

**OPEN MEETINGS ADVISORY OPINION NO. 2002-16**

**Issued On September 5, 2002 By The**

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

**OPINION SOUGHT**

The Consolidated Public Retirement Board (Board) asks whether its administrative decisions on benefit determination appeals are subject to the Open Meetings Act, and if the Act requires the Board to allow oral argument before deciding an appeal.

**FACTS RELIED UPON BY THE COMMITTEE**

The Board renders final administrative decisions on appeals from participants during its regular meetings by reviewing the findings and recommendations submitted by a hearing officer who has conducted an administrative hearing on the appeal. Plan participants whose appeals are being considered at a meeting are provided an opportunity to attend, but may only address the Board through written pleadings.

**CODE PROVISIONS RELIED UPON BY THE COMMITTEE**

The Open Governmental Meetings Act provides in W. Va. Code § 6-9A-2(4), “[t]he term meeting does not include: . . . Any meeting for the purpose of making an adjudicatory decision in any quasi-judicial, administrative or court of claims proceeding.

**ADVISORY OPINION**

The Board’s decision on an appeal from a plan participant involves a quasi-judicial meeting that falls within one of the stated exemptions of the Open Meetings Act. Therefore, the Board is not required to follow the open meeting requirements when meeting to decide such appeals, unless required by its own Legislative Rule or other applicable law.

Even if the Board adjudicates plan participant appeals in an open session of a regular meeting, the Act contains no provision requiring a governing body to allow public participation. The Act simply provides that if public comment is allowed, those who wish to comment may not be required to sign up more than fifteen minutes before the meeting. The Board may or may not permit oral argument on appeals in its discretion, without violating any provision in the Act.



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Chairman