May 14, 2009

The Honorable Laina Fetherolf
Hocking County Prosecuting Attorney
88 South Market Street
Logan, Ohio 43138

SYLLABUS: 2009-017

1. Pursuant to R.C. 4931.45, a county's final 9-1-1 plan may be amended to change how a countywide 9-1-1 system is managed through an addendum approved by a majority of a 9-1-1 planning committee, provided the change does not concern a matter delineated in R.C. 4931.45(A)(2), (4), (6), or (7). An amendment to a county final 9-1-1 plan for a purpose set forth in R.C. 4931.45(A)(2), (4), (6), or (7) must be made in accordance with the procedures set forth in R.C. 4931.42-.44 or R.C. 4931.45(C)(1).

2. There is no limitation on the number of changes that may be made to a final county 9-1-1 plan. (2008 Op. Att'y Gen. No. 2008-014, approved and followed.)

RICHARD CORDRAY
OHIO ATTORNEY GENERAL

May 14, 2009

OPINION NO. 2009-017

The Honorable Laina Fetherolf
Hocking County Prosecuting Attorney
88 South Market Street
Logan, Ohio 43138

Dear Prosecutor Fetherolf:

You have requested an opinion concerning the process for amending a county's final 9-1-1 plan. Specifically, you ask:

1. May a county's final 9-1-1 plan be amended to change how a countywide 9-1-1 system is managed without complying with the provisions of R.C. 4931.42-.44?

2. Is there a limit to the number of changes that may be made to a final county 9-1-1 plan after it is adopted?

Provisions for amending a county's final 9-1-1 plan are set forth in R.C. 4931.45. This statute provides, in part:

> (A) An amended final plan is required for any of the following purposes:
> (1) Expanding the territory included in the countywide 9-1-1 system;
> (2) Upgrading any part or all of a system from basic to enhanced wireline 9-1-1;
> (3) Adjusting the territory served by a public safety answering point;
> (4) Represcribing the funding of public safety answering points as between the alternatives set forth in [R.C. 4931.43(B)(5)];
> (5) Providing for wireless enhanced 9-1-1;
> (6) Adding a telephone company as a participant in a countywide 9-1-1 system after the implementation of wireline 9-1-1 or wireless enhanced 9-1-1;
> (7) Providing that the state highway patrol or one or more public safety answering points of another 9-1-1 system function as a public safety

> answering point or points for the provision of wireline or wireless 9-1-1 for all or part of the territory of the system established under the final plan, as contemplated under [R.C. 4931.41(J)];
>
> (8) Making any other necessary adjustments to the plan.

R.C. 4931.45(B) states further that, except as provided in R.C. 4931.45(C), "a final plan shall be amended in the manner provided for adopting a final plan under [R.C. 4931.42-.44[1]], including convening a 9-1-1 planning committee and developing a proposed amended plan prior to adopting an amended final plan." The exceptions to R.C. 4931.45(B)'s mandate are as follows:

> (C)(1) To amend a final plan for the purpose described in division (A)(6) of this section, an entity that wishes to be added as a participant in a 9-1-1 system shall file a written letter of that intent with the board of county commissioners of the county that approved the final plan. The final plan is deemed amended upon the filing of that letter. The entity that files the letter shall send written notice of that filing to all subdivisions and telephone companies participating in the system.
>
> (2) An amendment to a final plan for a purpose set forth in division (A)(1), (3), (5), or (8) of this section may be made by an addendum approved by a majority of the 9-1-1 planning committee. The board of county commissioners shall call a meeting of the 9-1-1 planning committee for the purpose of considering an addendum pursuant to this division.
>
> (3) Adoption of any resolution under [R.C. 4931.51] pursuant to a final plan that both has been adopted and provides for funding through charges imposed under that section is not an amendment of a final plan for the purpose of this division.

