

OPEN MEETINGS ADVISORY OPINION NO. 2003-09

Issued On September 4, 2003 By The

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

OPINION SOUGHT

Pocahontas Woods, Inc. asks if the Open Governmental Proceedings Act applies to that organization.

FACTS RELIED UPON BY THE COMMITTEE

Pocahontas Woods is a non-profit corporation established to promote the beneficial use of forest resources in and around Pocahontas County. The organization is substantially funded with State Forest Service funds, allocated through the Pocahontas County Commission.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

W. Va. Code § 6-9A-2(6) defines a “public agency” as: “[a]ny 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.”

ADVISORY OPINION

The Open Meetings Act applies only to public agencies, that is “any administrative unit of state, county, or municipal government, ... **public corporation** ... or any other agency or subunit of the foregoing, authorized by law to exercise some portion of executive or legislative power.”

Pocahontas Woods is neither a unit of state, county, or municipal government nor a “public corporation.” A public corporation is a corporation created by state or local authority to carry out a governmental function. The source of an organization’s funding is ordinarily not a controlling factor in determining whether an organization is a public corporation.

Pocahontas Woods was not created by state or local authority to carry out a governmental function. It exists independent of state authorization, and the Committee finds that it is not a public corporation and, therefore, is not subject to the Act.



Chairman