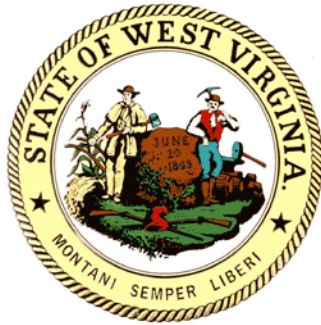


# West Virginia Ethics Commission

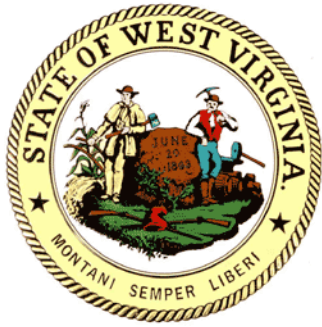
## 2021 Open Meetings Act Training





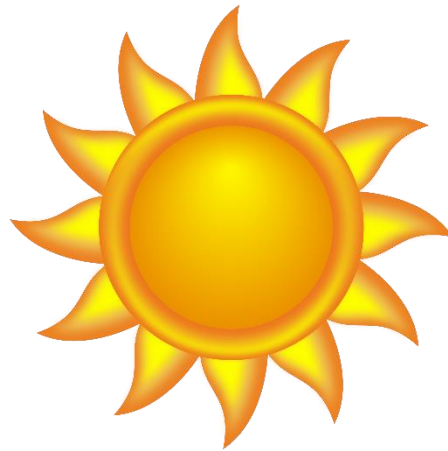
# Open Meetings Act Jurisdiction

- Authority to interpret but not to enforce
- Advisory Opinions issued by the Ethics Commission's Open Governmental Meetings Committee – comprised of three members.
- Ethics Commission staff also may give advice.

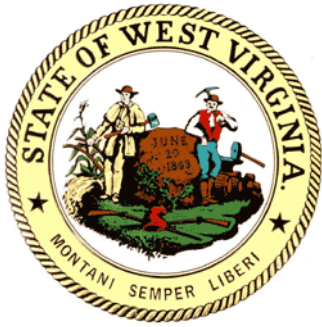


# Open Meetings Act

State, county, and municipal administrative and legislative bodies, and any bodies that meet the definition of “public agency,” are subject to the Act.



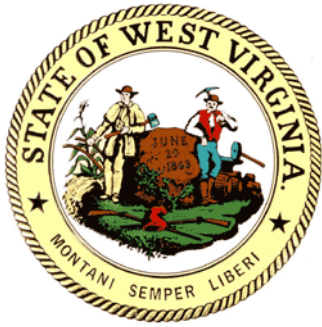
Some states use the term “sunshine laws.”



# Coronavirus

Staff opines that allowing citizens to attend a meeting in person is not required if the governing body determines, based upon guidance issued by the federal government, the state of West Virginia, the Centers for Disease Control and Prevention or other government agencies authorized to make these types of decisions, that it constitutes a public health risk to allow citizens to attend in person. The governing body may instead provide citizens with a call-in number for a telephonic meeting or provide access via web link to a livestream of the meeting.

[www.ethics.wv.gov](http://www.ethics.wv.gov)



