

OPEN MEETINGS ADVISORY OPINION NO. 2001-29

Issued On September 6, 2001 By The

WEST VIRGINIA ETHICS COMMISSION COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

Multi-County Community Action Program Against Poverty, Inc. (Multi-CAP) asks if the Open Governmental Proceedings Act applies to that organization.

FACTS RELIED UPON BY THE COMMITTEE

Multi-CAP is a non-profit corporation which provides various services to the low-income population in five West Virginia counties: Boone, Clay, Fayette, Kanawha, and Putnam. Virtually all of its funding comes from federal sources.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

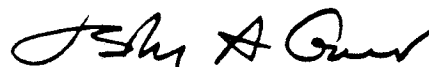
W. Va. Code § 6-9A-2(6) defines a "public agency" as: "[a]ny administrative or legislative unit of state, county or municipal government, including any department, division, bureau, office, commission, authority, board, public corporation, section, committee, subcommittee or any other agency or subunit of the foregoing authorized by law to exercise some portion of executive or legislative power."

ADVISORY OPINION

The Open Meetings Act applies only to public agencies, that is "any administrative unit of state, county, or municipal government, ... **public corporation** ... or any other agency or subunit of the foregoing, authorized by law to exercise some portion of executive or legislative power."

Multi-CAP is neither a unit of state, county, or municipal government nor a "public corporation." A public corporation is a corporation created by state or local authority to carry out a governmental function. The source of an organization's funding is ordinarily not a controlling factor in determining whether an organization is a public corporation.

Multi-CAP was not 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