

OPINION NO. 2012-032**Syllabus:**

2012-032

1. The Ohio Vendors Representative Committee is a public body subject to the requirements of R.C. 121.22, the open meetings law.
2. A subcommittee of the Ohio Vendors Representative Committee is a public body subject to the requirements of R.C. 121.22, the open meetings law, when the subcommittee provides advice and recommendations to the Committee.
3. The Ohio Vendors Representative Committee is a public office subject to the requirements of R.C. 149.43, the public records law.
4. The Ohio Vendors Representative Committee is responsible for maintaining the public records of the Committee under R.C. 149.43. The chairperson of the Ohio Vendors Representative Committee is responsible for developing a records retention schedule for the Committee under R.C. 149.34.

**To: Kevin L. Miller, Executive Director, Rehabilitation Services Commission,
Columbus, Ohio**

By: Michael DeWine, Ohio Attorney General, October 2, 2012

You have requested an opinion about the application of Ohio's open meetings law and public records law to the Ohio Vendors Representative Committee (OVRC). Specifically, you ask:

1. Is the OVRC a public body as defined under R.C. 121.22(B)(1) that is subject to R.C. 121.22, Ohio's open meetings law?
2. Is each sub-committee of the OVRC a public body as defined under R.C. 121.22(B)(1)(b) that is subject to R.C. 121.22, Ohio's open meetings law?
3. Is the OVRC required to comply with R.C. 149.43, Ohio's public records law?
4. If the OVRC is required to comply with R.C. 149.43, does the OVRC or the Rehabilitation Services Commission have responsibility for developing the OVRC's record retention schedules and maintaining the OVRC's records?

To address your questions, we must review the status and powers of the OVRC. We also must review the powers and duties of the Bureau of Services for the Visually Impaired (BSVI) and its relationship with the OVRC.

Duties and Powers of the Bureau of Services for the Visually Impaired

BSVI is a subdivision of the Rehabilitation Services Commission (RSC).¹ R.C. 3304.15; 5A Ohio Admin. Code 3304-1-01. BSVI is responsible for, among other things, implementing state statutes under which blind persons are licensed to operate vending facilities on governmental property. R.C. 3304.28-.35; 5A Ohio Admin. Code 3304-1-01. These vending facilities are managed by operators who are blind or visually impaired and who have been licensed by BSVI under R.C. 3304.29 to operate the facilities.

BSVI also serves as the designated state licensing agency under the federal Randolph-Sheppard Vending Stand Act, 89 Stat. 2-8 (1974), 20 U.S.C.S. § 107, as amended. *See* 34 C.F.R. § 395.1 (“[s]tate licensing agency means the State agency designated by the [Secretary of Education] under this part to issue licenses to blind persons for the operation of vending facilities on Federal and other property”). *See also* R.C. 3304.34-.35; 5A Ohio Admin. Code 3304:1-21-01(B). The purpose of the Randolph-Sheppard Vending Stand Act is “to provide employment for blind persons and to increase their economic opportunities and self-sufficiency.” 2005 Op. Att’y Gen. No. 2005-021, at 2-204. To fulfill this purpose, the Act requires the licensing of blind persons by a state agency to operate vending facilities on federal properties and that licensed vendors be given priority in the operation of these facilities. 20 U.S.C.S. §§ 107(b), 107a(b); 34 C.F.R. § 395.30(a). As the designated state licensing agency, BSVI is responsible for licensing blind individuals to operate vending facilities. R.C. 3304.29(C). BSVI also works with federal agencies to select sites for vending facilities and provides licensees equipment and initial stock for these facilities. *See* R.C. 3304.29(A); R.C. 3304.30; R.C. 3304.34; 5A Ohio Admin. Code 3304:1-21-05; 20 U.S.C.S. §§ 107a(c), 107b; 34 C.F.R. §§ 395.7, 395.30, 395.31. BSVI, pursuant to its rule-making authority, created the Business Enterprise Program (BE). *See* 5A Ohio Admin. Code 3304:1-21. The BE program encompasses the federal Randolph-Sheppard program and the state’s vendor program. *See* 5A Ohio Admin. Code 3304:1:21-01(F); 2005 Op. Att’y Gen. No. 2005-021, at 2-204 to 2-205.

