

OPEN MEETINGS ADVISORY OPINION NO. 2000-13

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WEST VIRGINIA ETHICS COMMISSION
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

Christopher Stratton, a member of the Local School Improvement Council (LSIC) of Verdunville Elementary School in Logan County, asks if the Open Governmental Proceedings Act applies to an LSIC.

FACTS RELIED UPON BY THE COMMITTEE

W. Va. Code § 18-5A-1, *et seq.*, establishes an LSIC in all schools. In addition to describing the membership of an LSIC and how its members are selected or elected, the statute permits LSICs to apply for competitive grant awards under W. Va. Code § 18-2-29, as well as “receive and expend such grants for the purposes provided” W. Va. Code § 18-5A-2(e).

The statute further provides:

In order to promote innovations and improvements in the environment for teaching and learning at the school, a school improvement council shall receive cooperation from the school in implementing policies and programs it may adopt to:

- (1) Encourage the involvement of parent(s), guardian(s) or custodian(s) in their child’s educational process and in the school;
- (2) Encourage businesses to provide time for their employees who are parent(s), guardian(s) or custodian(s) to meet with teachers concerning their child’s education;
- (3) Encourage advice and suggestions from the business community;
- (4) Encourage school volunteer programs and mentorship programs; and
- (5) Foster utilization of the school facilities and grounds for public community activities.

W. Va. Code § 18-5A-2(e).

In addition, W. Va. Code § 18-5A-2(h) permits LSICs to adopt guidelines, as authorized under W. Va. Code § 18-5A-2(f), concerning:

. . . the instruction and rehabilitation of pupils who have been excluded from the classroom, suspended from the school, or expelled from the school, the description and recommendation of in-school suspension programs, a description of possible

alternative settings, schedules for instruction, and alternative education programs

W. Va. Code § 18-5A-2(f) additionally authorizes LSICs to adopt guidelines governing such matters as a student involvement program, which may include a peer mediation program, a preventive discipline program, and a system for effective communication and coordination between school and local emergency services agencies. However, such guidelines may not be “inconsistent with the laws of this state, the policies of [the] West Virginia Board of Education, or the policies of the county board of education.” W. Va. Code § 18-5A-2(h).

W. Va. Code § 18-5A-1 indicates the Legislature established LSICs to provide one of several processes “to facilitate and encourage the involvement of the school community in the operation of the local schools to improve educational quality.” Moreover, LSICs are expected to provide opportunities for involvement of the school community in the operation of the local schools and support local initiatives to improve school performance.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE


The Open Governmental Meetings Act applies to “public agencies” defined as:

any 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.

W. Va. Code § 6-9A-2(6). The Act requires meetings of a governing body of a public agency to be open.

ADVISORY OPINION

The key question to be resolved is whether an LSIC exercises “some portion of executive or legislative power” within the meaning of W. Va. Code § 6-9A-2(6). After considering all of W. Va. Code §§ 18-5A-1 through 18-5A-3, the Committee on Open Governmental Meetings finds that an LSIC functions as more than a merely advisory body. Although the authority of an LSIC to exercise executive or legislative powers may be limited, policy proposals and guidelines properly adopted by an LSIC nonetheless involve exercise of governmental authority within a given school. Therefore, except as otherwise specified in the statutes establishing LSICs, these organizations must comply with the provisions of the Open Governmental Proceedings Act.



Chairman