relate to an issue of public interest, even if it also serves the purpose of an independent organization, is not prohibited by T.C.A. § 2-19-206, so long as the information or response does not directly advocate voting for or against a referendum issue, OAG 02-132 (12/12/02).

Staff member could violate T.C.A. § 2-19-206 if the member performs support functions for a legislator such as preparing a mass mailing that directly advocates voting for or against a referendum issue, OAG 02-132 (12/12/02).

Legislative staff member would violate this section by directly requesting contributions to an organization formed for the purpose of advocating popular approval of proposed amendments to the state constitution in a referendum either during regular business hours or in a state building, OAG 02-132 (12/12/02).

Collateral References.

Constitutionality, construction, and application of statute or regulatory action respecting political advertising -- Print media cases. 51 A.L.R.6th 359.

Constitutionality, construction, and application of statute or regulatory activity respecting political advertising nonprint media cases, or cases implicating both print and nonprint media. 53 A.L.R.6th 491.

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Tenn. Code Ann. § 2-19-207 (2016)

2-19-207. Political activity interfering with state business.

(a) It is unlawful for any person employed by the state to engage actively in a political campaign on behalf of any party, committee, organization, agency or political candidate, or to attend political meetings or rallies or to otherwise use such person's official position or employment to interfere with or affect the result of any regular or special primary election conducted within the state, or to perform political duties or functions of any kind not directly a part of such person's employment, during those hours of the day when such person is required by law or administrative regulation to be conducting the business of the state.

(b) (1) Nothing in this section shall be construed to deprive any official or employee of the state from voting for the party or candidate of such person's choice or to deprive such person of the right to express such person's personal opinion concerning any political subject, party or candidate.

(2) Elected officials, state employees on leave or during those hours not required by law or administrative regulation to be conducting the business of the state, and persons duly qualified as candidates for public office are expressly excluded from this section.

(3) No rule or regulation which has been promulgated or shall be promulgated by any department, division, agency, or bureau of state government shall be more restrictive of the political activity of state employees on leave or during those hours not required by law or administrative regulation to be conducting the business of the state than those restrictions already set forth in this section.

(c) (1) Subsections (a) and (b) shall not apply to teachers.

(2) It is unlawful for any teacher employed by an LEA during those hours of the day when the LEA requires the teacher to be performing school duties to:

(A) Engage actively in a political campaign on behalf of any party, committee, organization, or agency;

(B) Engage in a campaign for a candidate for partisan or nonpartisan public office elected by the people;

(C) Attend political meetings or rallies;

(D) Use the teacher's employment to interfere with or affect the result of any regular or special primary election conducted within the state; or

(E) Perform political campaign duties or functions.

(3) Nothing in this subsection (c) shall be construed to deprive a teacher from voting for the party or candidate of the teacher's choice or to deprive the teacher of the right to express the teacher's personal opinion concerning any political subject, party, or candidate.

(4) A teacher on leave or during those hours in which the teacher is not required to be performing school duties is not subject to the restrictions in subdivision (c)(2). No policy or rule of an LEA shall be more restrictive of the political activity of a teacher on leave or during those hours in which the teacher is not required to be performing school duties than those restrictions set forth in this subsection (c).

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-19-207; Acts 1982, ch. 822, § 1; 2015, ch. 239, §§ 6, 7.

NOTES: Compiler's Notes.

Section 49-1501, referred to in subsection (b)(2), was repealed by Acts 1972, ch. 814, § 18. Prior to its repeal § 49-1501 defined "teacher" as follows:

"'Teacher' shall mean any person employed in a public school as a teacher, helping teacher, librarian, principal, or supervisor, and shall include any superintendent of public schools, or administrative officer of a department of education, or of any educational institution supported in whole or in part by and under the control of the state. In all cases of doubt, the board of trustees hereinafter defined shall determine whether any person is a teacher as defined in this chapter."

Amendments.

The 2015 amendment substituted "and persons duly qualified as candidates for public office" for "persons duly qualified as candidates for public office and teachers, as defined by § 49-1501," in (b)(2); and added (c).