The Randolph-Sheppard Vending Stand Act also requires the creation of a state committee of blind vendors. 20 U.S.C.S. § 107b-1; 34 C.F.R. 395.14. R.C. 3304.34 requires BSVI to establish the OVRC. BSVI is responsible for the organization and operation of the OVRC. R.C. 3304.34; *see also* 2005 Op. Att’y Gen. No. 2005-021, at 2-204. BSVI is required to conduct biennial elections for the OVRC,

¹ The Rehabilitation Services Commission (RSC) is a state agency established by R.C. 3304.11-.27. RSC is designated to administer the federal Rehabilitation Amendments of 1973, 29 U.S.C.S. § 701, as amended. R.C. 3304.16(D); 5A Ohio Admin. Code 3304-1-01. In this capacity, RSC is overseen by and receives funding from the United States Department of Education, Rehabilitation Services Administration. RSC also administers the federal Social Security Disability Insurance and Supplemental Security Income programs. *See* 5A Ohio Admin. Code 3304-1-02(C). These programs are funded with federal money from the Social Security Administration.

specify the number of OVRC members, and fix their terms of office. R.C. 3304.34. The director of BSVI must meet with the OVRC semiannually and may request special meetings of the OVRC upon written request. R.C. 3304.34; 5A Ohio Admin. Code 3304:1-21-12(E). BSVI also bears the cost of actual and necessary expenses of OVRC members for attendance at regular semiannual meetings. R.C. 3304.34; 5A Ohio Admin. Code 3304:1-21-12(E).

Election of the Ohio Vendors Representative Committee Members and Their Duties

For the purpose of electing members to the OVRC, the state is divided into seven electoral districts. 5A Ohio Admin. Code 3304:1-21-12(A). The OVRC is composed of one member from each district, each of whom must be elected by the operators within the same district. 5A Ohio Admin. Code 3304:1-21-12(B)-(C). Each district also elects an alternate representative to attend meetings if the representative is unable to attend and to complete the representative's term if the representative is unable to complete the term. 5A Ohio Admin. Code 3304:1-21-12(B). Each representative and alternate is elected for a two-year term. 5A Ohio Admin. Code 3304:1-21-12(B)(1). If a representative is absent from a meeting, the alternate participates in that meeting. *Id.* Officers of the OVRC are elected by its members, and the OVRC must establish rules for the conduct of its meetings. 5A Ohio Admin. Code 3304:1-21-12(D).

Under federal and state law, the OVRC must participate with BSVI in major administrative decisions and policy and program development, receive grievances of blind vendors, participate with BSVI in the development and administration of a transfer and promotion system for blind vendors, and, with assistance from BSVI, sponsor meetings and instructional conferences for blind vendors. 20 U.S.C.S. § 107b-1(3); 34 C.F.R. 395.14(b); 5A Ohio Admin. Code 3304:1-21-12(F). State law further specifies that the OVRC may formulate and offer written recommendations and that these recommendations "shall be considered by BSVI before any decisions are made except in a situation requiring the immediate action of the director." 5A Ohio Admin. Code 3304:1-21-12(F)(1). Additionally, 5A Ohio Admin. Code 3304:1-21-12(H) provides as follows:

BSVI shall make a reasonable attempt to notify the chairperson of the OVRC in a timely fashion of major administrative decisions and program development and policy issues with respect to the BE program for the committee's consideration . . . and may invite the committee to have a member or members present at any discussion and decision-making meetings. If BSVI does not adopt the views and positions of the committee with respect to such a matter, it shall notify the committee chairperson in writing of the decision reached and the reasons therefore [*sic*].

