

# Quick Review: Sunshine Law Requirements for In-Person Meetings Held at Multiple Sites

(Revised October 2021)

The Sunshine Law allows boards to hold an in-person meeting across multiple meeting sites connected via audio- or videoconference or another form of interactive conference technology (ICT), subject to requirements listed in section 92-3.5, Hawaii Revised Statutes (HRS). This Quick Review discusses the requirements for noticing the official meeting locations for a multi-site meeting and contains recommendations for boards that want to provide additional locations where no board members will attend to accommodate members of the public.

Note that OIP has created a separate Quick Review for Remote Meetings, which are also conducted using ICT but are not considered in-person meetings, since board members are not required to attend remote meetings in person.

## Multi-Site Public Meeting Locations Listed on Notice

1. The notice of meeting for a multi-site meeting by ICT **must list as public meeting sites the locations where board members plan to be present.** (As explained below, board members with a disability may attend meetings from a private site under an exception.) **All public meeting locations must be listed in the filed notice.**
2. **Board members may attend from any of the public meeting sites listed on the filed notice.** The notice need not identify which site each board member will attend. However, board members may **not** attend a location noticed as an “additional” location where no board member will be present, as further described below.
3. **The noticed public meeting sites cannot be cancelled, disconnected, or shut down early while the meeting goes on elsewhere.** The Sunshine Law does **not** require that at least one board member actually be present at each of the noticed public meeting sites. However, even if no board member or member of the public is at a public meeting site, the site must be kept available to the public and linked to the other public meeting sites until the end of the meeting. Failure to do so could draw a complaint from a member of the public who arrived late at a noticed site. If the connection between meeting sites is lost, the meeting is automatically recessed for up to 30 minutes to restore the connection. If the connection cannot be restored within that time, the

meeting is automatically terminated, unless the board has provided reasonable notice of how the meeting will be continued. If the board provides reasonable notice, the meeting may be considered to be in recess and continued at a specified date and time, rather than terminated. If the meeting must be terminated, the board will be unable to return to the issues being discussed without noticing a new meeting at least 6 days in advance.

- If a board wants to cancel a noticed public meeting location when the meeting is still more than 6 calendar days away, it can cancel the entire meeting and file a new notice with only the desired locations. If the meeting is less than 6 days away, the board must either convene the meeting at all the originally noticed sites, or cancel the entire meeting.

**4. A board is not required to have multiple meeting sites.** The fact that a board previously has had multiple locations, or has used a particular location as a meeting site, does not create any obligation for the board to include those locations as public meeting sites for future meetings. A board always has the option to hold an in-person meeting at a single location in the traditional way.

**5. Meeting sites are not required to be linked by video; an audio connection is sufficient.** When a meeting site is connected only by audio, copies of visual aids being used at other sites must be made available at the audio-only site within 15 minutes after audio-only connection is established following an interruption in the ICT connection, or the agenda items for which the visual aids are used cannot be acted on at that meeting. Visual aids may be transmitted by online posting (e.g., on the board's website) or other means.

### **Noticed Meeting Sites Compared to “Additional” Locations**

The Sunshine Law does not limit remote participation in an in-person meeting by members of the general public and **the requirement to participate at a noticed meeting site applies only to board members.** The Sunshine Law also does not require boards to accommodate participation from locations other than the noticed meeting site(s).

However, **boards are allowed but are not required to list on a meeting notice “additional” locations open for public participation, where board members will not be in attendance and connectivity to the noticed meeting is not guaranteed.** Boards can determine whether to allow testifiers, presenters, and other members of the public to:

- **Participate from an “additional” location listed on the notice, which is not guaranteed to remain open for the whole meeting; or**
- **Testify remotely via phone or other means from home or another non-**

## **noticed location.**

Boards may be required to reasonably accommodate individuals with disabilities under the Americans with Disabilities Act (ADA), and should consult with their own attorneys or the State Disability and Communication Access Board at (808) 586-8121 (Voice or TTY) or email [dcab@doh.hawaii.gov](mailto:dcab@doh.hawaii.gov) regarding compliance with the ADA. OIP does not have authority to provide legal advice on the ADA.

If the notice does list one or more additional locations open for public participation, it must **make clear the distinction between the noticed public meeting site(s) and the listed additional location(s)**. Specifically, the notice must **specify whether the meeting will continue without the additional location if the connection is lost** between the other sites and the additional location. Moreover, as a general rule, board members themselves **cannot** attend from an additional location or another non-noticed location, which also means that they cannot participate, listen in, vote, or be counted toward quorum from an additional location or a non-noticed location. The only exception to this rule is for disabled board members, as described below.

### **Board Members with Disabilities**

A **board member with a disability** that limits or impairs the member's ability to physically attend a noticed meeting **may participate from a location not noticed and not accessible to the public**, so long as the member is connected by audio and video means and identifies where he or she is and who else is present with the member. Thus, for example, a disabled board member may participate by video and audio connection from a non-noticed location such as a private residence or hospital, so long as the other requirements in section 92-3.5(d), HRS, are met.