

The Office of Information Practices (“OIP”) is charged with the administration of Hawaii’s open records law, the Uniform Information Practices Act (Modified), chapter 92F, HRS (the “UIPA”), and Hawaii’s open meetings law, part I of chapter 92, HRS (the “Sunshine Law”).

Summaries of Recent OIP Opinions



Boards Created by Resolution

A Council member asked OIP for an advisory opinion as to whether a task panel created by council resolution falls within the definition of “board” under the Sunshine Law. OIP opined that under a plain reading of the Sunshine Law’s definition of “board,” a task panel or other body created by or pursuant to a “resolution” of county (or state) government generally does not fall within that definition.

However, OIP believes that a task panel or other body created by a Sunshine Law board is subject to the Sunshine Law where circumstances show that, by delegation of authority from that board, the panel is in fact acting in place of that board on a matter that is the official business of the board. These circumstances must be reviewed on a case-by-case basis.

OIP reasoned that allowing a subordinate group of the Council to meet in private to act on council business, which would otherwise be determined at an open Council meeting, would contravene the Sunshine Law’s policy and intent to allow the public to participate in the Council’s formation of public policy.



This question initially arose in the context of the City Mass Transit Technical Expert

Panel created by Honolulu City Council resolution. OIP did not specifically opine on the Panel because the Panel voluntarily complied with the Sunshine Law.

However, OIP did use the Panel as an example of an instance in which a resolution created panel would be subject to the Sunshine Law because the resolution creating the panel delegated the Council’s authority to make the final selection of a fixed guideway system. OIP stated that the public had a preponderant interest in and expectation to be officially heard early in the process on a Council decision

as important and far reaching as the choice of Honolulu’s mass transit system. [OIP Op. Ltr. No. 08-02]




Council Member Participation at Committee Meetings When Not Assigned to the Committee

The Maui County Council requested an opinion from OIP regarding whether council members may attend and participate in a meeting of a committee of the council when they are not assigned as committee members (“Non-members”).

OIP opined that the Sunshine Law does not permit Non-members to participate in a committee meeting because the resulting discussion of Council business among the various council members, consisting of both committee members and Non-members, constitutes a meeting of the Council that does not conform to the requirements of the Sunshine Law.

The Sunshine Law requires board members to discuss matters involving board business in a properly noticed meeting of their board absent an applicable exception.

When a board forms a committee, the committee and its members must independently comply with the Sunshine Law’s open meeting requirements apart from the parent board.

Where Non-members attend and participate in a committee meeting, the combined attendance of committee members and Non-members must be viewed as a discussion by them as members of the parent board — i.e. the Council — of parent board business, which may not occur outside of a properly noticed *Council* meeting. [OIP Op. Ltr. No. 08-01] 



Recent Additions to OIP's Website

► www.hawaii.gov/oip

Since OIP redesigned its website in 2003, OIP continues to update and add to the site's content. Recent additions to OIP's website include:

Acts 20 and 153

The "What's New" page features links to official copies of two recent acts from the 2008 legislative session. Both acts affect the Sunshine Law.

Act 20 amends the limited meetings provision (§ 92-3.1) to allow closed meeting where public attendance is not practicable. In order to hold such a meeting, a board must, among other things, obtain the concurrence of OIP's director that it is necessary to hold the meeting at a location where public attendance is not practicable.

Act 153 creates special Sunshine Law exceptions for neighborhood boards only. Under the new law, a neighborhood board that hears public comments during its meeting can discuss an issue raised even where that issue is not part of its agenda for that meeting, although the board must hold off on making any decision on the issue until a subsequent meeting where the issue is on the agenda. Other exceptions concern receiving testimony at noticed meetings that don't make quorum, attending community meetings and seminars, and discussing unanticipated events at a scheduled meeting.

For a more detailed summary of these two acts, see the August 2008 *OpenLine*, which can be viewed and printed from the website's "OpenLine" page.

New Form to Seek OIP Limited Meeting Concurrence

Related to Act 20, OIP has created a form for the convenience of boards seeking OIP's concurrence to hold a limited meeting. The "Request for OIP's Concurrence for a Limited Meeting" form may be accessed on the website's "Forms" page.

Executive Memorandum 08-06



The "What's New" page also has a link to an official copy of

Executive Memorandum 08-06, which directs all state boards subject to the Sunshine Law to post their meeting




notices on the State Calendar as soon as those notices are filed at the Office of the Lieutenant Governor. For more details, see the August 2008 *OpenLine*.

State Calendar

The "What's New" page and the "Sunshine Law" page both link to the State Calendar, where the public can search meeting notices by date, by

department, or by specific board or commission. Information about using the State Calendar appears in the August 2008 *OpenLine*.

Overview of the Website

OIP's homepage now features a link to a guide to OIP's website at a glance. 

Going Green

OIP to Distribute *OpenLine* by E-mail


To conserve its resources (and save a few trees), OIP will be distributing the *OpenLine* by e-mail beginning with the next issue.

If you currently receive paper copies of the *OpenLine*, please send your e-mail address to oip@hawaii.gov. Please include the following:



- (1) "OpenLine" in the subject line; and
- (2) for persons in charge of distributing the newsletter within a department or agency, the name of the department or agency.

For persons who do not have e-mail, OIP will continue to provide a paper copy. The public libraries will also still receive paper copies of the *OpenLine*.

An electronic version of the *OpenLine* is also available online at hawaii.gov/oip/openline. 

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