R.C. 4931.45(C) sets forth specific situations in which a county need not comply with the provisions of R.C. 4931.42-.44 when amending its final 9-1-1 plan. A review of these situations

---

[1] The process for adopting a final county 9-1-1 plan begins when a board of county commissioners or the legislative authority of any municipal corporation in the county that contains at least thirty percent of the county's population adopts a resolution to convene a 9-1-1 planning committee to prepare a proposal on the implementation of a countywide 9-1-1 system. R.C. 4931.42-.43. Upon completion of the proposal, the committee holds a public meeting on the proposal to explain the system to, and receive comments from, public officials. R.C. 4931.43(A). Following the public meeting, the committee may modify the proposal and adopt a final county 9-1-1 plan. R.C. 4931.43(C).

Immediately upon completion of a final county 9-1-1 plan, the committee must send a copy of the plan to various entities that will be served by public safety answering points under the plan. *Id.* A final county 9-1-1 plan becomes effective when it is approved in the manner set forth in R.C. 4931.44.

discloses that, under R.C. 4931.45(C)(2), a county's final 9-1-1 plan may be amended for the purposes set forth in R.C. 4931.45(A)(1), (3), (5), and (8) by an addendum approved by a majority of a 9-1-1 planning committee.

Let us now consider your first question, which asks whether a county's final 9-1-1 plan may be amended to change how a countywide 9-1-1 system is managed without complying with the provisions of R.C. 4931.42-.44. For the purpose of answering this question, we will focus on R.C. 4931.45(A)(8), rather than R.C. 4931.45(A)(1), (3), or (5).

R.C. 4931.45(A)(8) provides that, in addition to the reasons set forth in R.C. 4931.45(A)(1)-(7), a county's final 9-1-1 plan may be amended for the purpose of "[m]aking *any* other necessary adjustments to the plan." (Emphasis added.) "Where a statute uses the word 'any' to modify a noun without selection, distinction, or limitation, it is presumed that the legislative intent is that the noun modified by 'any' be treated as a whole class without division into smaller classes, and that 'any' may be equated to mean 'all' or 'every' in that context, especially where the statute uses mandatory language." 2000 Op. Att'y Gen. No. 2000-046 at 2-283. R.C. 4931.45(A)(8) thus authorizes the amending of a county's final 9-1-1 plan for the purpose of making any adjustments to the plan that are not delineated in R.C. 4931.45(A)(1)-(7). Accordingly, reading R.C. 4931.45(C)(2) in conjunction with R.C. 4931.45(A)(8) reveals that a county's final 9-1-1 plan may be amended for the purpose of making any necessary adjustments to the plan by an addendum approved by a majority of a 9-1-1 planning committee, provided the adjustments do not relate to matters set forth in R.C. 4931.45(A)(2), (4), (6), and (7).[2]

---

[2] As explained earlier in the opinion, a county's final 9-1-1 plan may be amended for the purposes set forth in R.C. 4931.45(A)(1), (3), (5), and (8) by an addendum approved by a majority of a 9-1-1 planning committee. R.C. 4931.45(C)(2). In contrast, the adjustments to a final county 9-1-1 plan delineated in R.C. 4931.45(A)(2), (4), (6), and (7) must be enacted in accordance with the procedures set forth in R.C. 4931.42-.44 or R.C. 4931.45(C)(1). R.C. 4931.45(B)-(C).

Neither R.C. 4931.45(B) nor R.C. 4931.45(C)(1) authorizes an amendment to a final county 9-1-1 plan for a purpose set forth in R.C. 4931.45(A)(2), (4), (6), or (7) by an addendum approved by a majority of a 9-1-1 planning committee. Under R.C. 4931.45(B)-(C), an amendment to a county final 9-1-1 plan for a purpose set forth in R.C. 4931.45(A)(2), (4), or (7) must be made in accordance with the procedures set forth in R.C. 4931.42-.44. R.C. 4931.45(C)(1) states further that a county final 9-1-1 plan is amended for the purpose set forth in R.C. 4931.45(A)(6) when an entity that wishes to be added as a participant in the countywide 9-1-1 system files a written letter to that effect with the board of county commissioners. A county's final 9-1-1 plan therefore may not be amended for a purpose delineated in R.C. 4931.45(A)(2), (4), (6), or (7) by an addendum approved by a majority of a 9-1-1 planning committee.

