

OPEN MEETINGS ADVISORY OPINION NO. 99-12

**ISSUED BY THE WEST VIRGINIA ETHICS COMMISSION
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS
ON NOVEMBER 4, 1999**

GOVERNMENTAL BODY/MEMBER SEEKING OPINION

Rick Bayes, Recording Secretary of the West Virginia Professional River Outfitters Association (“WVPRO”).

OPINION SOUGHT

Is the West Virginia Professional River Outfitters Association a public agency subject to the Open Governmental Proceedings Act?

FACTS RELIED UPON BY THE COMMITTEE

WVPRO is a non-profit corporation the purpose of which is to promote and safeguard the profession of outfitting and conservation of rivers. Its Board of Directors and members are whitewater outfitters. Funding is through membership dues, though WVPRO seeks grants for special projects on occasion. Associate memberships are available, but there are presently no such members.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

The Open Governmental Meetings Act applies to “public agencies” defined as:

any administrative or legislative unit of state, county or municipal government, including any department, division, bureau, office, commission, authority, board, public corporation, section, committee, subcommittee or any other agency or subunit of the foregoing authorized by law to exercise some portion of executive or legislative power.¹

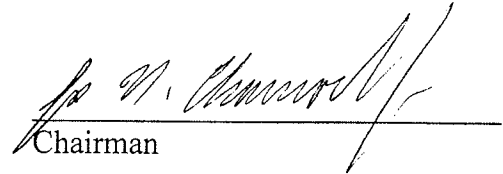
W. Va. Code § 6-9A-2(6). The Act requires meetings of a governing body of a public agency to be open.

¹ The Act excludes courts and family law masters under the jurisdiction of the judicial branch.

ADVISORY OPINION

None of the normal indicia of a public agency is present in WVPRO's structure. It was not created by statute; its members are business people; it does not rely upon public funding; and, most importantly, it exercises no executive or legislative powers. It primarily advances the interests of commercial outfitters.

The Committee finds that the West Virginia Professional River Outfitters is not a public entity subject to the Open Governmental Proceedings Act.


Chairman