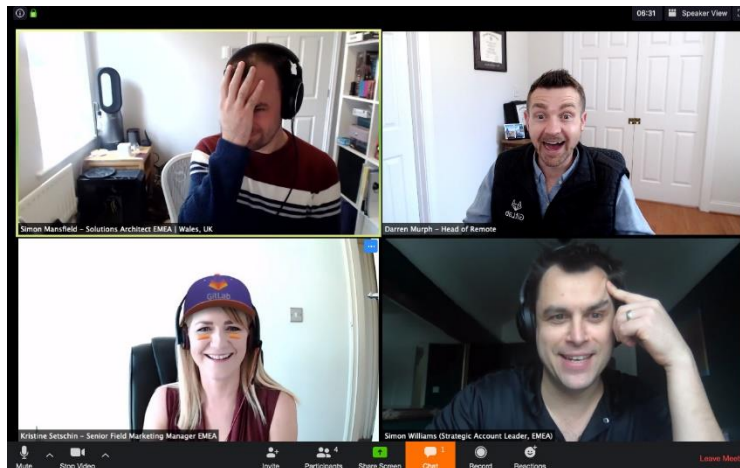
# Coronavirus

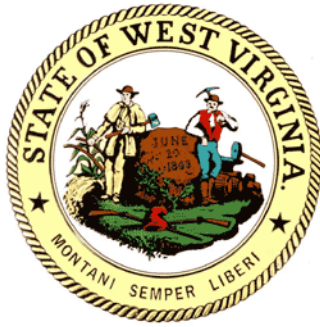
## Virtual meetings – considerations

Can citizens hear you?

Must you have a public comment period?

What about executive sessions?

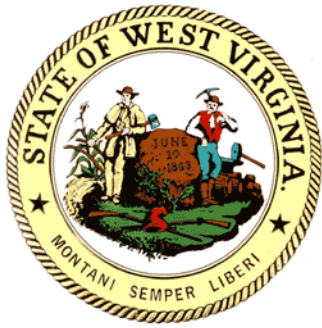




# General

A “meeting” is defined by the Act as:

- The convening of a governing body of a public agency
- For which a quorum is required in order to make, or deliberate toward, a decision
- On a matter which results or will result in official action.



# General

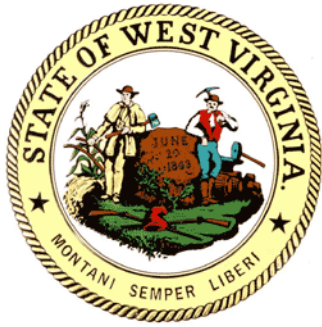
Work sessions

Are a “meeting”

Require notice, agenda, and minutes



**O.M.A.O. 2013-06**



# Exceptions (not meetings)

- Adjudicatory
- On-site inspection
  - ex. - construction site
- Political party caucus



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# Exceptions (not meetings)

- General Discussion
  - Planned or unplanned
  - Social, educational, training, informal, ceremonial or similar setting
    - Without intent to conduct public business
    - No intention for the discussion to lead to an official action

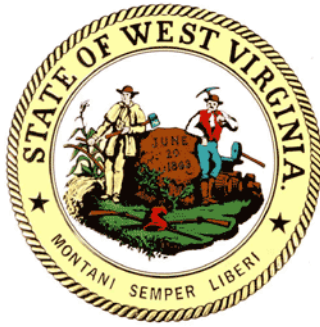




# Exceptions

The 'general discussion' exception is most difficult to follow. Some guidelines:

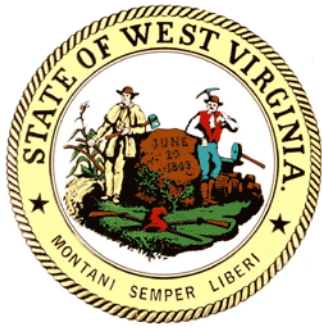
- If discussion is about something that will lead to official action, either right then or later, the meeting must be noticed.
- Does not prevent a quorum of members of the governing body from going to the mayor's house for barbecue.
- Does prevent a quorum of members of the governing body from going to the mayor's house for barbecue and a discussion about the new budget.



# Exceptions

May a quorum of school board members visit a school to observe building conditions, educational programs, teaching strategies and other school activities?

**OMAO 2001-03**



# Exceptions

May a quorum of county commissioners meet with their county's delegates or senators at the state capitol and discuss issues facing their counties?

