



The State University
and Community College System of Tennessee

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MEMORANDUM

TO: CHIEF BUSINESS AFFAIRS OFFICERS

FROM: Mary E. Walker
General Counsel

RE: Acceptance of Service in Lawsuits

DATE: August 11, 1988

Due to the fact that there appears to be some confusion regarding the acceptance of service on our lawsuits, I am going to restate the Attorney General's position.

Normally, a sheriff, law enforcement officer or possibly an attorney or other individual will attempt to serve a summons and the complaint which sets out the allegations of the lawsuit. Normally, the institution, state or the Board of Regents are named as the defendants. In that case, no one at the institution should accept service, but the individual attempting service should be told that the Attorney General of the State of Tennessee has to be served. The institution is statutorily prohibited from accepting service.

However, if the lawsuit names individuals at the institution, it is a trickier question. If the individual is named in his or her official capacity only, then the Attorney General also should accept service. In the style (caption) of the case, the words official capacity or individual capacity may follow the person's name or in the paragraphs naming the parties, there should be some indication of official or individual capacity. The prayer for relief found at the end of the complaint indicates what relief the plaintiff is seeking. Normally when an individual is sued in his or her official capacity, there is no request for money damages. If only injunctive relief is requested, i.e. stop a termination from occurring, prevent an action from occurring, etc. the action is still requested within the official capacity of the person and the Attorney General also would accept service.

The only time an individual would accept service on the institutional level is when the individual is named and money damages are sought from that individual for actions taken which go outside the realm of his official responsibilities, i.e. an intentional act of causing emotional distress or an act of malice taken by the individual. In that case, the individual should accept service and then request representation through the office of the General Counsel.

Austin Peay State University - East Tennessee State University - Memphis State University - Middle Tennessee State University
Tennessee State University - Tennessee Technological University - Chattanooga State Technical Community College
Cleveland State Community College - Columbia State Community College - Dyersburg State Community College
Jackson State Community College - Motlow State Community College - Roane State Community College
Shelby State Community College - Volunteer State Community College - Walters State Community College
Nashville State Technical Institute - State Technical Institute at Knoxville
State Technical Institute at Memphis - Tri-Cities State Technical Institute
The State Area Vocational Technical Schools

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A caveat to all of this is when injunctive relieve, i.e. asking that an action be taken or prevented from happening and it is the last day on which that action can be taken or prevented, we must be careful not to avoid service for the purpose of obstructing justice. In those types of cases, please call our office and we will give you some advice as to what to do.

In most cases, the office of the Attorney General must accept service and no individual on campus should accept it. The easiest way to be sure about this is to call our office and ask to speak to one of the attorneys.

Please call if there are any questions.

MEW: arh

cc: Mr. Knox Walkup, Chief Deputy
Attorney General
Ms. Patsy Cottrell, Deputy
Attorney General