

OPEN MEETINGS ADVISORY OPINION NO. 2007-06

Issued On August 2, 2007 By The

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

OPINION SOUGHT

The Raleigh County Emergency Services Authority seeks guidance on issuing notice of a special meeting.

FACTS RELIED UPON BY THE COMMITTEE

The Board of the Raleigh County Emergency Services Authority holds its regular meetings on the third Monday of each month. From time to time, it may be necessary to hold one or more additional meetings between these scheduled meetings. The Board wants to know what type of notice to the public is required for these meetings.

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 purposes 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 requires public agencies to inform the public of (1) the time, date, place and purpose of their meetings and (2) what will be dealt with at the meetings. This means agencies must (1) give "meeting notice," telling the public when and where the meeting will be held, and (2) provide a "meeting agenda," telling the public the items of business with which the meeting will deal.

The Act specifically provides for State executive branch agencies to make available notice of their meetings by publishing notice of each regular and special meeting in the State Register at least five calendar days before the meeting. The Act does not specify how county and municipal agencies, such as an Emergency Services Authority, are required to issue notice of their regular and special meetings. This Committee has previously concluded that county and municipal governing bodies must provide notice of regular and special meetings in a manner that is "reasonable" in terms of how and when such notice is disseminated.

The Emergency Services Authority will comply with the Open Meetings Act if it posts notice of a special meeting at least two days in advance of the meeting date. At a minimum, this notice should be posted in a public place which is accessible to the public during normal business hours, such as the County Courthouse, or the building where the Authority regularly meets. Governing bodies whose meetings are regularly covered by the media are encouraged, but not required, to send a copy

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of the meeting notice by telephone facsimile to news organizations that express an interest in receiving such notice.

In counting the number of days in this two-day notice period, the day of the meeting, as well as Saturdays, Sundays, and legal holidays, are excluded. For example, in the absence of an intervening legal holiday, the Authority would comply with the Act by posting notice of a special meeting to be held on Friday at any time before the close of business on the preceding Wednesday.

The Act requires that the public and media be advised in advance of the purpose, or purposes, for each meeting. In the case of a special meeting, where only one or two matters will be addressed by the governing body, the purpose statement within the meeting notice may describe the matters requiring official action to be addressed during the special meeting, and no further meeting agenda will be required. However, if the special meeting will deal with several matters, the meeting notice should state that the special meeting will address those agenda items described on the special meeting agenda, a separate document which should be made available and posted at the same time and in the same manner as the meeting notice.

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/ James E. Shepherd, II

James Shepherd, II, Chairperson
Open Governmental Meetings Act Committee