

OPEN MEETINGS ADVISORY OPINION NO. 2004-16

Issued On January 6, 2005 By The

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

OPINION SOUGHT

The Kanawha County Board of Education asks if the Open Meetings Act allows the Board to place a question period for the County School Superintendent on the meeting agenda.

FACTS RELIED UPON BY THE COMMITTEE

The County Board of Education proposes to list an item on each meeting agenda for "questions." This portion of the meeting would provide an opportunity for any Board Member to ask questions of the Superintendent concerning any matter related to the operation of the school system. No action will be taken by the Board on these items. Discussion will be limited to gathering information regarding items of interest.

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 and the media in advance of the meeting.

No provision in the Open Meetings Act precludes members of a governing body, in the course of a public meeting, from seeking information from agency personnel regarding matters within the scope of the agency's operations. On certain occasions, this exchange of information may reveal a matter requiring official action by the Board.

Should a dialogue between the Board and Superintendent develop an issue that may require official action, and that matter is not listed on the meeting agenda, the Board will be limited to discussing whether official action is required. If the Board determines that official action will be required, the matter will need to be placed on the agenda for a subsequent meeting where it can be discussed and decided, unless it involves an emergency. The Act permits a governing body to act on emergencies requiring immediate official action at any time during a public meeting.



Chairman