Effective Dates.

Acts 2015, ch. 239, § 8. July 1, 2015.

Cross-References.

Noninstructional public school personnel eligible to run for public office, § 49-5-301.

Attorney General Opinions.

Prohibitions on state employees running for public office, OAG 98-030 (1/29/98).

A legislative staff member does not violate T.C.A. § 2-19-207 by responding to requests for information and assisting a legislator in disseminating information about a referendum, so long as the response or information does not directly advocate voting in favor of the referendum issue, OAG 02-114 (10/16/02).

Distributing information, addressing specific issues, or responding to specific events that relate to an issue of public interest, even if it also serves the purpose of an independent organization, is not prohibited by T.C.A. § 2-19-207, so long as the information or response does not directly advocate voting for or against a referendum issue, OAG 02-132 (12/12/02).

Staff member could violate T.C.A. § 2-19-207 if the member performs support functions for a legislator such as preparing a mass mailing that directly advocates voting for or against a referendum issue, OAG 02-132 (12/12/02).

Legislative staff member would violate T.C.A. § 2-19-207 by directly requesting contributions to an organization formed for the purpose of advocating popular approval of proposed amendments to the state constitution in a referendum either during regular business hours or in a state building, OAG 02-132 (12/12/02).

The Tennessee Claims Commission is part of the executive branch of the government. A Tennessee claims commissioner is not a member of the judiciary and employees of the claims commission and claims commissioners are subject to T.C.A. § 2-19-207. OAG 13-111, 2013 Tenn. AG LEXIS 114 (12/30/13).

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Tenn. Code Ann. § 2-19-208 (2016)

2-19-208. Penalty for violations by public officers and employees.

A violation of this part is a Class C misdemeanor.

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-19-207; Acts 1989, ch. 591, § 113.

NOTES: Cross-References.

Penalty for Class C misdemeanor, § 40-35-111.

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Title 8 Public Officers And Employees

Chapter 50 Miscellaneous Provisions

Part 6 Public Employee Political Freedom Act of 1980

GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY

8-50-601. Short title.

This part shall be known and may be cited as the "Public Employee Political Freedom Act of 1980."

HISTORY: Acts 1980, ch. 806, § 1.

NOTES:**NOTES TO DECISIONS**

1. Political Transfers.

1. Political Transfers.

Nothing contained in this part prohibits "political" transfers; if plaintiff's transfer was politically motivated, then the proper forum to address a political transfer is in the civil service commission under former § 8-30-327 (repealed). Sloan v. State (Tennessee Bureau of Investigation), 670 S.W.2d 227, 1984 Tenn. App. LEXIS 2697 (Tenn. Ct. App. 1984).

Collateral References.

Payroll records of individual government employees as subject to disclosure to public. 100 A.L.R.3d 699.

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8-50-602. Public employee's communication with elected public officials.

(a) No public employee shall be prohibited from communicating with an elected public official for any job-related purpose whatsoever.

(b) For purposes of this part, "public employee" means any person providing services for the state of Tennessee,

state agencies, counties, municipalities, or subdivisions of such governmental bodies in Tennessee for which compensation is paid.

HISTORY: Acts 1980, ch. 806, § 1.

NOTES: Attorney General Opinions.

Adoption of policy pursuant to Tenn. Code Ann. § 49-7-1002 by the Tennessee Board of Regents (TBR) would not violate Tenn. Code Ann. § 8-50-602, but may be susceptible to challenge under the First Amendment to the United States Constitution. OAG 15-19, 2015 Tenn. AG LEXIS 19 (3/13/15).

