

## The Sunshine Law



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

## What's the purpose?

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



"[I]t is the policy of this State that the formation and conduct of public policy -- the discussions, deliberations, decisions and actions of government agencies -- shall be conducted as openly as possible."

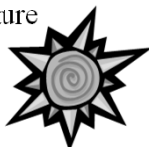
## Sunshine Law requires:

- Discussions, deliberations and decisions must be conducted at a meeting
- Every meeting must be open unless executive meeting is allowed
- Boards must accept testimony
- Boards must provide notice
- Boards must keep minutes



## "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



## "Board Business"

- Within the board's authority
- On current or future agenda



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



## Permitted Interactions

- 2 members
- Investigate
- Present, discuss or negotiate
- Selection of officers
- Testimony when no quorum
- Other meeting or presentation
- Governor or department head



## Permitted Interactions - 2 Members

- Communicate privately
- Cannot commit to vote
- Cannot seek commitment
- Cannot use serially



## Permitted Interactions - Investigations

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



## Examples of “Investigation” Permitted Interactions

- Confidential interviews
- Site inspections and product demonstrations
- Receipt and consideration of confidential information



## Permitted Interactions - No Quorum

- Noticed meeting canceled b/c no quorum or lost audio connection
- Limited to testimony/presentations on canceled agenda
- Keep a record
- Report at next meeting

### Permitted Interactions – Other Meeting or Presentation

- Less than a quorum
- Informational meeting/presentation
- Event not specifically arranged for board
- Discussions only as part of event
- No commitment to vote made/sought
- Report at next board meeting

### 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

- professional or vocational license applicants
- personnel matters
- authority of labor negotiator or person designated to negotiate purchase of land
- legal matters with board's attorney
- criminal misconduct
- sensitive matters relating to public safety
- private donations and
- matters confidential by law or court order



### Limited Meetings

- Dangerous location OR public attendance impracticable
- OIP concurrence
- 2/3 Vote
- Show video next time
- No decisions made



### Multi-site Meetings



- Audio interaction at all locations
- Notice lists all locations where non-disabled board members will be
- Public can attend at any listed location
- Meeting ends if audio interaction not maintained at all locations

### 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
- includes agenda
- for executive meeting, must state purpose and cite statutory basis



- Posted on the state or county online calendar, at the board's office, with the LG or clerk (keep proof of filing), & posted at meeting site when feasible
- 6 calendar days prior to meeting
- Copy mailed or emailed to anyone so requesting

## Meeting Agenda

- All items that the board intends to consider
- To inform the public of the matters the board intends to consider 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



## Board Packet

- Documents compiled by board & distributed to board members before meeting
  - Only what's public under UIPA
  - Nothing the board can't reasonably redact in time

## Board Packet

- Available in board's office
- Notify mailing list that it's there
- Access upon request
- Accommodate electronic requests quickly
- Not required to mail / email to all

## Board Packet

- Practical tips:
  - Think about what's public as you put packet together
  - Prepare public version of each thing as it comes in
  - Have pdf of public packet ready to go

## Emergency Meetings

- imminent peril to public health, safety and welfare, or
- unanticipated event
- requires meeting in less than 6 calendar days



## Minutes

- Written or recorded format
- Posted online within 40 calendar days
- Executive meeting minutes may be withheld for so long as publication would defeat lawful purpose of meeting



## Minutes

- Recorded minutes must include:
  - Recording of full meeting
  - Date, time and place
  - Members present/absent
  - Record, by member, of votes and motions
  - Time stamp or other reference for when board began each agenda item and when motions and votes happened

## Minutes

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



## Need Help?

- AOD -- 586-1400



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