Subcommittees of the Ohio Vendors Representative Committee

The OVRC also has several subcommittees. The subcommittees are not established by law, either state or federal. Rather, according to your letter, the

subcommittees are formed at the discretion of the OVRC's chairperson. The chairperson also establishes the composition of each subcommittee, which may include OVRC representatives, alternates, BE staff members, and vending facility operators in the BE program. The subcommittees are designed to gather and evaluate information and to make recommendations to the OVRC.

The following is a list of the current ten subcommittees, the composition of each, and the frequency of their meetings: (1) strategic planning subcommittee—consists of two OVRC representatives, two OVRC alternates, and one BE staff member, and meets at least once per quarter; (2) site development subcommittee—consists of two OVRC representatives, two OVRC alternates, and two BE staff members, and meets approximately 15-20 times per year (when a site is closed or if a new site is being developed); (3) rule review subcommittee—consists of three OVRC representatives, three OVRC alternates, and one BE staff member, and meets at least twice per month; (4) statewide training subcommittee—consists of one OVRC representative, two OVRC alternates, and three BE staff members, and meets once per month; (5) vendor benefits subcommittee—consists of two OVRC representatives and two BE staff members, and meets once per quarter; (6) technology subcommittee—consists of one OVRC representative, one OVRC alternate, and two BE staff members, and meets once per quarter; (7) selection training subcommittee—consists of two OVRC representatives, two OVRC alternates, and one BE staff member, and meets six times per year; (8) vendor forms subcommittee—consists of one OVRC representative, one OVRC alternate, and two BE staff members, and meets twice per year; (9) budget subcommittee—consists of two OVRC representatives, three BE staff members, and one vending facility operator, and meets four times per year; and (10) licensee training subcommittee—consists of one OVRC representative, two OVRC alternates, and one BE staff member, and meets once per quarter.

Some of the subcommittee meetings are held by teleconference because the members live in different areas of the state, are legally blind, and run independent businesses. Further, meetings of the site development committee, held when a site is closed or if a new site is being developed, generally are held at the site location and may include a tour of the site.

Application of the Open Meetings Law to the Ohio Vendors Representative Committee and its Subcommittees

Your first two questions relate to the application of the open meetings law to the OVRC and its various subcommittees. The open meetings law establishes requirements for the conduct of meetings of all public bodies. The fundamental requirement of the law is set forth in R.C. 121.22(C): “All meetings of any *public body* are declared to be public meetings open to the public at all times.” (Emphasis added.) R.C. 121.22(B)(1)(a) defines a “public body,” in relevant part, as “[a]ny board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority.” R.C. 121.22(B)(1)(b) further defines a “public body” to include “[a]ny committee or *subcommittee* of a body described in [R.C. 121.22(B)(1)(a)].” (Emphasis added.) If the OVRC or its subcommittees are public

bodies as defined in R.C. 121.22(B)(1), they are subject to the open meetings requirements of R.C. 121.22.

As stated in R.C. 121.22(A): “This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.” Based upon this statement of legislative intent, the definition of “public body” has been interpreted broadly. *See, e.g., Cincinnati Enquirer v. City of Cincinnati*, 145 Ohio App. 3d 335, 339, 762 N.E.2d 1057 (Hamilton County 2001); *Stegall v. Joint Twp. Dist. Mem’l Hosp.*, 20 Ohio App. 3d 100, 103, 484 N.E.2d 1381 (Auglaize County 1985); *State ex rel. Toledo Blade Co. v. Econ. Opportunity Planning Ass’n of Greater Toledo*, 61 Ohio Misc. 2d 631, 640, 582 N.E.2d 59 (C.P. Lucas County 1990); 1992 Op. Att’y Gen. No. 92-065, at 2-268.

You first ask whether the OVRC is a public body as defined in R.C. 121.22(B)(1)(a). To determine whether a particular entity is a public body for purposes of the open meetings law, Ohio courts and prior Attorney General opinions have considered several factors. Considering each of these factors, discussed in more detail below, and construing the definition of “public body” liberally, we conclude that the OVRC is a public body for purposes of R.C. 121.22.

