

OPEN MEETINGS ADVISORY OPINION NO. 2002-21

Issued On November 7, 2002 By The

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

OPINION SOUGHT

The West Virginia Commission on Holocaust Education (Commission) asks if the Open Governmental Proceedings Act applies to its meetings.

FACTS RELIED UPON BY THE COMMITTEE

In 2001, the WV Legislature enacted WV Code §§ 5-28-1, *et seq.*, establishing the WV Commission on Holocaust Education as “a permanent state commission which . . . will survey, design, encourage and promote implementation of holocaust education and awareness programs in West Virginia and will be responsible for organizing and promoting the memorialization of the holocaust on a regular basis throughout the state.”

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

The Open Meetings Act defines a “public agency” 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).

ADVISORY OPINION

The key question to be resolved is whether the Commission 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 §§ 5-28-1 through 5-28-4, this Committee finds that the Commission’s authority to exercise executive power is sufficient to meet the definition of a “public agency” under the Open Meetings Act. Therefore, the Commission is subject to the requirements of the Act.



Chairman