

COPY

OPEN MEETINGS ADVISORY OPINION NO. 2001-14

Issued On June 7, 2001 By The

WEST VIRGINIA ETHICS COMMISSION
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

The Clay County Development Corporation (CCDC) asks if the Open Governmental Proceedings Act applies to that organization.

FACTS RELIED UPON BY THE COMMITTEE

CCDC is a non-profit corporation which was established to assist the poor and disadvantaged. CCDC operates a Senior Citizens Center under a federally-funded contract. In addition, CCDC is reimbursed for certain services provided through the federal Medicaid program.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

The Open 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.

W. Va. Code § 6-9A-2(6).

ADVISORY OPINION

The Open Meetings Act applies only to public agencies. The Act defines a “public agency” as “any administrative 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.”

If CCDC is to be included in the Act’s definition of a “public agency” it must be as a “public corporation.” In Open Meetings Advisory Opinion 99-13, the Committee determined that a public corporation is a corporation created by state or local authority to carry out a governmental function. The Committee further noted that the Act does not look at an organization’s receipt of state or local funds as a factor in determining whether the organization is a public corporation.

CCDC is not a corporation created by state or local authority to carry out a governmental function. It exists independent of state authorization, and the Committee finds that it is not a public corporation and, therefore, is not subject to the Act.



Chairman