NOTES TO DECISIONS

1. Applicability. 2. Political Transfers.

1. Applicability.

Where the employee asserted a wrongful discharge claim under T.C.A. § 8-50-602(a) of the Tennessee Public Employee Political Freedom Act, T.C.A. § 8-50-601 et seq., the trial court found that he was not terminated for speaking with an elected official; therefore, his retaliatory discharge claim was dismissed. *Todd v. Jackson*, 213 S.W.3d 277, 2006 Tenn. App. LEXIS 458 (Tenn. Ct. App. 2006), appeal denied, -- S.W.3d --, 2006 Tenn. LEXIS 1080 (Tenn. Nov. 13, 2006), cert. denied, -- U.S. --, 127 S. Ct. 1851, 167 L. Ed. 2d 344, 2007 U.S. LEXIS 3232 (U.S. 2007).

2. Political Transfers.

Nothing contained in this part prohibits "political" transfers; if plaintiff's transfer was politically motivated, then the proper forum to address a political transfer is in the civil service commission under former § 8-30-327 [repealed]. *Sloan v. State* (Tennessee Bureau of Investigation), 670 S.W.2d 227, 1984 Tenn. App. LEXIS 2697 (Tenn. Ct. App. 1984).

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Part 6 Public Employee Political Freedom Act of 1980

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Tenn. Code Ann. § 8-50-603 (2016)

8-50-603. Discipline or discrimination for communication prohibited -- Damages.

(a) It is unlawful for any public employer to discipline, threaten to discipline or otherwise discriminate against an employee because such employee exercised that employee's right to communicate with an elected public official.

(b) If the court of competent jurisdiction determines that a public employer has disciplined, threatened to discipline or otherwise discriminated against an employee because such employee exercised the rights provided by this part, such employee shall be entitled to treble damages plus reasonable attorney fees.

HISTORY: Acts 1980, ch. 806, § 1.

NOTES:

NOTES TO DECISIONS

1. Political Transfers. 2. Causation.

1. Political Transfers.

Nothing contained in title 8, ch. 50, part 6 prohibits "political" transfers; if plaintiff's transfer was politically motivated, then the proper forum to address a political transfer is in the civil service commission under former § 8-30-327 (repealed). *Sloan v. State* (Tennessee Bureau of Investigation), 670 S.W.2d 227, 1984 Tenn. App. LEXIS 2697 (Tenn. Ct. App. 1984).

2. Causation.

Employer was entitled to summary judgment on employees' claims under the Tennessee Public Employee Political Freedom Act, as the employees had not shown that their communication with an elected official was a substantial or motivating factor in their termination. The first employee had not communicated with an elected official, but only the state comptroller, who was an appointed official; the second employee had not shown that the decision-maker, the mayor, knew anything about his conversation with a county commissioner. *Todd v. Shelby County*, 407 S.W.3d 212, 2012 Tenn. App. LEXIS 910 (Tenn. Ct. App. Dec. 27, 2012), appeal denied, -- S.W.3d --, 2013 Tenn. LEXIS 591 (Tenn. June 13, 2013).

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Title 8 Public Officers And Employees
Chapter 50 Miscellaneous Provisions
Part 6 Public Employee Political Freedom Act of 1980

GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY

Tenn. Code Ann. § 8-50-604 (2016)

8-50-604. Construction.

No provision of this part shall be construed to prohibit an employer from correcting or reprimanding an employee for making untrue allegations concerning any job-related matter to an elected public official.

HISTORY: Acts 1980, ch. 806, § 1.

West's Tennessee Code Annotated

Title 49. Education

Chapter 7. Postsecondary and Higher Education Generally

Part 10. Public Higher Education Funding Requests

T. C. A. § 49-7-1002

§ 49-7-1002. Proposal or request review

Effective: July 1, 2016

[Currentness](#)

(a) All legislative proposals or requests for state funding toward public higher education capital projects, maintenance, new academic programs, public service, research activities, and engagement opportunities or operational support coming before the general assembly shall first be considered and acted upon through established processes and procedures to review such requests; provided, however, that if such consideration or action through established processes and procedures is not possible, then such legislative proposals or requests shall be made with the knowledge of the executive director of the Tennessee higher education commission, the chancellor of the board of regents, or the president of the University of Tennessee, as applicable, and the chief executive officer of the institution for which the proposal or request for state funding is made. The executive director, chancellor, and the president shall be accountable for ensuring that the established processes for considering and evaluating such requests are followed to the greatest extent possible.

