

Question: When does an advisory board or committee have to comply with the open meetings law?

Editor's Note: This is a monthly column prepared by the Iowa Public Information Board to update Iowans on the IPIB's activities and provide information on some of the issues routinely addressed by the board.



ANSWER: This is difficult to answer without additional information. Even with more information it is often difficult to give a definitive answer. Advisory groups and the application of the open meetings/records statutes are a murky area of the law. The answer in large part is determined by how these groups are formed and their "charter". The applicable statutory provisions within the jurisdiction of the Iowa Public Information Board are found in Iowa Code Section 21.2, the relevant portions of which are as follows:

21.2 Definitions.

As used in this chapter:

1. "Governmental body" means:

a. A board, council, commission, or other governing body expressly created by the statutes of this state or by executive order.

b. A board, council, commission, or other governing body of a political subdivision or tax-supported district in this state.

c. A multimedembred body formally and directly created by one or more boards, councils, commissions, or other governing bodies subject to paragraphs "a" and "b" of this subsection.

h. An advisory board, advisory commission, advisory committee, task force, or other body created by statute or executive order of this state or created by an executive order of a political subdivision of this state to develop and make recommendations on

public policy issues.

j. An advisory board, advisory commission, advisory committee, task force, or other body created by an entity organized under chapter 28E, or by the administrator or joint boards specified in a chapter 28E agreement, to develop and make recommendations on public policy issues.

Most probably the groups (advisory boards, committees, task forces etc.) would fall under subparagraph 1(h) or (j). The governing body of a local government entity that formally forms such a group would be construed to be doing so by executive order since in most instances the executive and legislative authority resides in the one governing body.

The answer depends on the role given the group. The crux of the matter is the meaning of the clause "to develop and make recommendations on public policy issues." Some have inferred from a statement made by the Iowa Supreme Court that it means more than just giving advice. From the context of the statement giving rise to that inference, if the specific issue is presented to the Court a likely resolution would seem an examination of whether public policy is influenced and to what degree. A test could be to examine how the creating governmental body intends to use the product it expects to receive

from the group. If the creating body plans to take formal action on the product itself, subparagraphs 1(h) or (j) would clearly apply to make the group subject to the open meetings law. But, if the charge given the group is to merely gather information, without recommendation, for use by the parent governmental body in its development of public policy, the open meetings law would not apply. Certainly the quoted clause has meaning. Without it, all such groups would be subject to the law without qualification. The application of the open meetings law to groups is subject to the qualification; it is just that the courts have not yet clearly articulated the limits of that qualification.

Note that if a number of members of the parent governmental body that would constitute a quorum of that body participate in a meeting of the group, whether or not as members of the group, the open meetings law would apply.

Note also that even if a group does not come within the purview of the open meetings law, it may still hold public meetings. This is a recommended as a good business practice.

IPIB Facts and Figures

During the month of October 2015, 67 contacts were made with the Iowa Public Information Board office.

TYPE	OCT. 2015	JAN-OCT 2015
Formal complaints	11	11
Formal opinions	1	8
Declaratory orders	1	1
Informal complaints	8	135
Informal requests	45	453
Misc.	1	16
TOTAL:	67	701

Who can contact the IPIB and how long does it take?

Any person can contact the IPIB for assistance by telephone (515-725-1781), by mail (Margaret.Johnson@iowa.gov) or website (www.ipib.iowa.gov). So far, in 2015, 696 identifiable people have contacted the IPIB. Of these, 46% were private citizens, 40% were government officials or employees, and 14% were members of the media.

In the month of October 2015, 57% of the incoming contacts were resolved the first day, 21% were resolved in one to five days, and 22% were resolved in six or more days.