

## **OPEN MEETINGS ADVISORY OPINION NO. 2001-27**

**Issued On September 6, 2001 By The**

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

#### **OPINION SOUGHT**

The Tucker County Commission asks for guidance on providing notice of its meetings and making a meeting agenda available to the public and news media.

#### **FACTS RELIED UPON BY THE COMMITTEE**

The Tucker County Commission meets twice monthly on the second Wednesday at 9:00 A.M. and the fourth Wednesday at 6:00 P.M. The meeting agenda is posted on the Court House doors by 3:00 P.M. on the Friday before the meeting. Copies of the agenda are also submitted to the local newspapers and television stations via telephone facsimile at that time.

#### **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 . . . are made available, in advance, to the public and news media. . . ."

#### **ADVISORY OPINION**

The Open Meetings Act requires public agencies to inform the public of: (1) the time, date, place and purpose of their meetings; and (2) what will be dealt with at the meetings. This means agencies must: (1) give "meeting notice," telling the public when and where the meeting will be held; and (2) provide a "meeting agenda," telling the public the items of business with which the meeting will deal.

Meeting notices and meeting agendas may be separate documents or may be combined in a single document. More often than not agencies will treat them as separate documents and post or publish the meeting notice prior to making the meeting agenda available to the public. The Committee has previously determined that a County Commission which meets in accordance with a fixed schedule may comply with the meeting notice requirement by posting notice of its meeting schedule annually, and keeping this notice posted in a public place throughout the year. The Tucker County Commission may likewise adopt this practice.

The Act also requires public agencies to make meeting agendas available in advance to the public and news media, but does not specify how far in advance an agenda must be issued. This Committee has concluded that "reasonable notice" must be provided.

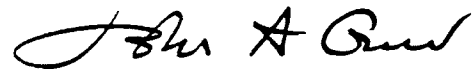
In the case of a County Commission meeting twice a month, the Committee has previously ruled that making an agenda available at least three days in advance of its regularly scheduled meeting would comply with the Act. The Committee finds that this same three-day notice period is appropriate for the Tucker County Commission.

In calculating the number of days in the notice period, Saturdays, Sundays, and legal holidays are not counted. Therefore, in the absence of an intervening legal holiday, the Tucker County Commission would comply with the requirements of the Act by making the agenda of its regular Wednesday meetings available to the public and media at any time before the close of business on the preceding Friday.

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.

However, no amendment of the agenda may be made less than two days before a meeting, unless it is to deal with an emergency matter. Routine matters that come up after the deadline for issuing an amendment has passed must be held over to the next meeting. If an agenda is amended to accommodate action on an emergency matter, both the meeting agenda and the meeting minutes must explain the facts and circumstances of the emergency.

The Act requires that an agenda be "made available" to the public and news media in advance of a meeting; it does not compel submission of an agenda to any particular entity by any particular means. Nonetheless, governing bodies whose meetings frequently receive media coverage are encouraged to adopt rules which include provisions for sending copies of the meeting agenda to all interested media.



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Chairman