First, R.C. 121.22(B)(1)(a) lists specific types of entities that may be a public body—“any board, commission, *committee*, council, or similar decision-making body.” (Emphasis added.) Accordingly, the official name or title of the entity in question is one factor in the “public body” determination. *E.g., Wheeling Corp. v. Columbus & Ohio River R.R. Co.*, 147 Ohio App. 3d 460, 2001-Ohio-8751, 771 N.E.2d 263, at ¶62 (noting that the Selection Committee was called a “committee,” a term included in the definition of “public body”); *Stegall v. Joint Twp. Dist. Mem’l Hosp.*, 20 Ohio App. 3d at 102 (boards are specifically included in definition of “public body”); 1994 Op. Att’y Gen. No. 94-096, at 2-475 (“committee” is expressly included in definition of “public body”); 1992 Op. Att’y Gen. No. 92-077, at 2-324 (advisory committee is a “committee,” a term included in the definition of “public body”). Here, the entity’s official name is the Ohio Vendors Representative *Committee*. (Emphasis added.) Because R.C. 121.22(B)(1)(a) specifically includes committees in the definition of a public body, this indicates that the OVRC is a “public body” as defined in R.C. 121.22(B)(1).

R.C. 121.22(B)(1)(a) further defines a “public body” as “any board, commission, committee, council, or similar *decision-making body*.” (Emphasis added.) Courts have held that making recommendations is “decision-making” for purposes of R.C. 121.22(B)(1)(a). *E.g., Cincinnati Enquirer v. Cincinnati*, 145 Ohio App. 3d at 337-39 (concluding that urban design review board that made recommendations to and advised city manager and city council was a decision-making body and rejecting argument that board was merely advisory); *Thomas v. White*, 85 Ohio App. 3d 410, 412, 620 N.E.2d 85 (Summit County 1992) (citizens advisory committee that made recommendations to and advised county children services board was a decision-making body). “A simple recommendation . . . is the result of decision-making.” 1979 Op. Att’y Gen. No. 79-061, at 2-205. Further, “[t]here is . . . noth-

ing in the language of R.C. 121.22 that would suggest that the scope of the statute is limited to entities authorized to render final decisions. . . . The decisions made by the committee, however provisional or removed from the rights of the parties involved are, nonetheless, decisions.” 1978 Op. Att’y Gen. No. 78-059, at 2-146 (concluding that Internal Security Committee created by the Industrial Commission of Ohio and the Bureau of Workers’ Compensation is a public body for purposes of R.C. 121.22). *See also* 1994 Op. Att’y Gen. No. 94-096, at 2-476 (a “broad construction of the term ‘decision-making’ has been applied in court decisions and Attorney General opinions dealing with advisory committees . . . and these authorities have generally found advisory committees to be decision-making bodies because such committees necessarily make decisions in the process of formulating their advice”); 1992 Op. Att’y Gen. No. 92-065, at 2-270 (housing advisory board engages in decision-making in reviewing plans and rendering advice and recommendations).

The OVRC is authorized by state law to formulate and offer written recommendations to BSVI, and BSVI is required to consider any such recommendations. 5A Ohio Admin. Code 3304:1-21-12(F)(1)(b). The OVRC also is required to participate in major administrative decisions along with BSVI. 20 U.S.C.S. § 107b-1(3); 34 C.F.R. 395.14(b)(1); 5A Ohio Admin. Code 3304:1-21-12(F)(1). Because the OVRC makes recommendations to BSVI, and BSVI is required to consider those recommendations, the OVRC constitutes a “decision-making body” for purposes of R.C. 121.22(B).

