

OPEN MEETINGS ADVISORY OPINION NO. 2001-38

Issued On January 3, 2002 By The

WEST VIRGINIA ETHICS COMMISSION COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

The Eastern West Virginia Regional Airport Authority (EWVRAA) asks that its procedural rules be reviewed for compliance with the Open Meetings Act.

FACTS RELIED UPON BY THE COMMITTEE

EWVRAA has adopted procedural rules governing the issuance of meeting notices and meeting agendas for all regular and special meetings. EWVRAA meets monthly on the first Wednesday of each month. The rules provide for issuing regular meeting agendas three days in advance, and special meeting notices two days in advance, excluding Saturdays, Sundays, and legal holidays. A complete copy of the procedural rules are 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:

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

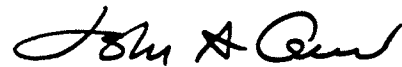
The Open Meetings Act requires each governing body to promulgate certain procedural rules. As a minimum, these rules must state how and when the date, time, place and agenda of all regular meetings, as well as the date, time, place and purpose of all special meetings, will be made available to the public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

The provisions in EWVRAA's procedural rules 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 inconsistent 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.

Having noted the limited scope of its opinion, the Committee finds that no provisions in any additional rules adopted by EWVRAA are inconsistent with the Act.



Chairman

**RULES AND PROCEDURES
FOR
EASTERN WEST VIRGINIA REGIONAL AIRPORT AUTHORITY MEETING
NOTICES AND PROMULGATION OF AGENDA AND PURPOSE OF MEETINGS**

**EASTERN WEST VIRGINIA REGIONAL AIRPORT
AUTHORITY MEETING DATES**

The Eastern West Virginia Regional Airport Authority (the "Authority") meets the first Wednesday of each month at an Airport location at 8:00 a.m. Any special meetings called by the Authority will be noticed to the public no less than two days (excluding legal holidays, Saturdays and Sundays) in advance thereof. Authority meetings that are cancelled or fall on holidays usually are re-scheduled on the next following Wednesday and will be so noticed. Notices of all meetings, both regular and special, are faxed to the Berkeley County Commission, City of Martinsburg, West Virginia Air National Guard and local news media and posted at the Airport Terminal no less than three days (excluding legal holidays, Saturdays and Sundays) prior to regular meetings and no less than two days (excluding legal holidays, Saturdays and Sundays) before special meetings, except in the event of an emergency requiring immediate official action. Notices shall contain the date, time and place of all meetings, the agenda in the case of regular meetings and the purpose of the meeting in the case of special meetings.

AIRPORT AUTHORITY AGENDA SUBMITTAL DATES

The Authority shall accept items for inclusion on the Agenda for a regular meeting up to seven days (excluding legal holidays, Saturdays and Sundays) prior to the next regular meeting.

ITEMS FROM THE PUBLIC

The Authority invites the public to speak briefly at the end of each regular meeting. If an item requires official action by the Authority and was not a scheduled agenda item, it will be scheduled for the next regular Authority meeting so that notice to the public shall be provided prior to Authority action.