

## OPEN MEETINGS ADVISORY OPINION NO. 2005-11

Issued On July 14, 2005 By The

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

#### OPINION SOUGHT

The Braxton County Commission asks if it is required to submit an agenda for each meeting to the local radio station.

#### FACTS RELIED UPON BY THE COMMITTEE

The Braxton County Commission posts a copy of the agenda for each regular meeting on the front door of the County Courthouse. A local radio station has complained that the Commission does not issue a copy of the agenda via telephone facsimile.

#### 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.

Each governing body of the executive branch of the state shall file a notice of any meeting with the secretary of state for publication in the state register. Each notice shall state the date, time, place and purpose of the meeting. Each notice shall be filed in a manner to allow each notice to appear in the state register at least five days prior to the date of the meeting.

#### ADVISORY OPINION

The Open Meetings Act does not contain specific guidance on when and how meeting agendas are to be made available to the public and the media in advance of a meeting. This Committee has determined that the meeting agenda must be made available in a "reasonable" manner.

In Open Meetings Advisory Opinion 2001-04, this Committee advised the Braxton County Commission that it would comply with the notice requirements of the Open Meetings Act "by **making its agenda available** to the public and news media at least three (3) days prior to its regularly scheduled meetings." In subsequent opinions, the Committee has clarified that when applying this three day notice requirement, Saturdays, Sundays, legal holidays and the day of the meeting are not counted.

This Committee's previous opinion to the Braxton County Commission did not specify how an agenda may be made available to the public and news media. In Open Meetings Advisory Opinion 2002-05, this Committee advised the Hampshire County Commission that it could "either post a copy of the meeting agenda in a public place in the county courthouse, or make copies of the agenda available in the County Clerk's Office, or other public location, during normal business hours," and thereby fulfil this requirement. The Braxton County Commission's practice is to post the agenda in the county courthouse.

Governing bodies of public agencies are encouraged to provide agendas in advance of their meetings to news media who regularly cover or report those meetings. Agendas may be distributed by mail, telephone facsimile or E-mail, or they may be posted on an Internet website, if the governing body has established a presence on the Internet. However, failure to send a notice to a particular newspaper, radio or television station should not invalidate an otherwise proper public meeting. Accordingly, the Braxton County Commission, while encouraged to routinely send its meeting agendas to local news media, may comply with the Open Meetings Act by posting the agenda in a public location in the county courthouse during normal business hours at least three business days in advance of each regular meeting.



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Chairman