

## Happy Spring!

Our next virtual training on the Ethics and Open Meetings Acts is set for May 9 at 12 noon. The training is open to the public. Email [Kimberly.b.weber@wv.gov](mailto:Kimberly.b.weber@wv.gov) for an invite. (Approved for 1 hour of CLE)



## Open Meetings Act

This quarter's newsletter will focus on the Open Meetings Act ("OMA") and new laws relating to open meetings. Page two will discuss public servants holding private jobs.

### 2023 New Law

**Uniform Public Meetings During Emergencies Act.** ([House Bill 3146](#)) The Bill created a new law, at W. Va. Code § 6-9C-1 through 10. The emergency meetings act is separate from the Open Meetings Act. The Open Meetings Committee of the Ethics Commission does not have authority to issue advisory opinions interpreting the new emergency meetings act.

### New Open Meetings Advisory Opinion

**OMAO 2023-01:** The Open Meetings Act does not require a governing body to provide a physical meeting space but requires only that citizens be given access to a meeting by telephone conferencing or other electronic means.

### Open Meetings Q & A

**Q: May council members attend an executive session of a committee on which they do not serve?**

A: The OMA does not regulate who may attend an executive session unless recusal is required. See [OMAO 2002-13](#). Consult your agency's rules or other applicable laws to determine who may attend an executive session.

**Q: If a member of the governing body is recused from a matter, may he or she attend the executive session where that matter is being discussed?**

A: No. A member must recuse himself or herself from both the open and closed portions of a meeting at which the agenda item is being discussed. See [Voting Guideline](#).

**Q: Does a town have to provide notice to the public of its "work sessions?"**

A: Yes. Work sessions are subject to the same notice requirements as other meetings. See [OMAOs 2008-09](#) and [2013-06](#). In fact, the OMA does not recognize the term "work session" as distinct from other meetings.

## New Ethics Act Advisory Opinions

### What about my other job?

This quarter's Advisory Opinions examined the restrictions on having another job:



**2023-01** A **2023-01** A may be privately employed as a security officer during his off-duty hours under the Ethics Act, but see **W. Va. Code § 6-3-1(a)(5)** and **§ 7-14-15a** for employment limitations on sheriffs.



**2023-02** An executive director of a housing authority may accept a stipend from a bank for serving on an advisory council when the housing authority is not doing business with the bank. The executive director must take annual leave to avoid double dipping.

**2023-04** A county commissioner's spouse may work for the county ambulance service as a licensed emergency medical technician or paramedic per an exception in **W. Va. Code § 61-10-15**.

## Do I Need an Employment Exemption?

The Ethics Act prohibits *full-time public servants* from seeking or holding employment with another person or business when:

- 1) The public servant, or his/her subordinate, has taken regulatory action in the preceding 12 months on the person or business, or it currently has a matter on which the public servant or a subordinate is working, or
- 2) The person or business is an agency vendor and if the public servant, or a subordinate, exercises authority or control over a public contract with that vendor.



### Do I need an Employment Exemption, if.....?

- .....I work for the Department of Highways, and I oversee the contractors on a project. One of the contractors asks me if I am interested in a job. *Yes or No*
- .....I work for a town as the part-time building code enforcer. I want to talk to the town's demolition company about working for it. *Yes or No*
- .....I work for a county as the planning and zoning director. I want to talk to a developer about a job so I can get paid more money. *Yes or No*

*Answer key: 1) Yes 2) No (part-time) 3) Yes*

The Ethics Commission may grant an employment exemption based on a finding that a public servant would be adversely affected if prohibited from seeking employment. See **"How to Obtain an Employment Exemption before Looking for a New Job"** Guideline and our **Request Form**.