This means that, by virtue of R.C. 4931.45(A)(8) and R.C. 4931.45(C)(2), a county's final 9-1-1 plan may be amended to change how a countywide 9-1-1 system is managed through an addendum approved by a majority of a 9-1-1 planning committee. The only limitation on this power is that, if the change concerns a matter delineated in R.C. 4931.45(A)(2), (4), (6), or (7), the county may not make the change by an addendum, but instead must enact the change in accordance with the procedures set forth in R.C. 4931.42-.44 or R.C. 4931.45(C)(1). *See* note 2, *supra*.

Therefore, in response to your first question, pursuant to R.C. 4931.45, a county's final 9-1-1 plan may be amended to change how a countywide 9-1-1 system is managed through an addendum approved by a majority of a 9-1-1 planning committee, provided the change does not concern a matter delineated in R.C. 4931.45(A)(2), (4), (6), or (7). An amendment to a county final 9-1-1 plan for a purpose set forth in R.C. 4931.45(A)(2), (4), (6), or (7) must be made in accordance with the procedures set forth in R.C. 4931.42-.44 or R.C. 4931.45(C)(1).

Your second question asks whether there is a limit to the number of changes that may be made to a final county 9-1-1 plan. 2008 Op. Att'y Gen. No. 2008-014 determined that, pursuant to R.C. 4931.45, a county's final 9-1-1 plan may be amended to create new terms, conditions, requirements, and specifications. In reaching this conclusion, the opinion explained as follows:

> [T]he subdivisions included in a final plan for implementing a countywide 9-1-1 system have the authority to amend the final plan after the final plan is adopted for the purpose of meeting current and future needs. R.C. 4931.45 expressly grants this authority to the subdivisions included in a final plan. Under this statute, any of the terms, conditions, requirements, or specifications of a final plan for implementing a countywide 9-1-1 system that was adopted pursuant to R.C. 4931.44 may be changed by adopting an amended final plan or adding addendums to the final plan. Any amendments to a final plan must, however, be done as provided in R.C. 4931.45.
>
> Thus, even though an entirely new final plan for implementing a countywide 9-1-1 system may not be adopted and implemented to take the place of a previously adopted final plan, it is possible to amend a previously adopted final plan to create new terms, conditions, requirements, and specifications in the final plan. *As indicated above, R.C. 4931.45 specifically authorizes the subdivisions included in a final plan to amend the final plan for a wide variety of purposes, including, but not limited to,* changing the method by which the countywide 9-1-1 system is funded, adjusting the formula for allocating the costs of operating public safety answering points, upgrading the services provided, or *making any other necessary adjustments to the final plan. There is no limitation on the number of changes that can be made to a previously adopted final plan.* Accordingly, pursuant to R.C. 4931.45, a previously adopted final plan for implementing a countywide 9-1-1 system may be amended to create new terms, conditions, requirements, and specifications. (Emphasis added.)

2008 Op. Att'y Gen. No. 2008-014 at 2-152 and 2-153.

R.C. 4931.45 has not been amended since the issuance of 2008 Op. Att'y Gen. No. 2008-014. Nor has the General Assembly or the judiciary limited the number of changes that may be made to a final county 9-1-1 plan. Absent legislation or a court ruling limiting the number of changes that a county may make to its final 9-1-1 plan, we continue to find persuasive 2008 Op. Att'y Gen. No. 2008-014's conclusion that there is no limitation on the number of changes that may be made to a final county 9-1-1 plan.

In conclusion, it is my opinion, and you are hereby advised as follows:

1. Pursuant to R.C. 4931.45, a county's final 9-1-1 plan may be amended to change how a countywide 9-1-1 system is managed through an addendum approved by a majority of a 9-1-1 planning committee, provided the change does not concern a matter delineated in R.C. 4931.45(A)(2), (4), (6), or (7). An amendment to a county final 9-1-1 plan for a purpose set forth in R.C. 4931.45(A)(2), (4), (6), or (7) must be made in accordance with the procedures set forth in R.C. 4931.42-.44 or R.C. 4931.45(C)(1).

2. There is no limitation on the number of changes that may be made to a final county 9-1-1 plan. (2008 Op. Att'y Gen. No. 2008-014, approved and followed.)

Respectfully,

RICHARD CORDRAY
Ohio Attorney General