

## OPEN MEETINGS ADVISORY OPINION NO. 2008-18

### Issued On January 8, 2009 By The WEST VIRGINIA ETHICS COMMISSION COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

#### OPINION SOUGHT

A Member of the Boone County Board of Education asks whether a training workshop is a "meeting" subject to the requirements of the Open Meetings Act.

#### FACTS RELIED UPON BY THE COMMITTEE

The Board of Education previously arranged for a training workshop to be conducted by the Executive Director of the West Virginia School Boards Association. The training specifically related to Board Member and Superintendent relationships. The Association routinely conducts these and other workshops for school boards throughout the state.

Out of an abundance of caution, the Board President noticed the workshop as a special meeting of the Board of Education, stating the purpose of the meeting would be to "participate in a workshop presented by Howard O'Cull, Executive Director, West Virginia School Board Association. The topic will be *"Superintendent and Board Member Relationships."* This may have caused some confusion when one or more citizens attempted to participate in the gathering.

The Board seeks guidance on whether the public may be excluded from a gathering such as this when no matters requiring official action will be discussed, and there will be no deliberation toward making a decision or official action taken.

#### CODE PROVISIONS RELIED UPON BY THE COMMITTEE

W. Va. Code § 6-9A-2, *Definitions*, provides in pertinent part:

(4) "Meeting" means the convening of a governing body of a public agency for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter which results in an official action. Meetings may be held by telephone conference or other electronic means. The term meeting does not include:

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(D) General discussions among members of a governing body on issues of interest to the public when held in a planned or unplanned social, educational, training, informal, ceremonial or similar setting, without intent to conduct public business even if a quorum is present and public business is discussed but there is no intention for the discussion to lead to an official action; ....

#### ADVISORY OPINION

The Open Meetings Act is intended to guarantee that the public and the media have an opportunity to attend meetings at which government agencies conduct their business, and that they are given reasonable advance notice of when and where those meetings will be held, as well as the matters that will be considered at each meeting. A County Board of

Education constitutes a governing body of a public agency which is required to conduct its meetings in compliance with the Act.

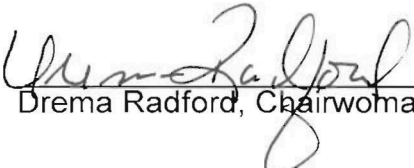
Nonetheless, the Act provides that certain gatherings of a governing body, including education or training workshops, are not considered business meetings of a governing body, and are therefore exempt from the requirements in the Act. This exemption is consistent with the Legislature's expressed intent set forth in W. Va. Code§ 6-9A-1:

The Legislature finds, however, that openness, public access to information and a desire to improve the operation of government do not require nor permit every meeting to be a public meeting. The Legislature finds that it would be unrealistic, if not impossible, to carry on the business of government should every meeting, every contact and every discussion seeking advice and counsel in order to acquire the necessary information, data or intelligence needed by a governing body were required to be a public meeting.

Accordingly, this Committee concludes that when a quorum of the Boone County Board of Education meets to participate in a training workshop conducted by personnel from the West Virginia School Boards Association, this activity does not constitute a "meeting" subject to the notice requirements of the Open Meetings Act. Therefore, a training workshop, such as the one described in this request, is not a public meeting which must be open to the public and the media. However, the governing body should nonetheless refrain from deliberating toward a decision or making decisions on any matters requiring official action by the Board while participating in a training workshop.

This advisory opinion is limited to questions arising under the Open Governmental Proceedings Act, W. Va. Code§§ 6-9A-1, *et seq.*, and does not purport to interpret other laws or rules. Pursuant to W. Va. Code§ 6-9A-11, a governing body or member thereof that acts in good faith reliance on this advisory opinion has an absolute defense to any civil suit or criminal prosecution for any action taken based upon this opinion, so long as the underlying facts and circumstances surrounding the action are the same or substantially the same as those being addressed in this opinion, unless and until it is amended or revoked.

/s/ Drema Radford, Chair

  
Drema Radford, Chairwoman