

OPEN MEETINGS ADVISORY OPINION NO. 2002-08

Issued On April 4, 2002 By The

WEST VIRGINIA ETHICS COMMISSION COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

The Clarksburg Water Board asks if it may either adjourn a meeting or convene in executive session if an employee whose discipline or discharge is being discussed engages in inappropriate conduct.

FACTS RELIED UPON BY THE COMMITTEE

In Open Meetings Advisory Opinion 2002-07, this Committee advised the Clarksburg Water Board that it could meet in executive session to discuss the elimination of a position that was currently filled by an employee. However, the Open Meetings Act permits the affected employee to request that this discussion be conducted in an open session.

The Board wants to know if it may adjourn the meeting or go into executive session when an employee whose employment situation is being discussed in an open meeting "makes either inappropriate or slanderous statements about another employee or board member."

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

W. Va. Code § 6-9A-3 states: "This article does not prohibit the removal from a meeting of any member of the public who is disrupting the meeting to the extent that orderly conduct of the meeting is compromised."

ADVISORY OPINION

Governing bodies have authority to maintain order during their meetings and may eject a person whose misconduct disrupts a meeting. The Water Board could eject an employee whose discipline or discharge is, at the employee's request, being discussed in an open portion of a meeting, if the employee's misconduct compromises the "orderly conduct of the meeting."

However, once an employee has requested that his matter be discussed in an open meeting, his subsequent misconduct does not relieve the governing body of the need to continue the discussion in open meeting. The Water Board could not eject the employee and then go into executive session to continue its discussion of the matter, or go into executive session simply to escape the employee's disruptive conduct.



Chairman