The source of an entity’s existence is another factor considered when determining whether an entity is a public body for purposes of R.C. 121.22. An entity has been found to come within the definition of public body if it is created pursuant to law, including state statutes or local ordinances. *See, e.g., Beacon Journal Publ’g Co. v. City of Akron*, 3 Ohio St. 2d 191, 196, 209 N.E.2d 399 (1965) (distinguishing between boards and committees created by law and those created by executive order of individual officials); 1993 Op. Att’y Gen. No. 93-012, at 2-67 (Industrial Commission created by statute); 1992 Op. Att’y Gen. No. 92-077, at 2-324 (advisory committee created by legislative action of the board of county commissioners); 1986 Op. Att’y Gen. No. 86-091, at 2-520 (Ohio Legal Rights Service Commission created pursuant to state statute). The OVRC’s creation is required by law. 20 U.S.C.S. § 107b-1; R.C. 3304.34. Additionally, the OVRC’s primary duties are defined and prescribed by state and federal law. 20 U.S.C.S. § 107b-1(3); 34 C.F.R. 395.14(b); R.C. 3304.34; 5A Ohio Admin. Code 3304:1-21-12. Accordingly, the source of the OVRC’s creation indicates that the OVRC is a public body for purposes of R.C. 121.22.

Finally, courts have considered whether an entity advises or reports to another public body. In *Cincinnati Enquirer v. Cincinnati*, the court concluded that an urban design review board is a public body under R.C. 121.22. 145 Ohio App. 3d at 337-39. In that case, the city argued that the urban design review board advised only the city manager, and that because the board did not advise a public body, the board itself could not be a public body. *Id.* at 338. The court rejected this argument, and found that the board did advise a public body, the city council, in addition to

advising the city manager. *Id.* The court concluded that the urban design review board was a public body because it was a decision-making board that reported its decisions to the city manager and the city council. *Id.* at 339. *See also Wheeling Corp. v. Columbus & Ohio River R.R. Co.*, 147 Ohio App. 3d 460, 2001-Ohio-8751, at ¶62 (selection committee that made decisions and advised the Ohio Rail Development Commission, a state agency, was a public body under R.C. 121.22); 1992 Op. Att’y Gen. No. 92-077, at 2-324 (advisory committee created by legislative action of a board of county commissioners to advise the board, itself a public body under R.C. 121.22, is a public body subject to R.C. 121.22). The OVRC, like the urban design review board, advises a public body, BSVI.

Considering each of the foregoing factors, the OVRC is a “public body” as defined in R.C. 121.22(B)(1)(a) for purposes of R.C. 121.22 and is therefore subject to the open meetings requirements of R.C. 121.22.

Your second question asks whether subcommittees of the OVRC are public bodies as defined in R.C. 121.22(B)(1). R.C. 121.22(B)(1)(b) includes in the definition of “public body” any “committee or subcommittee” of a body determined to be a public body under R.C. 121.22(B)(1)(a). Even as we have concluded that the OVRC is a public body as defined in R.C. 121.22(B)(1)(a) and is subject to the open meetings requirements of R.C. 121.22, we further conclude that a subcommittee of the OVRC is a public body as defined in R.C. 121.22(B)(1)(b) when the subcommittee provides advice and recommendations to the OVRC. We rely on several of the same factors discussed previously to make this determination.

First, the title of these groups as “subcommittees” indicates that they are public bodies under the plain language of R.C. 121.22(B)(1)(b). We also understand that the subcommittees advise the OVRC. For example, the site development subcommittee meets when a new site is being developed. Those meetings are usually held at the proposed site and may include a tour of that site. The site development subcommittee provides advice and recommendations to the OVRC regarding the proposed site. Similarly, the other subcommittees provide advice and recommendations to the OVRC regarding their areas of responsibility, such as licensee training, statewide training, or vendor forms. The subcommittees, therefore, “necessarily make decisions in the process of formulating their advice.” *See* 1994 Op. Att’y Gen. No. 94-096, at 2-476. Accordingly, the subcommittees engage in decision-making for purposes of R.C. 121.22. *See, e.g., Cincinnati Enquirer v. Cincinnati*, 145 Ohio App. 3d at 337-39; *Thomas v. White*, 85 Ohio App. 3d at 412; 1979 Op. Att’y Gen. No. 79-061, at 2-205. Finally, the subcommittees provide advice and recommendations to the OVRC, itself a public body for purposes of R.C. 121.22; they do not provide advice only to the chairperson of the OVRC. *See Cincinnati Enquirer v. Cincinnati*, 145 Ohio App. 3d at 338 (advisory committee advises not just city manager, but also the city council). Accordingly, we conclude that a subcommittee of the OVRC that provides advice and recommendations to the OVRC is a public body subject to the open meetings requirements of R.C. 121.22.