(b) At no time shall an employee of a state institution of higher education advance state legislative funding requests without the knowledge of the executive director, chancellor, or president of the respective system or institution for which the request is made, and the chief executive officer of the institution, campus, or unit.

(c) The executive director, chancellor, and president are expected to advance such policies or proposals through existing processes and procedures established in the spirit to maximize the state's ability to strategically plan, execute, and maintain the state's public higher education obligations.

(d) The governing board of each institution shall be authorized to take such action as each board deems reasonable and appropriate to enforce this part and that is consistent with the purpose of this part.

Credits

2014 Pub.Acts, c. 538, § 1, eff. March 17, 2014; 2016 Pub.Acts, c. 869, § 30, eff. July 1, 2016.

[Notes of Decisions \(1\)](#)

T. C. A. § 49-7-1002, TN ST § 49-7-1002

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Title 2 Elections

Chapter 19 Prohibited Practices

Part 2 Offenses by Public Officers and Employees ("Little Hatch Act")

GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY

Tenn. Code Ann. § 2-19-201 (2016)

2-19-201. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Election" includes all elections, local, municipal, primary, general, state, federal and special and any election in the state or any county, municipality or other political subdivision thereof, but does not include referenda or issues submitted to a vote of the people, political convention or caucus;

(2) "Public funds" and "public lands, offices, buildings, vehicles and facilities" include those owned and supported principally by public money appropriated from the state treasury. "Public lands, offices, buildings, vehicles, and facilities" include those owned and used by a local education agency (LEA);

(3) "Public officers and employees" means all employees of the executive branch of the state government, or any department, division, or agency thereof, and all appointed officers and employees of any educational institution, establishment, corporation or agency supported principally by state funds, including teachers. Popularly elected officials, officials elected by the general assembly, qualified candidates for public office, members of the governor's cabinet, and members of the governor's staff are expressly excluded from the provisions of this part, except for the provisions of § 2-19-202; and

(4) "Teacher" means any person employed in a public school system as a teacher, helping teacher, teacher's aide, librarian, principal, supervisor, director of schools, or member of the administrative staff.

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-1936; Acts 2015, ch. 239, §§ 1-4.

NOTES: Compiler's Notes.

Section 49-1501, referred to in subdivision (3), was repealed by Acts 1972, ch. 814, § 18. Prior to its repeal § 49-1501 defined "teacher" as follows:

"'Teacher' shall mean any person employed in a public school as a teacher, helping teacher, librarian, principal, or supervisor, and shall include any superintendent of public schools, or administrative officer of a department of education, or of any educational institution supported in whole or in part by and under the control of the state. In all cases of doubt, the board of trustees hereinafter defined shall determine whether any person is a teacher as defined in

this chapter."

Amendments.

The 2015 amendment added "'Public lands, offices, buildings, vehicles, and facilities' include those owned and used by a local education agency (LEA)" at the end of (2); in (3), added ", including teachers" at the end of the first sentence and deleted "teachers, as defined by § 49-1501," preceding "members of the governor's cabinet"; added the definition of "teacher"; and made related punctuation changes.

Effective Dates.

Acts 2015, ch. 239, § 8. July 1, 2015.

Cross-References.

County Sheriff's Civil Service Law, political activity of persons in classified service restricted, § 8-8-419.

Extortion, § 39-14-112.

Attorney General Opinions.

Prohibitions on state employees running for public office, OAG 98-030 (1/29/98).

Department of children's services employee running for county commission, OAG 05-141 (9/12/05).

Employee of a state institution of higher education holding elected office. OAG 14-17, 2014 Tenn. AG LEXIS 18 (2/11/14).

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Tenn. Code Ann. § 2-19-202 (2016)

2-19-202. Interference with election or nomination.

