



County Technical Assistance Service

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Tangible Employment Action

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily 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 e-Li material.

Sincerely,

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Tangible Employment Action

Reference Number: CTAS-1065

Tangible employment actions are decisions that significantly change an employee's employment status. Examples include decisions involving hiring, firing, promoting, demoting, compensation, benefits and re-assignments. A tangible employment action:

- requires an official act of the enterprise
- usually is documented in company records
- may be subject to review by higher level supervisors
- often requires formal approval of the enterprise and use of its internal processes
- usually inflicts direct economic harm
- in most instances can only be caused by a supervisor or other person acting on behalf of the company

Any employment action is "tangible" if it results in a significant change in employment status. Conversely, an employment action is not "tangible" if it results only in an insignificant change. Unfulfilled threats are insufficient.

If a supervisor undertakes or recommends a tangible job action based on a subordinate's response to unwelcome sexual demands, the employer is strictly liable. The result is the same regardless of whether the employee rejects the supervisor's demands and is subjected to an adverse action, or whether the employee submits to the demands and receives a tangible job benefit.

If a challenged action is not "tangible," it still may be considered as part of a hostile environment claim.

The only way to avoid liability for unlawful harassment that results in a tangible employment action is to prevent it from happening. Supervisors must be educated on this point. Employers cannot afford to allow this type of discrimination to occur.

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