


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

New OIP Director

Governor Linda Lingle has appointed Paul T. Tsukiyama director of the Office of Information Practices, effective November 28, 2007.

“I appreciate Paul’s willingness to continue to serve the public and ensure the people of Hawaii have open access to government records and public information,” said Governor Lingle. “Based on his legal experience and his long record of public service, I am confident Paul will build on our Administration’s achievements in ensuring state government is open and transparent.”

Tsukiyama comes to OIP from the City and County of Honolulu’s Department of the Corporation Counsel, where he headed the labor and personnel section. Paul has also served the public in many other state positions, including director of the Special Prosecution Division of the City’s Department of the Prosecuting Attorney, supervisor of the Prosecuting Attorney’s White Collar Crime Branch and deputy attorney general in the Commerce and Economic Development Division of the Department of the Attorney General.

A graduate of the University of Hawaii at Manoa, Tsukiyama earned his juris doctor from Willamette University College of Law in Salem, Oregon. 

2008 Legislative Preview

In addition to monitoring, testifying on, and assisting with legislation in the area of government information and open meetings practices, OIP has two bills included in the Governor’s legislative package this session. The following briefly summarizes each bill:

A Bill for an Act Relating to the Office of Information Practices

The Sunshine Law currently allows limited closed meetings where a board determines that it is necessary to meet at a location that is dangerous to health or safety and where the state attorney general concurs.

This bill would amend the law to also allow limited closed meetings where a board determines it necessary to conduct an on-site inspection where public attendance at

the location is not practicable. It would also transfer duties related to the closed meeting requirements from the attorney general to the director of OIP.

The bill seeks to address those situations where boards have felt it important to view a location where public attendance could not be accommodated, such as an on-site visit by the Board of Land and Natural Resources to an irrigation system located on private property and not readily accessible, and by the Board of Agriculture to open-ocean fish farming sites.



Specifically, the proposed amendment would allow limited closed meetings where a board determines it is necessary to conduct an on-site inspection if:


- the board specifies the reasons for its determination that the on-site inspection is necessary and that public attendance is impracticable;
- two-thirds of all board members vote to adopt those reasons;
- the OIP Director concurs; and
- proper notice of the limited meeting is provided.

In addition, the board must:

- videotape the meeting, unless the requirement is waived by the OIP Director;
- comply with the minutes requirements;
- make the videotape available at the next open meeting; and
- make no decisions at the limited closed meeting.

A Bill for an Act Relating to Public Agency Meetings

This bill seeks to make OIP’s powers and duties under the Sunshine Law generally consistent with its powers and duties set forth in administering the UIPA. In particular, it would authorize OIP to conduct investigations and to render determinations in response to complaints filed under the Sunshine Law.

Additionally, it would require that OIP be given notice of any lawsuit filed that concerns the Sunshine Law and would allow OIP to intervene in the action. 

OpenPoint

*UIPA and Sunshine Law
Pointers and Guidelines*



Steps Boards Should Take to Comply with the Sunshine Law When Participating in the Legislative Process

Preparing Testimony

DO list on the agenda the topic of each legislative idea that will be discussed at a meeting.

Before a board may discuss legislation or taking any position on it, the board’s agenda must first provide sufficient notice of the general subject matter of the legislation to be considered at the board’s meeting.



DON’T just list on the agenda an item that reads “Legislation” or “Legislative Report.”

This would not allow the board to consider any action relating to legislation. Instead, it would only allow a board to hear an informational report (usually by staff) on legislation on which the board does not expect to take any action to support or oppose.

DO provide enough detail to allow the public to reasonably understand the general subject matter of the legislation to be considered and decide whether to attend and participate in the meeting.

For example:

1. Proposed Legislation:
 - (a) Amend definition for “public housing project” under HRS chapter XX to allow police traffic enforcement at the Villages of Kapolei
 - (b) Governor’s Affordable Housing Initiatives
 - (c) Proposal to split HCDCH into two agencies

Testifying

DO assign a group of less than a quorum of board members to testify at the Legislature or to discuss the board’s position on legislation.

DO define each member of the legislative group’s authority at a meeting beforehand.

The permitted interaction under section 92-2.5(b), HRS, provides that two or more members, but less than a quorum, may be assigned to “[p]resent, discuss, or negotiate any position which the board has adopted at a meeting of the board;” provided that the board assigns the members and defines the scope of each member’s authority at a prior meeting.



Even where a board has already adopted a position on a bill as introduced, OIP strongly recommends that a board use this permitted interaction to testify before the Legislature or to discuss that position with individual legislators or other concerned parties.

Because amendments to proposed legislation are typically considered, it is likely that testimony or discussion may expand to include discussion of changes to the legislation that may be considered by the board at an upcoming meeting.

DON’T have discussions between more than two members when no legislative group is assigned.

One member, or two members under the two member permitted interaction, may also discuss the board’s position in the event the board does not have time to assign members to do so.

If two members participate in the discussion, however, they must then be careful not to discuss the same matter with other board members outside of a properly noticed board meeting. 🗨️

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