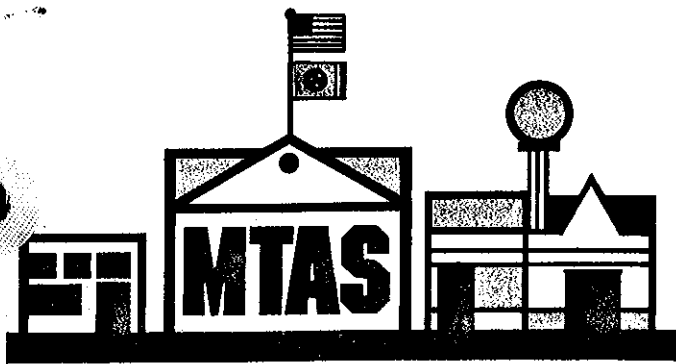




TECHNICAL BULLETIN



MUNICIPAL TECHNICAL ADVISORY SERVICE
THE UNIVERSITY OF TENNESSEE
IN COOPERATION WITH THE TENNESSEE MUNICIPAL LEAGUE

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WRITTEN COMMUNICATIONS FROM A CITY MANAGER

by Don W. Ownby

Does the Tennessee "public records" law apply to written communications from a city manager to members of his governing body? Yes.

Section 10-7-503 in the "public records" law provides that all "municipal records . . . shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee, and those in charge of such records shall not refuse such right of inspection to any citizen, unless otherwise provided by state statutes."

Section 10-7-504 excepts certain "confidential records" from the requirements of section 10-7-503 but copies of correspondence from the city manager to members of the board are not included among those exceptions. Therefore, if file copies of correspondence from the city manager to his board members constitute a "municipal record" they are open to public inspection since there is no state statute providing otherwise. The "public records" law does not define the term "municipal records" but, in section 10-7-403, it does define the term "public records" to include: "All documents, papers, records, books of account and minutes of the governing body of any municipal corporation within the county, or of any office or department of such municipal corporation." (Underlining mine.)

In a 1979 case, *Board of Ed., Etc. v. Memphis Pub. Co.*, 585 SW2d 629, the Court of Appeals of Tennessee, Western Section, held that the "public records" law appeared to it "to be an all encompassing legislative attempt to cover all printed matter created or received by government in its official capacity and whether intended to be retained temporarily or retained and preserved permanently." The court found in that case that applications for the position of school superintendent, in the hands of a search committee, were subject to the "public records" law and were open to public inspection. Payroll records of a public hospital have been held to be open to public inspection. *Cleveland Newspapers, Inc. v. Bradley, Etc.*, 621 SW2d 763 (1981). Closed investigative files of a city police department have been held to be open to public inspection. *Memphis Pub. Co. v. Holt*, 710 SW2d 513 (1986).

In the latter Memphis Case the Supreme Court of Tennessee held that "a public official can justify refusing a Tennessee citizen access to a governmental record only by proving by a preponderance of the evidence that the record in controversy comes within a statutory exemption." If there is no statute exempting it from the "open records" law, any file kept by a municipality is subject to public inspection.

For Further Information

For further information on the public records law and written communications, please contact Don W. Ownby, Municipal Codification Consultant in Knoxville at (615) 974-5301, or your MTAS Legal Consultant.

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