

Work Session, Discussion, or Board “Meeting”

A Slippery Slope

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Boards of education often wish to gather together to “touch base” with members of their community or merely wish to discuss and work through issues they are facing, without any intention to take official board action or have a formal board meeting. Such sessions are certainly useful and have the potential to be very productive, but, as we all know, the [West Virginia Open Governmental Proceedings Act](#) places many restrictions on how and when board members may convene as a group, what may take place, and what, if any, public notice is required.

The applicable West Virginia statute defines “meetings” which are subject to the open meetings requirements at [W. Va. Code § 6-9A-2](#), as follows:

“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.

However, there are exceptions to this definition, including the following:

- 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*[.]

A work session has been defined by [West Virginia Ethics Commission Advisory Opinion](#) as a meeting where a quorum of the board will be present, and issues requiring official action will be discussed and considered, but there will be no official action or voting at the meeting. However, *a work session is subject to the same notice requirements as an official board meeting*, and the date, time, place, and agenda must be publicly posted. True work sessions should be noticed in this manner, so that there can be an open discussion between the public and the board members, and among the board members about issues raised at the meeting.

There are rare occasions upon which a board of education may plan a meeting in advance to discuss relevant issues without complying with the open meetings law’s provisions. If, however, the board truly intends to discuss only matters that will not require any future action or vote, then the notice and publication requirements do not apply. A pertinent example would be a planned training session where the superintendent has invited attorneys to provide board members with legal information/workshop, such as basics of the reduction in force process, how to properly conduct employee hearings/student expulsions, or similar topics. While possibly of “public interest,” such training sessions would not comprise any intent to conduct public business or discuss matters which might require board action. (See [West Virginia Ethics Commission Advisory Opinion](#), for example of educational or training workshop.)

Should you have any questions on this issue or any issues please feel free to contact a member of [Dinsmore & Shohl’s Education Law Practice Group](#).