Application of the Public Records Law to the Ohio Vendors Representative Committee

Your final two questions relate to R.C. 149.43, the public records law. With

limited exceptions, R.C. 149.43(B)(1) grants any person the right to inspect public records at any reasonable time and, upon request, to receive copies of public records within a reasonable period of time. A “public record” is defined to mean “records kept by any public office,” with certain listed exceptions. R.C. 149.43(A)(1). Therefore, a public office that keeps public records is subject to the requirements of R.C. 149.43 unless an exception applies. For purposes of R.C. 149.43, a “public office” includes “any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government.” R.C. 149.011(A).

The Ohio Supreme Court has stated that the purpose of R.C. 149.43 is to promote open government. *E.g.*, *State ex rel. Glasgow v. Jones*, 119 Ohio St. 3d 391, 2008-Ohio-4788, 894 N.E.2d 686, at ¶13. Consistent with this purpose, the requirements of R.C. 149.43 are to be construed liberally “in favor of broad access” to public records and any doubts must be resolved “in favor of disclosure of public records.” *Id.*; *see also* 2000 Op. Att’y Gen. No. 2000-046, at 2-280; 1990 Op. Att’y Gen. No. 90-007, at 2-28. Additionally, “doubts as to the ‘public’ status of an entity should be resolved in favor of finding it subject to the disclosure statute.” *State ex rel. Toledo Blade Co. v. Univ. of Toledo Found.*, 65 Ohio St. 3d 258, 261, 602 N.E.2d 1159 (1992); *accord State ex rel. District 1199 v Lawrence County Gen. Hosp.*, 83 Ohio St. 3d 351, 353, 699 N.E.2d 1281 (1998); *State ex rel. Strothers v. Wertheim*, 80 Ohio St. 3d 155, 156, 684 N.E.2d 1239 (1997).

Your third question asks whether the OVRC is required to comply with R.C. 149.43. To answer this question we must determine whether the OVRC is a “public office” as defined in R.C. 149.011(A).² For the reasons that follow, we conclude that the OVRC is a public office for purposes of R.C. 149.43, and is therefore subject to the requirements of R.C. 149.43.

A “public office” includes (1) any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of the state, (2) for the exercise of any function of government. R.C. 149.011(A). The OVRC comes within that portion of R.C. 149.011(A) that defines a public office as any “other organized body, office, agency, institution, or entity established by the laws of the state.” The OVRC is an organized body, institution, or entity whose creation is required by the Randolph-Sheppard Vending Stand Act, 20 U.S.C.S. § 107b-1, and R.C. 3304.34.

The OVRC also exercises a function of government for purposes of R.C. 149.011(A). The OVRC was created for the purpose of carrying out specific mandates imposed by federal law. *See* 20 U.S.C.S. § 107b-1; R.C. 3304.34. The

² The standards for determining applicability of the public records law and the open meetings law are similar but not identical. Therefore, the standards for each law’s application must be evaluated independently. *State ex rel. ACLU v. Cuyahoga County Bd. of Comm’rs*, 128 Ohio St. 3d 256, 2011-Ohio-625, 943 N.E.2d 553, at ¶138; 2008 Op. Att’y Gen. No. 2008-003, at 2-45 n.7.

