

# OFFICE OF INFORMATION PRACTICES

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## COMMENTS

To: House Committee on Higher Education

From: Paul T. Tsukiyama, Director

Date: February 5, 2008, 2:00 p.m.  
State Capitol, Room 309

Re: Testimony on H.B. 2978  
Relating to Education

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Thank you for the opportunity to submit testimony on H.B. 2978.

The Office of Information Practices (“OIP”) takes no position on the substance of this bill, which would establish a Funding Formula Task Force, but seeks clarification of a provision on page 6 of the bill, lines 16-21, which states that

The funding formula task force shall be exempt from chapter 92, Hawaii Revised Statutes; provided that the task force shall make a good faith effort to make its proceedings and work products accessible and available to the general public in a manner consistent with the intent of chapter 92, Hawaii Revised Statutes.

The Sunshine Law is only part I of chapter 92. Parts II through IV of chapter 92 relate to non-Sunshine Law issues, such as boards’ general powers and quorum requirements, copy charges for public records, and publication of legal notices. If the intent of this provision is to exempt the Task Force from the Sunshine Law, OIP recommends that the bill state that the Task Force “shall be exempt from part I of chapter 92.”

OIP would, however, recommend that this Committee carefully consider whether it is good policy to exempt the Task Force from the Sunshine Law in light of the express policy and intent of the statute.

In a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore, the legislature declares that it 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.

Haw. Rev. Stat. §92-1 (1993).

The issues on the issue on which the Task Force is charged with making recommendations are important to and will directly affect the entire University community, and indirectly the public at large. Although the bill calls for the Task Force to make a good faith effort to make its proceedings accessible to the public, the way in which it chooses to do so will be entirely within the Task Force's discretion and members of the public will have no recourse if they feel shut out of the proceedings. For instance, if it is exempt from the Sunshine Law, the Task Force will not be required to post notice of its meetings or allow the public to testify at its meetings.

Thank you for the opportunity to testify.