(a) It is unlawful for any public officer or employee to use such person's official position, authority or influence to interfere with an election or nomination for office or directly or indirectly attempt to intimidate, coerce or command any other officer or employee to vote for or against any measure, party or person, or knowingly receive or pay assessments of any kind or character for political purposes or for election expenses from any other officer or employee.

(b) It is the intent of this section to prohibit any political intimidation or coercion of any public officer or employee.

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-1937.

NOTES: Section to Section References.

This section is referred to in § 2-19-201.

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GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY

Tenn. Code Ann. § 2-19-203 (2016)

2-19-203. Soliciting contributions for political purposes.

(a) It is unlawful for any public officer or employee knowingly to solicit directly or indirectly any contribution of money, thing of value, facilities or services of any person who has received contracts, compensation, employment, loans, grants or benefits, or any person whose organization, agency or firm has received such benefits financed by public funds, state, federal or local, for political purposes or campaign expense.

(b) (1) As used in this subsection (b), unless the context otherwise requires, "contribution" means any advance, conveyance, deposit, distribution, transfer of funds, loan, loan guaranty, payment, gift, or subscription, of money or thing of value, including, but not limited to, use of a facility or provision of personal services, for use on behalf of any candidate for political office, or for any political purpose or campaign expense.

(2) It is unlawful knowingly to solicit, accept, or collect, directly or indirectly, any contribution from a public officer or employee if the solicitor or the solicitor's principal is, directly or indirectly, in a supervisory capacity over such officer or employee or is otherwise able to control the retention, promotion, demotion, or terms or conditions of employment of such officer or employee.

(3) The provisions of this subsection (b) shall not be construed to prevent voluntary contributions from political action committees and associations of public officers and/or employees.

HISTORY: Acts 1972, ch. 740, § 1; 1979, ch. 280, § 1; T.C.A., § 2-1938; Acts 2006 (1st Ex. Sess.), ch. 1, § 5.

NOTES: Compiler's Notes.

Acts 2006, ch. 1 (1st Ex. Sess.), § 1 provided that the act is and may be cited as the "Comprehensive Governmental

Ethics Reform Act of 2006."

Attorney General Opinions.

Prohibitions on state employees running for public office, OAG 98-030 (1/29/98).

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Tenn. Code Ann. § 2-19-204 (2016)

2-19-204. Promises of benefits for political activity.

It is unlawful for any public officer or employee, directly or indirectly, to promise employment, position, work, compensation, contracts, loans, grants, appropriations or other benefits provided principally from public funds as a consideration, favor or reward for any political activity, support or opposition to any candidate, party or measure in any election.

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-1939.

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Tenn. Code Ann. § 2-19-205 (2016)

2-19-205. Deprivation, attempts to deprive, or threats to deprive persons of benefits.

It is unlawful for any public officer or employee, directly or indirectly, to deprive, attempt to deprive, or threaten to deprive any person of employment, position, work, compensation, contracts, loans, grants, appropriations or benefits provided principally from public funds for any political activity, support or opposition to any candidate, party or measure in any election.

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-19-205.

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Tenn. Code Ann. § 2-19-206 (2016)

2-19-206. Use of state-owned property for campaign advertising or activities.

(a) It is unlawful for any elected or appointed official of the state, or any employee of the state or any department, division or agency thereof, to display campaign literature, banners, placards, streamers, stickers, signs or other items of campaign or political advertising on behalf of any party, committee or agency or candidate for political office, on the premises of any building or land owned by the state, or to use any of the facilities of the state, including equipment and vehicles, for such purposes.

(b) It is unlawful to use public buildings or facilities for meetings or preparation of campaign activity in support of any particular candidate, party or measure unless reasonably equal opportunity is provided for presentation of all sides or views, or reasonably equal access to the buildings or facilities is provided all sides.

(c) This section shall not be construed to prohibit an employee from displaying a decal or bumper stickers on the employee's personal vehicle while parked on state property.

(d) (1) Subsections (a), (b), and (c) shall not apply to teachers.