United States Congress determined that it is necessary for each state government to create public bodies, including a state licensing agency and a state committee of blind vendors, to provide increased employment for blind persons in order to increase their economic opportunities and self-sufficiency. *See* 20 U.S.C.S. § 107, as amended; 2005 Op. Att’y Gen. No. 2005-021, at 2-204. In Congress’s judgment, this function was best fulfilled by public bodies rather than private entities. Accordingly, we conclude that the OVRC is a public office as defined by R.C. 149.011(A) and is subject to the requirements of R.C. 149.43.

Your final question asks, if the OVRC is subject to the requirements of R.C. 149.43, whether the OVRC or RSC is responsible for developing the OVRC’s records retention schedule and maintaining the OVRC’s records. Under R.C. 149.43(B)(2),

a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with [R.C. 149.43(B)]. A public office also shall have available a copy of its records retention schedule at a location readily available to the public.

The provisions of R.C. 149.33 through R.C. 149.44 address the retention, disclosure, and destruction of records maintained by public offices.

The language of R.C. 149.43(B)(2) explicitly requires “a public office” to organize and maintain public records. *See State v. Elam*, 68 Ohio St. 3d 585, 587, 629 N.E.2d 442 (1994) (“[w]here the wording of a statute is clear and unambiguous, this court’s only task is to give effect to the words used”). We have concluded that the OVRC is a “public office” for purposes of R.C. 149.43. Based upon the plain language of R.C. 149.43(B)(2), as a public office, the OVRC is required to organize and maintain public records, as defined in R.C. 149.43(A)(1), of the OVRC.

R.C. 149.34 directs the “head of each state agency, office, institution, board, or commission” to establish, maintain, and direct a program for the effective management of records of the state agency and to submit a records retention schedule. R.C. 149.34(A)-(B). “State agency,” for purposes of R.C. Chapter 149, is defined to include “every department, bureau, board, commission, office, *or other organized body* established by the . . . laws of this state for the exercise of any function of state government.” R.C. 149.011(B) (emphasis added). The OVRC is an organized body established pursuant to the laws of Ohio, *see* R.C. 3304.34, that performs a function of state government. Therefore, the OVRC is a “state agency,” as defined in R.C. 149.011(B), for purposes of establishing a records management program and records retention schedule under R.C. 149.34(A) and (B).

The chairperson of the OVRC is the “head” of the OVRC. *See* 5A Ohio Admin. Code 3304:1-21-12 (referring to the chairperson of the OVRC). Although the term “head” of a state agency, office, institution, board, or commission is not defined for purposes of R.C. 149.43, a chairperson is commonly understood to be the head of an organization. *See Black’s Law Dictionary* 261 (9th ed. 2009)

(“chair” is defined as “a deliberative assembly’s presiding officer” or “the officer who heads an organization”); *Merriam-Webster’s Collegiate Dictionary* 204 (11th ed. 2005) (defining “chairman” to mean “the presiding officer of a meeting, organization, committee, or event”). Accordingly, the chairperson, as the head of the OVRC, is responsible for maintaining the records of the OVRC and developing a records retention schedule for those records.

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

1. The Ohio Vendors Representative Committee is a public body subject to the requirements of R.C. 121.22, the open meetings law.
2. A subcommittee of the Ohio Vendors Representative Committee is a public body subject to the requirements of R.C. 121.22, the open meetings law, when the subcommittee provides advice and recommendations to the Committee.
3. The Ohio Vendors Representative Committee is responsible for maintaining the public records of the Committee under R.C. 149.43. The chairperson of the Ohio Vendors Representative Committee is responsible for developing a records retention schedule for the Committee under R.C. 149.34.
4. The Ohio Vendors Representative Committee is responsible for maintaining the public records of the Committee under R.C. 149.43. The chairperson of the Ohio Vendors Representative Committee is responsible for developing a records retention schedule for the Committee under R.C. 149.34.