

OPEN MEETINGS ADVISORY OPINION NO. 2001-03

COPY

Issued On April 5, 2001 By The

WEST VIRGINIA ETHICS COMMISSION
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

Donna Davis, a member of the Pleasants County Board of Education, asks if it would be a violation of the Open Meetings Act for two or more school board members to visit a school and observe a particular activity at the same time.

FACTS RELIED UPON BY THE COMMITTEE

The requester explains that it is common practice for school board members to visit county schools to get a first hand view of the condition of the buildings, and observe educational programs, teaching strategies, and other school activities. On such occasions, they usually observe a particular activity, and will frequently visit with faculty, students and administrators to obtain their perspective.

On some occasions, without prior coordination, two members of the five-member board may appear at the same school at the same time. On rare occasions, as many as three members may appear at the same location, and engage in similar activities. However, the members do not discuss business among themselves, and no official business is conducted.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

W. Va. Code § 6-9A-2 provides in pertinent part:

(4) "Meeting" means the convening of a governing body of a public agency for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter which results in an official action. Meetings may be held by telephone conference or other electronic means. The term meeting does not include:

(B) Any on-site inspection of any project or program;

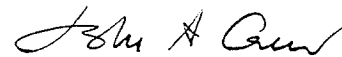
ADVISORY OPINION

The Open Meetings Act is intended to guarantee that the public has an opportunity to attend meetings at which government agencies conduct their business, and that they are given reasonable advance notice of where and when business meetings will be held and the matters to be considered.

The Act specifically provides that on-site inspections of projects or programs are not to be considered business meetings of the agency and are exempt from the provisions of the Act. This provision is consistent with and is explained by the language of the Act's "Declaration of legislative policy", *i.e.*

"The Legislature finds, however, that openness, public access to information and a desire to improve the operation of government do not require nor permit every meeting to be a public meeting. The Legislature finds that it would be unrealistic, if not impossible, to carry on the business of government should every meeting, every contact and every discussion seeking advice and counsel in order to acquire the necessary information, data or intelligence needed by a governing body were required to be a public meeting." W. Va. Code § 6-9A-1

The school visits described here are not Board business meetings, regardless of the number of Board members present. Even if a quorum chanced to meet during such a school visit and discussed school business, they would not violate the Act, so long as the discussion was not intended to lead to, and did not result in, official action.



Chairman