



# County Technical Assistance Service

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## Liability for Personnel Matters

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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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## Liability for Personnel Matters

**Reference Number:** CTAS-767

Important employment law considerations include hiring, compensation, benefits, termination, retirement, the federal Fair Labor Standards Act (“FLSA”), right-to-know statutes, military and reserve service, jury service, the Occupational Safety and Health Act, the Equal Pay Act, the Immigration Control Act, the insurance provisions of the Consolidated Omnibus Budget Reduction Act (“COBRA”), FICA and FIT withholdings and the Family and Medical Leave Act (“FMLA”).

As employers, county officials must refrain from retaliating or firing based on the employee’s exercise of a protected constitutional right (e.g., freedom of speech), or a statutory right (e.g., filing a workers’ compensation claim). Discrimination must be avoided in every aspect of employment. Under state and federal law, an employer cannot discriminate against an employee or a potential employee based upon race, color, sex, religion, national origin, age or disability (including infectious, contagious or similarly transmittable diseases). Further, any form of sexual harassment is illegal. An individual may file a discrimination complaint with the Equal Employment Opportunity Commission (“EEOC”) or the Tennessee Human Rights Commission (“THRC”).

An employer cannot fire an employee solely for: (1) refusing to participate or remain silent about illegal activities; or (2) using an agricultural product not regulated by the alcoholic beverage commission that is not otherwise prohibited by law (i.e., smoking) if the employee follows the employer’s guidelines regarding the use of the product while at work. T.C.A. § 50-1-304).

Finally, the First Amendment to the United States Constitution applied to the states through the Fourteenth Amendment prohibits patronage dismissals of certain types of governmental employees. *Rutan v. Republican Party of Illinois*, 497 U.S. 62, 64 (1990). Patronage dismissals are those based upon political activity or affiliation.

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