

OPEN MEETINGS ADVISORY OPINION NO. 2000-11

Issued On September 7, 2000 By The

**WEST VIRGINIA ETHICS COMMISSION
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS**

OPINION SOUGHT

Rita Ray, Executive Director of the Educational Broadcasting Authority, asks if the State Superintendent of Schools' designee may be counted in attaining a quorum.

FACTS RELIED UPON BY THE COMMITTEE

The West Virginia Educational Broadcasting Authority (EBA) is established in W. Va. Code § 10-5-2. The statute provides for 11 voting members, "of whom one shall be the state superintendent of schools." Because of multiple demands on the time of the Superintendent, he has designated a subordinate to attend EBA meetings. The requester is concerned that a quorum may be lacking for a future EBA meeting, unless the Superintendent's designee is counted.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

W. Va. Code § 6-9A-11(a) provides: "Any governing body or member thereof subject to the provisions of this article may . . . request an advisory opinion from the West Virginia ethics commission committee on open governmental meetings as to whether an action or proposed action violates the provisions of this article."

ADVISORY OPINION

This request requires the Committee on Open Governmental Meetings to look beyond the issue of whether the requirements of the Open Governmental Proceedings Act apply to a given factual situation and render an opinion on the authority of an *ex officio* member to designate another individual to serve on a governing body in his or her stead. The Committee finds that issuing an opinion of this nature would go beyond the Committee's authority to render advisory opinions on the application of the Act. Accordingly, the Committee declines to answer the question presented.



Chairman