

The Sunshine Law

Part 1



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.”

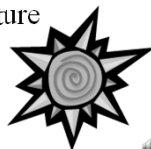
Sunshine Law requires:

- 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



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- 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 2nd meeting
- Deliberation and decision-making at a 3rd 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

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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

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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



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Testimony

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



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Notice Requirements

- written notice
- date, time and place
- contact info for testimony & ADA
- 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

