



The Vigilance Committee

GCIC, Inc. 414 West Soledad Avenue, Hagåtña, GU. 96910

Through a Freedom of Information Act request, our Committee uncovered that Governor Leon Guerrero's Physician Advisory Council – which exists to advise the Governor on matters related to the spread of COVID-19 through coordination and expert advice – was neither compliant with the Open Government Law nor had it observed the rudimentary principles and requirements of every deliberative body. To ensure advisory committees are open and transparent to the public, the Vigilance Committee recommends the following *amendments* to the Open Government Law:

Section 1. Subsection (b) of §8104, Chapter 8, Title 5, Guam Code Annotated, is *amended* to read:

“(b) *Meeting* means:

1) the convening of a governing body of a public agency for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter. Meeting does not include any on-site inspection of any project or program.

2) the convening of an advisory committee appointed by the governor to provide recommendations concerning her exercise of the authority provided by 10 GCA Chapter 19.”

Section 2. Subsection (c) of §8104, Chapter 8, Title 5, Guam Code Annotated, is *amended* to read:

“(c) *Action* taken means:

1) a collective decision made by a majority of the members of a public agency, a collective commitment or promise by a majority of the members of a public agency to make a positive or a negative decision, or an actual vote by a majority of the members of a public agency when sitting as a body or entity, upon a motion, proposal, resolution or order.

2) a recommendation made by an advisory committee appointed by the governor to provide recommendations concerning her exercise of the authority provided by 10 GCA Ch. 19.”

Section 3. The provisions of 5 GCA § 8115. Penalties and Court Jurisdiction. *shall not* apply to the members of an advisory committee as defined in 5 GCA § 8104 (b) (2).

6.) How will you ensure advisory committees, such as the Physician Advisory Council, adhere to the Open Government Law or observe the rudimentary principles and requirements of every deliberative body?

CANDIDATE RESPONSES

<p>ADA, Vicente Anthony Borja (R) Tony Ada (Daso/Bodig)</p>	<p>I don't know whether the governor's physician advisory group is an established government organization with a formal structure. If so, the Open Government law should apply to it. I don't believe that it is, though. Ultimately, the Governor is responsible declarations made in Executive Orders. By making the meetings of the governor's advisors public, the proposed legislation appears to give the advisors shared responsibility for their recommendations. These advisory groups are not binding on the actions of the governor and forcing them to have public meetings may resulting having no physicians volunteer for this public service.</p>
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ANANICH, John Albert, II (D) Perez Aguon	Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".
ARMENTA, Michelle Lynn (R) Familian Dasu	I will amend the Open Government Law as recommended above.
BLAS, Frank Flores, Jr. (R) Dero Jeje Papa	While I agree with the language provided in the proposed amendment for the definition of "Meeting," the characterization of "a recommendation" as an "Action" may be problematic. There is no force or decisiveness in a recommendation until it is determined that it will be the course of action to take. The amendment to "Action" should read, "a decision based on a recommendation made by an advisory committee appointed by the Governor to provide recommendations concerning his exercise of authority provided by 10 GCA Ch. 19.'
BORDALLO, Fred E., Jr. (D) Kotla Queto	I would support the recommended amendments provided. Additionally there are ways that the use of technology can support attendance of representatives of the community that can be included as an observer, and also have an interest with the policy, programs and strategies discussed in the context of these emergency meetings. Another option that transcribed records be made available as records of decisions made.
BORJA, Vincent A.V. (R) Dasso & Karabao	Just like directors and appointed members of the administration, the PAG should be scrutinized and approved by the legislature. The legislature should also keep the administration in check and not just bow to the orders of the Governor. Things should make sense and the senators should be questioning the decisions especially when one policy contradicts the other.
BROWN, Joanne M. (R)	The Governor should not be able to state publicly that she/he is acting in the recommendations of an advisory group that has no public record. In addition, the Legislature that represents the People's House should also be actively engaged in bringing to light and deliberating on decisions that as in the case of this pandemic, should be public. The people should know how and why decisions have been made in their behalf, especially if it affects their civil liberties. Also, through legislation, limits should be placed on the power of the Governor to extend a public health emergency beyond 30 days to insure public deliberations and engagement with no less than the vote of 8 senators. This should not be a unilateral authority. I will support this amendment to the law.
CARILLO, Christopher L. (D) Chris	Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".
CRUZ, Joseph Iglesias (R) JI Cruz / Familian Lazaro	Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".
DUENAS, Christopher M. (R) Chris	This proposed legislation seems logical and transparent. I support it.