**OMAO 2001-08**



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# Notice and Agenda

Please Notice This



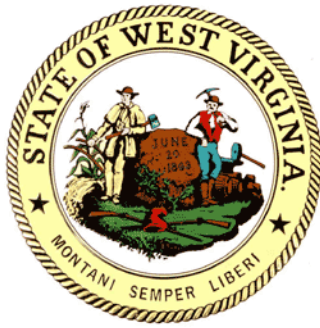
The **Open Meetings Act** requires advance notice of the date, time, and place of the meeting, including any committee meeting, and an agenda of all matters to be considered and/or discussed.



# Notice and Agenda

- Regular meeting notice must be posted and agendas made available **THREE** business days in advance (unless you meet every week, then two days).
- Special meeting – **TWO** business days

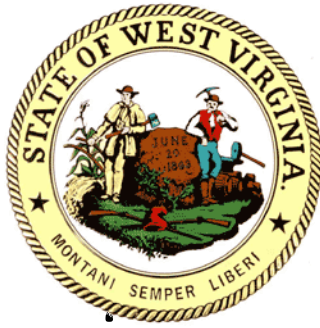




# Meeting Agenda

- Agendas must give reasonable notice to the public of every issue to be discussed.
- Items must be specific enough to put the public on notice of intended action.
- Vague headings are insufficient, *e.g.*,
  - Old Business
  - New Business
- **OMAO 2008-17**





# Meeting Agenda

“Personnel” is also too vague a description

Instead, use *“filling position of office manager,”* or  
*“open sealed bids for XYZ project.”*

**OMAO 99-10:** Marshall Co BOE. Employee grievance:  
“Level III grievance” is sufficient.







# Emergency Meeting

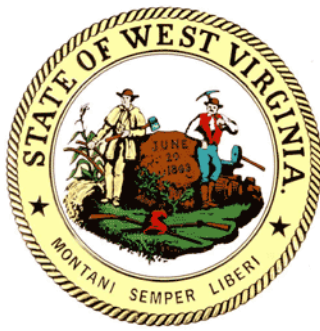
W. Va. Code § 6-9A-2-(2)

(2) "Emergency meeting" means any meeting called by a governing body for the purpose of addressing an **unexpected event** which requires **immediate attention** because it poses:

(A) An imminent threat to public health or safety;

(B) An imminent threat of damage to public or private property; or

(C) An imminent material financial loss or other imminent substantial harm to a public agency, its employees or the members of the public which it serves.



# Sample Combined Notice and Agenda



**West Virginia Ethics Commission  
Open Governmental Meetings Committee Agenda**  
210 Brooks Street, Third Floor Conference Room  
Charleston, West Virginia 25301

**August 3, 2017  
9:30 a.m.**

1. Approve **Minutes** of June 1, 2017, Meeting
2. Respond to Open Meetings Advisory Opinion Request

**OMAO 2017-02** (Mr. Knopp)

The **Director of the West Virginia Division of Homeland Security and Emergency Management** asks whether the Open Governmental Proceedings Act applies to meetings of the Statewide Interoperability Executive Committee in the exercise of its supervision and implementation of the Statewide Interoperable Radio Network.

3. Motion to Adjourn



# Executive Session

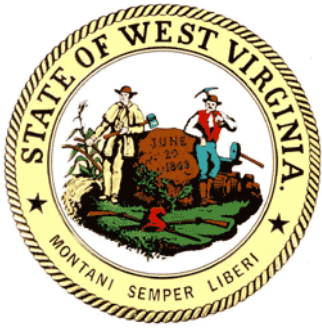
W.Va. Code § 6-9A-4

May only go into executive session for reasons permitted by the Open Meetings Act.

There must be a corresponding agenda item.

The motion to go into executive session must identify the reason for entering the session.

No vote may be made in the executive session (except for student matters).



