

OPEN MEETINGS ADVISORY OPINION NO. 2005-13

Issued On January 5, 2006 By The

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

OPINION SOUGHT

The **Greenbrier County Board of Education** (Board) asks that its procedural rules be reviewed for compliance with the Open Meetings Act.

FACTS RELIED UPON BY THE COMMITTEE

The Board holds regular meetings on the second Tuesday of each month. In addition to posting notice of this meeting schedule on the bulletin board at the Board of Education Office, the Board will similarly post an agenda for all regular meetings at least three days in advance, excluding Saturdays, Sundays, legal holidays and the day of the meeting. The Board will similarly deliver notices and agendas to the local public news media on the day of the posting. Special meeting notices and agendas will likewise be posted or provided in the same manner at least three days in advance of a special meeting. A complete copy of the Board's proposed policy is attached to this Advisory Opinion as Appendix A.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

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

Any governing body may make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend. 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: Provided, That persons who desire to address the governing body may not be required to register to address the body more than fifteen minutes prior to time the scheduled meeting is to commence.

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 each governing body to promulgate certain procedural rules. As a minimum, these rules must state how and when the date, time, place and agenda of all regular meetings, as well as the date, time, place and purpose of all special meetings, will be made available to the public and news media.

The provisions in the Board's proposed policy governing meeting notices and meeting agendas are generally consistent with previous opinions from this Committee regarding these matters. The rules satisfy the minimum requirements of W. Va. Code § 6-9A-3.

In addition to describing meeting notice and agenda procedures, governing bodies may elect to include other provisions governing meeting procedures in their rules. Consistent with its legislative mandate to consider whether a proposed action violates any provision in the Act, this Committee will review additional provisions in a governing body's procedural rules. However, the Committee's opinion, and any immunity which the governing body receives, will be limited to whether these additional rules are consistent with the Act. The opinion will not address discretionary application of a rule to a specific situation, unless the requester provides a proposed set of facts describing that situation.

The Board's proposed policy includes a provision encouraging persons who want to address the Board of Education at a meeting to make arrangements in advance through the Superintendent's office. The proposed policy goes on to state that "advance arrangements are not necessary as such persons may sign in prior to the scheduled commencement of any regular or special meeting." The Committee finds that this policy does not require any person to sign up more than 15 minutes prior to the time a meeting is scheduled to begin. Therefore, it is consistent with the Act.

The Committee has reviewed the proposed policy in its entirety. There are no provisions which are not consistent with the minimum requirements of the Open Meetings Act.


Chairman

Greenbrier County Board of Education

01 - NOTICE AND CONDUCT OF MEETINGS

01-1 General

- 1.1 Scope — This procedural policy establishes requirements for notice of meetings and general rules for conduct of said meetings of the Greenbrier County Board of Education hereafter referred to as “Board of Education”.
- 1.2 Authority—WV Code §6-9A-1, etseq.
- 1.3 Filing Date - _____ 2006
- 1.4 Effective Date - _____ 2006

01-2 Preface

- 2.1 The West Virginia Legislature has provided in Article 9A of Chapter 6 of the West Virginia Code that all regular and special meetings of governing bodies shall be open to the people of the State and that the people shall be given reasonable advance notice of the time, date, and location of such meetings being convened, provided, however, that governing bodies may hold executive sessions as part of the duly convened regular or special meetings under certain circumstances as permitted by law;
- 2.2 The Legislature has provided in Section 3, Article 9A, Chapter 6 of the West Virginia Code that:

Each governing body shall promulgate rules by which the date, time, and agenda of all regularly scheduled meetings and the 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 attention.

01.3 Notice of Meetings.

- 3.1 The Board of Education shall meet at the Greenbrier County Board of Education Office Conference Room at 202 Chestnut Street, Lewisburg, WV 24901, or at such other locations as the Board of Education may from time to time deem necessary.
- 3.2 Regular Meetings — Notice of regularly scheduled meetings shall be posted by the Board of Education on the bulletin board at the Greenbrier County Board of Education Office. Regular Board meetings will be held on second Tuesday of each month. Regular meetings will be held at the Board of Education Office at 7:00 P.M. General agenda items of each meeting shall be posted on the bulletin board at the Board of Education Office at least three days prior to the date of the meeting. Meeting notices and agendas shall be delivered to the local public news media at least three days prior to the date of the meeting. The three-day period will

exclude the day of the meeting, along with Saturdays, Sundays, and legal holidays. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at said Board of Education location as soon as feasible after such cancellation or postponement has been determined.

