

OPEN MEETINGS ADVISORY OPINION NO. 2001-20

Issued On August 9, 2001 By The

WEST VIRGINIA ETHICS COMMISSION COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

The Nicholas County Commission asks if its procedure for issuing meeting agendas complies with the Open Meetings Act.

FACTS RELIED UPON BY THE COMMITTEE

The Nicholas County Commission currently meets on the first and third Wednesday of each month at 10:00 A.M. On the preceding Friday, the meeting agenda is posted on the front door of the county courthouse. Copies of this agenda are available in the Commission's office on request.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

W. Va. Code 6-9A-3 provides in pertinent part:

Each governing body shall promulgate rules by which the date, time, place and agenda of all regularly scheduled meetings and the date, time, place and purpose of all special meetings are made available, in advance, to the public and news media, except in the event of an emergency requiring immediate official action.

ADVISORY OPINION

The Open Meetings Act requires governing bodies of public agencies to notify the public when and where a meeting will be held. In addition, an agenda listing the matters which will be dealt with at the meeting must be made available to the public in advance of the meeting. The statute does not set a specific deadline for making an agenda available to the public.

The Committee has previously concluded that the agenda must be made available within a "reasonable time" in advance of the meeting. How far in advance of a meeting gives "reasonable" notice will vary with the circumstances peculiar to each agency. Therefore, this question must be addressed on a case-by-case basis.

In a prior Open Meetings Advisory Opinion (OMAO), 2001-04, the Committee found that a County Commission meeting twice a month would comply with the Act by making its agenda available at least three days in advance of its regularly scheduled meetings. The Nicholas County Commission, which meets on the first and third Wednesday of each month, is currently issuing its agenda three days in advance of each regular meeting.

In a related opinion, OMAO 2001-10, the Committee explained that, for purposes of calculating the number of days in the notice period, the day of the meeting is not counted. Further, Saturdays, Sundays and legal holidays must be excluded. The Commission's current practice for making its regular meeting agenda available to the public and media complies with this guidance, provided an additional day's notice is given when there is an intervening legal holiday.

When the Commission has made its agenda available three days or more in advance of the meeting, it may, at its option, amend the agenda to add additional items of business - items not known at the time the original agenda was prepared and made available to the public. Amendments may be made as late as two days before the meeting, and made available to the public in the same manner as the original agenda.



Chairman