(2) It is unlawful for any teacher to display campaign literature, banners, placards, streamers, stickers, signs, or other items of campaign or political advertising on behalf of any party, committee or agency, or candidate for partisan or nonpartisan public office elected by the people, on the premises of any building or land owned by a local education agency (LEA), or to use any of the facilities of the LEA, including equipment and vehicles, for such purposes. This subdivision (d)(2) does not apply to the display of campaign banners, placards, streamers, stickers, signs, or other items of campaign or political advertising on LEA-owned property or the use of LEA equipment, when the display or use is a part of and solely for the purpose of the LEA's program of student education relative to the electoral process. Except for

the use of LEA-owned equipment and vehicles, this subdivision (d)(2) does not apply to a teacher during hours in which the teacher is not performing school duties.

(3) This subsection (d) shall not be construed to prohibit any teacher from displaying a decal or bumper sticker on the teacher's personal vehicle while the vehicle is parked on LEA property.

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-19-206; Acts 2008, ch. 650, § 1; 2015, ch. 239, § 5.

NOTES: Amendments.

The 2015 amendment added (d).

Effective Dates.

Acts 2015, ch. 239, § 8. July 1, 2015.

Attorney General Opinions.

Prohibitions on state employees running for public office, OAG 98-030 (1/29/98).

It would not violate T.C.A. § 2-19-206(b) for a state legislator to use his or her office for fundraising phone calls for a not-for-profit entity formed to promote the lottery referendum on the 2002 ballot, OAG 02-114 (10/16/02).

It would violate T.C.A. § 2-19-206(b) for a state legislator to use his or her office to disseminate information regarding the state lottery referendum for a not-for-profit entity formed to promote the lottery referendum on the 2002 ballot, OAG 02-114 (10/16/02).

A legislative staff member does not violate T.C.A. § 2-19-206(b) by responding on behalf of the legislator to requests for information regarding a referendum or assisting the legislator in carrying out his or her duties informing the public about a referendum election, so long as this response or information does not directly advocate voting in favor of the referendum issue, OAG 02-114 (10/16/02).

Distributing information, addressing specific issues, or responding to specific events that relate to an issue of public interest, even if it also serves the purpose of an independent organization, is not prohibited by T.C.A. § 2-19-206, so long as the information or response does not directly advocate voting for or against a referendum issue, OAG 02-132 (12/12/02).

Staff member could violate T.C.A. § 2-19-206 if the member performs support functions for a legislator such as preparing a mass mailing that directly advocates voting for or against a referendum issue, OAG 02-132 (12/12/02).

Legislative staff member would violate this section by directly requesting contributions to an organization formed for the purpose of advocating popular approval of proposed amendments to the state constitution in a referendum either during regular business hours or in a state building, OAG 02-132 (12/12/02).

Collateral References.

Constitutionality, construction, and application of statute or regulatory action respecting political advertising -- Print media cases. 51 A.L.R.6th 359.

Constitutionality, construction, and application of statute or regulatory activity respecting political advertising nonprint media cases, or cases implicating both print and nonprint media. 53 A.L.R.6th 491.

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Tenn. Code Ann. § 2-19-207 (2016)

2-19-207. Political activity interfering with state business.

(a) It is unlawful for any person employed by the state to engage actively in a political campaign on behalf of any party, committee, organization, agency or political candidate, or to attend political meetings or rallies or to otherwise use such person's official position or employment to interfere with or affect the result of any regular or special primary election conducted within the state, or to perform political duties or functions of any kind not directly a part of such person's employment, during those hours of the day when such person is required by law or administrative regulation to be conducting the business of the state.

(b) (1) Nothing in this section shall be construed to deprive any official or employee of the state from voting for the party or candidate of such person's choice or to deprive such person of the right to express such person's personal opinion concerning any political subject, party or candidate.

(2) Elected officials, state employees on leave or during those hours not required by law or administrative regulation to be conducting the business of the state, and persons duly qualified as candidates for public office are expressly excluded from this section.

(3) No rule or regulation which has been promulgated or shall be promulgated by any department, division, agency, or bureau of state government shall be more restrictive of the political activity of state employees on leave or during those hours not required by law or administrative regulation to be conducting the business of the state than those restrictions already set forth in this section.