# Executive Session

W.Va. Code § 6-9A-4

- To consider personnel matters of a particular public official or employee. But must vote in public and announce employee's name. **OMAO 99-10**
- To issue, effect, deny, suspend or revoke a license, certificate or registration..., unless the licensee requests an open meeting;
- To discuss matters which, by express provision of federal law or state statute or rule of court is rendered confidential. **OMAO 2017-02.**
- W. Va. Code § 6-9A-4 (contains complete list)

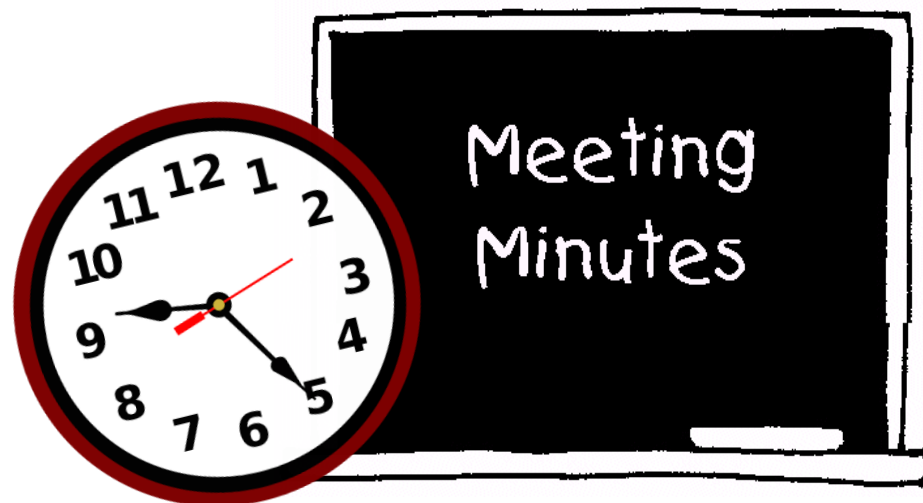


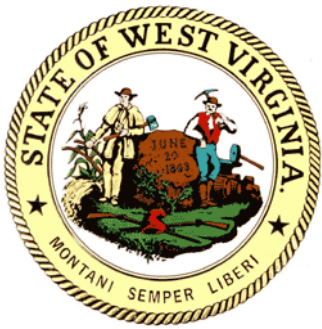
# Meeting Minutes

W.Va. Code § 6-9A-5

Minutes required for all meetings, including committee and sub-committee meetings, but not executive sessions

- OMAO 99-09

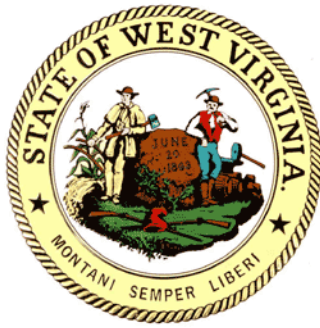




# Minutes

The Open Meetings Act specifies the information required to be in the minutes:

- The date, time and place of the meeting;
- The name of each member of the governing body present and absent;
- All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same and their disposition, and
- The results of all votes and, upon the request of a member, pursuant to the rules, policies or procedures of the governing board for recording roll call votes, the vote of each member by name.



# Minutes

W.Va. Code § 6-9A-5

- Meeting minutes must be made available within a “reasonable time.”
- “Reasonable time” defined by **OMAO 2010-04** as “close of business on the next **business day** following [the next meeting].”
- If material changes to the minutes are necessary, then the minutes should be available no later than three business days following the next meeting.
- Draft minutes are encouraged, but not required, to be made available for public inspection.



# Violations

W.Va. Code §§ 6-9A-6 and 7

- An intentional violation is a criminal misdemeanor subject to prosecution by the county prosecutor and up to a \$500 fine (\$1,000 for additional violations).
- May also be liable to wronged parties in civil court (within 120 days of action).
- Court may annul vote taken in violation of Act.





# West Virginia Ethics Commission

210 Brooks Street, Suite 300

Charleston WV 25301

(304) 558-0664

[ethics.wv.gov](http://ethics.wv.gov)

Email: [ethics@wv.gov](mailto:ethics@wv.gov)