- 3.3 Special Meetings — The notice of any special meeting shall be posted by the Board of Education Office on the bulletin board at the Board of Education office and the front door of the Board of Education Office not less than three days before a specially scheduled meeting is to be held, stating the date, time, place, and purpose for which such special meeting shall be held. Meeting notices and agendas shall be delivered to the public news media at least three days prior to the date of the meeting. The three-day period will exclude the day of the meeting, along with Saturdays, Sundays, and legal holidays. If the special meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at said Board of Education location as soon as feasible after such cancellation or postponement has been determined.

01-4 Conduct of Meetings

- 4.1 Presentations — Persons desiring to place an item on the Board of Education's agenda must make a written request to the County Superintendent not less than ten (10) days prior to the date of the meeting. Persons desiring to address the Board of Education are encouraged to make arrangements in advance with the Superintendent's office. However, advance arrangements are not necessary as such persons may sign in prior to the scheduled commencement of any regular or special meeting. Persons having signed in and wishing to address the Board on non-agenda items will be allowed to do so under the Public Comments section once the Board President recognizes him/her. Speakers must provide his/her name, and the subject to be addressed. No official action may be taken on a Public Comments subject matter until it can be presented as on agenda item at the next subsequent meeting. Presentations shall be limited to ten (10) minutes, unless otherwise designated by the Board President. Delegations are encouraged to use a spokesperson to present their concerns or proposals.
- 4.2 Attendance — In the event that there is not adequate room to conduct a scheduled meeting due to the number of members of the public who wish to attend, a scheduled meeting may be moved to accommodate all those wishing to attend upon proper motion by any member of the Board of Education. Upon proper motion by a member of the Board of Education any scheduled meeting may be recessed and reconvened at a later date and time in the event that facilities are not readily available to accommodate the members of the public wishing to attend the meeting.
- 4.3 Conduct — The Board President can remove any member of the public attending a scheduled meeting of the Board of Education who is disruptive, to the extent that orderly conduct of the meeting is compromised, from the meeting with the assistance of a member of the Police Department upon proper direction.

- 4.4 Executive Sessions — If authorized by one of the exceptions in WV Code 6-9A-4, the Board of Education may hold an executive session during any regular or special meeting. During the open portion of a meeting, prior to convening an executive session, the Board President shall identify the authorization for conducting an executive session and shall present it to the members of the public present at the meeting. An executive session shall only be held upon a majority affirmative vote of the members of the Board of Education present and no decision shall be made in executive session.
- 4.5 Media Broadcasts — The Board of Education shall allow the placement and use of equipment necessary for broadcasting, photographing, filming, or recording a scheduled meeting. The equipment shall be placed or used within the meeting room so as to prevent undue interference with the meeting. In the event that the Board President determines that the size of the meeting room is not sufficient to accommodate all the members of the public present and the equipment and personnel necessary for broadcasting, photographing, filming and tape recording in the meeting room without unduly interfering with the meeting, the Board President may require the pooling of the equipment and personnel operating the equipment.

01-5 Minutes

- 5.1 Written minutes of all meetings of the Board of Education shall be prepared and maintained and shall be available to all members of the public after being approved at the following regularly scheduled meeting, and shall include, at least, the following:
- (1) The date, time, and place of the meeting;
 - (2) The name of each member of the Board of Education present and absent;
 - (3) All motions, proposals, resolutions, orders, and measures proposed, the name of the person proposing the same and their disposition; and
 - (4) The results of all votes and, upon the request of a member, pursuant to the rules, policies, or procedures of the Board of Education for the recording roll call votes, the vote of each member, by name.
- 5.2 A draft copy of the minutes, clearly marked, shall be open to the inspection of any member of the public, within ten working days after the meeting, at the Greenbrier County Board of Education Office.