(c) (1) Subsections (a) and (b) shall not apply to teachers.

(2) It is unlawful for any teacher employed by an LEA during those hours of the day when the LEA requires the teacher to be performing school duties to:

(A) Engage actively in a political campaign on behalf of any party, committee, organization, or agency;

(B) Engage in a campaign for a candidate for partisan or nonpartisan public office elected by the people;

(C) Attend political meetings or rallies;

(D) Use the teacher's employment to interfere with or affect the result of any regular or special primary election conducted within the state; or

(E) Perform political campaign duties or functions.

(3) Nothing in this subsection (c) shall be construed to deprive a teacher from voting for the party or candidate of the teacher's choice or to deprive the teacher of the right to express the teacher's personal opinion concerning any political subject, party, or candidate.

(4) A teacher on leave or during those hours in which the teacher is not required to be performing school duties is not subject to the restrictions in subdivision (c)(2). No policy or rule of an LEA shall be more restrictive of the political activity of a teacher on leave or during those hours in which the teacher is not required to be performing school duties than those restrictions set forth in this subsection (c).

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-19-207; Acts 1982, ch. 822, § 1; 2015, ch. 239, §§ 6, 7.

NOTES: Compiler's Notes.

Section 49-1501, referred to in subsection (b)(2), was repealed by Acts 1972, ch. 814, § 18. Prior to its repeal § 49-1501 defined "teacher" as follows:

"'Teacher' shall mean any person employed in a public school as a teacher, helping teacher, librarian, principal, or supervisor, and shall include any superintendent of public schools, or administrative officer of a department of education, or of any educational institution supported in whole or in part by and under the control of the state. In all cases of doubt, the board of trustees hereinafter defined shall determine whether any person is a teacher as defined in this chapter."

Amendments.

The 2015 amendment substituted "and persons duly qualified as candidates for public office" for "persons duly qualified as candidates for public office and teachers, as defined by § 49-1501," in (b)(2); and added (c).

Effective Dates.

Acts 2015, ch. 239, § 8. July 1, 2015.

Cross-References.

Noninstructional public school personnel eligible to run for public office, § 49-5-301.

Attorney General Opinions.

Prohibitions on state employees running for public office, OAG 98-030 (1/29/98).

A legislative staff member does not violate T.C.A. § 2-19-207 by responding to requests for information and assisting a legislator in disseminating information about a referendum, so long as the response or information does not directly advocate voting in favor of the referendum issue, OAG 02-114 (10/16/02).

Distributing information, addressing specific issues, or responding to specific events that relate to an issue of public interest, even if it also serves the purpose of an independent organization, is not prohibited by T.C.A. § 2-19-207, so long as the information or response does not directly advocate voting for or against a referendum issue, OAG 02-132 (12/12/02).

Staff member could violate T.C.A. § 2-19-207 if the member performs support functions for a legislator such as preparing a mass mailing that directly advocates voting for or against a referendum issue, OAG 02-132 (12/12/02).

Legislative staff member would violate T.C.A. § 2-19-207 by directly requesting contributions to an organization formed for the purpose of advocating popular approval of proposed amendments to the state constitution in a referendum either during regular business hours or in a state building, OAG 02-132 (12/12/02).

The Tennessee Claims Commission is part of the executive branch of the government. A Tennessee claims commissioner is not a member of the judiciary and employees of the claims commission and claims commissioners are subject to T.C.A. § 2-19-207. OAG 13-111, 2013 Tenn. AG LEXIS 114 (12/30/13).

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Tenn. Code Ann. § 2-19-208 (2016)

2-19-208. Penalty for violations by public officers and employees.

A violation of this part is a Class C misdemeanor.

HISTORY: Acts 1972, ch. 740, § 1; T.C.A., § 2-19-207; Acts 1989, ch. 591, § 113.

NOTES: Cross-References.

Penalty for Class C misdemeanor, § 40-35-111.