

# 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.*



Iowa courts have not yet definitively answered that question, but they do give general guidance. The basic idea is if an advisory group makes recommendations to a governmental body, then the advisory group is likely covered by the open meetings law. On the other hand, if the advisory group only provides objective factual information (without any corresponding advice or recommendations) to the governmental body, then the advisory group is probably not subject to the open meetings law. The challenge comes in determining at what point the “information” provided by an advisory group crosses the line from “fact-finding” to “advice” giving. If an advisory group gets too close to the line between “information” and “advice,” it is likely subject to the open meetings law.

Advisory groups and the application of the open meetings statute is 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 in Iowa Code Section 21.2 contain the clause “to develop and make recommendations on public policy.” The crux of the matter is the meaning of this clause. 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 to be 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, the group could expect to be 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 to aid the parent 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 advisory group when public policy is discussed, 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 June, 82 contacts were made with the Iowa Public Information Board office. Website statistics show 754 visits in June 2014, of which 51% were new visitors. To contact the IPIB, call 515-725-1781 or send an e-mail to [Margaret.Johnson@iowa.gov](mailto:Margaret.Johnson@iowa.gov).

<u>TYPE</u>	<u>JUNE</u>	<u>JAN-JUNE</u>	<u>FISCAL YTD</u>
Formal complaints	18	58	101
Formal opinions	0	3	6
Declaratory orders	1	3	5
Informal complaints	7	50	101
Informal requests	56	273	412
Misc.	0	5	18
<b>TOTAL:</b>	<b>82</b>	<b>392</b>	<b>643</b>