

OPEN MEETINGS ADVISORY OPINION NO. 2001-11

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Issued On June 7, 2001 By The

WEST VIRGINIA ETHICS COMMISSION
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

The Clay County Commission asks if its procedure for issuing meeting agendas complies with the Open Meetings Act.

FACTS RELIED UPON BY THE COMMITTEE

The Clay County Commission meets at 10:00 A.M. on the second and fourth Tuesdays of each month. The Commission posts an agenda for each meeting on the front door of the County Courthouse not later than 4:00 P.M. on the Friday immediately preceding each meeting.

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 a reasonable time in advance of the meeting. The statute does not set a specific deadline for making an agenda available to the public.

The Committee has previously concluded that the agenda must be made available within a "reasonable time" in advance of the meeting. How far in advance of a meeting gives "reasonable" notice will vary with the circumstances peculiar to each agency. Therefore, this question must be addressed on a case-by-case basis.

In a prior Open Meetings Advisory Opinion (OMAO), 2001-04, the Committee found that a County Commission meeting twice a month would comply with the Act by making its agenda available at least three days in advance of its regularly scheduled meetings. Clay County may likewise comply with the Act by issuing a meeting agenda three days before each meeting.

In a related opinion issued today, OMAO 2001-10, the Committee addressed a question from the Kanawha County Commission regarding how this notice period is counted. The Committee explained in that opinion that, for purposes of calculating the number of days in the notice period, the day of the meeting is not counted. Further, Saturdays, Sundays and legal holidays must be excluded, as government offices are generally not open for business on such days, and there would be no one available to respond to questions from the public or news media regarding the agenda. Accordingly, the Clay County Commission, when meeting on the second and fourth Tuesday of each month, absent an intervening legal holiday, would comply with the Act by issuing its agenda during normal business hours on the preceding Thursday.



Chairman