

The Sunshine Law



Hawaii's Open Meetings Law
Part I of Chapter 92, HRS

Board

- any agency, board, commission, authority, or committee of the State or its political subdivisions
- created by constitution, statute, rule, or executive order
- to have supervision, control, jurisdiction, or advisory power over specific matters and which is required to conduct meetings and to take official actions.

What's the purpose?

- Protect public's right to know
- Open governmental processes to public scrutiny and public participation



Sunshine Law requires:

- Discussions, deliberations, and decisions must be conducted at a public meeting

- Exceptions:
 - Executive meetings
 - Permitted interactions
 - Limited meetings



“Board Business”

- Matters over which the board has supervision, control, jurisdiction or advisory power that are before the board or reasonably anticipated to come before the board in the foreseeable future



Quorum

- Majority of all members to which the board is entitled
- Must have quorum to do business (i.e., discuss, deliberate, take action)
- Meeting must end if quorum lost

Permitted Interactions - 2 Members

- Communicate privately
- Cannot commit to vote



- No caucuses
- No polling
- No telephone discussions
- No e-mails
- No memos



Permitted Interaction Group (PIG)

- Less than a quorum
- Scope of investigation defined at a meeting
- Findings and recommendations presented at a 2nd meeting
- Deliberation and decision-making at a 3rd meeting



Permitted Interaction Groups

- Can include individuals who are not on task force



Other Permitted Interactions


- Present or negotiate on behalf of board
- Selection of officers
- Take testimony when no quorum
- Attend informational briefings
- Governor
- Department head



Chance Meeting

- a social or informal assemblage of two or more members at which matters relating to official business are not discussed.


Executive Meetings



- Closed to public
- 2/3 vote of board members present
- Announce reasons for closed meeting
- Vote recorded and entered into minutes

Executive Meeting Purposes

- to consult with board's attorney regarding its powers, duties, privileges, immunities, & liabilities
- matters confidential by law or court order



Limited Meetings

- meeting not open to public if dangerous location, or
- On-site inspection & public attendance not practicable
- Must vote to hold limited meeting & OIP director must concur
- Must file & mail notice
- Video record unless OIP waives

Testimony

- All interested persons may submit written testimony on any agenda item.
- All interested persons may present oral testimony on any agenda item.





Notice Requirements

- written notice
- date, time, and place
- for executive meeting, must state purpose and cite statutory basis
- includes agenda

Meeting Agenda

- All items that the board intends to consider
- To inform the public of the matters before the board so that the public can decide whether to participate in the meeting



Amending the Agenda

- Only with 2/3 vote of all members
- Cannot add item if:
 - of reasonably major importance, and
 - will affect a significant number of people



- Can take agenda items out of order (no procedural requirements in Sunshine Law)
- Can delete or cancel items from agenda
- Be mindful of spirit of law



Minutes

- Written minutes required
- True reflection of matters discussed and views of participants
- Date, time, and place
- Members present/absent
- Substance of all matters proposed, discussed, or decided
- Record, by member, of votes
- Other information that a member requests be included



Minutes, continued...

- Public within 30 calendar days



- Executive meeting minutes may be withheld for so long as publication would defeat lawful purpose of the executive meeting

Interactive Conference Technology Meetings



- Teleconference, Skype, etc.
- Must allow interaction between all board members & public at all locations
- Notice where board members will be
- Notice must state public can attend at any location
- Meeting ends if audio not maintained at all locations

Emergency Meetings

- imminent peril to public health, safety and welfare, or
- unanticipated event (need AG approval)
- meeting in less than 6 calendar days
- Must file & mail notice



OIP's Role

- Assist boards in complying with law
- Receive & resolve complaints from public
- Determine whether a body is subject to Sunshine Law

Court's Role

- Action taken in violation of Sunshine Law = voidable by court
- Court can order injunction or other appropriate remedy

The Uniform Information Practices Act (Modified)

Hawaii's Public Records Law
Chapter 92F, HRS

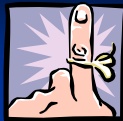


General Rule

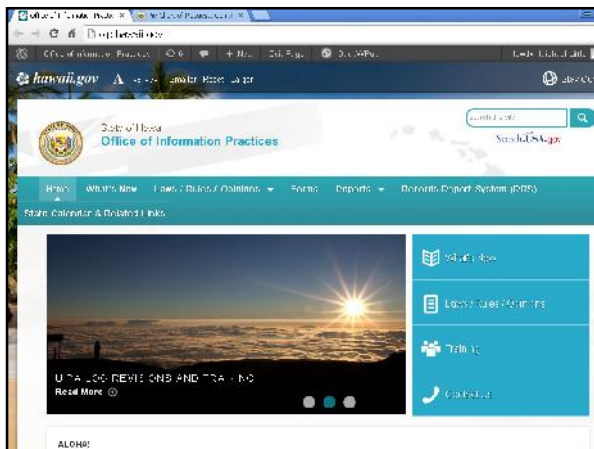
All government records are open to public inspection and copying unless restricted or closed by law



UIPA Power Points (things to remember)



- Records presumed public
- 5 exceptions to disclosure
- Respond in 10 business days



Need Help?

- Call AOD 586-1400



- E-mail AOD: oip@hawaii.gov
- OIP Website: www.hawaii.gov/oip