DUENAS, David Ralph (D) Dave Inchick	Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".
EDQUILANE, Don Antonio Ada (R) Balaku Atdot Sam Clara	Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".
HERNANDEZ, Dominic Joaquin (R) The Informant	Only time I would not require the physician advisory council to be transparent is if it is in relations to a personal individuals medical record. Other than that, there should be no reason why they can't be transparent especially when they are the experts in the matter and we in the public depend on them to make the right decisions when it comes to a public health emergency. I will support amendments such as mentioned above to ensure they are in complaint with transparency to the public about their decisions. One way to ensure transparency is being conducted properly is have individuals or a group who is authorized by the government to look into these matters and ensure public transparency is being followed in accordance to the law. Going back to the previous statement, enforcing the law.
LEON GUERRERO, Frank G. (D) Nacha / Liberato	I will make every effort to investigate these allegations keeping in mind the sensitivity of all concerned.
LEON GUERRERO, Joaquin Vicente (R) Ken Leon Guerrero	Require that all meetings of all government advisory groups take place in a public hearing forum to allow citizens to monitor the discussions of "unelected" or "not appointed people" that have not gone through a public vetting process making recommendations that could result in actions that will impact on the population of our island.
MARSH, Kelly G. (D) (Incumbent) Taitano Kaluu	I understand the intent of wanting this transparency. I would seek legal counsel to provide guidance regarding the amendment.
MENO, Franklin J. (D) Bunker	Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".
MOYLAN, James C. (R) (Incumbent) Jim Camacho Aragon Jeju	Just as the previous two questions, I am open to modernizing the Open Government Law to assure there is a greater fluidity in how information is shared with the community. I would like to sit with the Vigilance Committee in the coming weeks to review their recommendations, and what I can do as a lawmaker. But yes, these ideas being proffered by the organization align with my actions as a senator, specifically with policies which I have introduced.
MUÑA BARNES, Tina Rose (D) (Incumbent) Pungco/Che/Inda	Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".

<p>NELSON, Telena Cruz (D) (Incumbent) Flores Torres Fungo</p>	<p>"Vice Speaker Telena Cruz Nelson has always been a champion of transparency and accountability within our government. In this term alone and to ensure accountability, Vice Speaker Nelson has conducted numerous oversight hearings with agencies under her purview, including the Guam Department of Education, charter schools, and the Guam International Airport Authority. In late 2019, Nelson assumed temporary oversight of the Committee on Public Safety and oversaw two oversight hearings with the Department of Corrections after multiple inmates had been erroneously released. Nelson has gone as far as to oppose the confirmation of a government board member who had a controversial history with transparency and complying with Guam's Open Government Law. Through innumerable Sunshine Reform Act (FOIA) requests and letters to various government agencies, a host of oversight hearings and, in her capacity as a check and balance of the government, Vice Speaker Nelson has proved time and time again that transparency and accountability is of the utmost importance in our democracy. She has fought to protect an open government and one that is accountable to the people it serves, and has always pledged to uphold these values in service to the People of Guam. Currently, Vice Speaker Nelson is on active duty orders with the Guam National Guard and is unable to participate in this survey while she continues serving our island in a different capacity. This official response has been submitted on her behalf from The Office of Vice Speaker Telena Cruz Nelson."</p>
<p>PEREZ, Sabina E. (D) (Incumbent) Familian Gollo, Cabeza</p>	<p>I believe a Governor should have the right to obtain advice and counsel from whomever she wishes, and this advice can come in a form of organized groups. However, the ultimate decision must rest with the Governor. Should she abdicate the decision-making role to the group, it effectively becomes a de-facto government entity in that it is making decisions that impact our island. And, as such, it should be held to the same high standards of transparency and accountability that we expect of all government entities. Practically, I believe the role of advisory councils is to provide recommendations based on objective data and they should not be the decision makers. The question is at what point is the information provided equivalent to the decision itself. A balance must be struck with the ability to seek counsel and openness of the decision process. As such, I would support this amendment if it could be strengthened to clarify a distinction between "advisement" and "decision making", with the latter requiring that all government transparency and accountability laws be followed. Lastly, the language of the amendment should replace "committee" with something along the lines of "entity (to include board, commission, committee, council, and any organization of advisors performing a similar role)", to ensure that the language is applied to all groups of advisors, regardless of naming.</p>

<p>RIDGELL, Clynton E. (D) (Incumbent) Clynt Ridgell</p>	<p>I believe that the Chief Executive of any organization be it public or private should be afforded the ability to solicit advice from anyone without the need to keep minutes. The Physician’s Advisory Council is not a policy making body in that it is not capable of making decisions that are binding. It is instead a group of people who advise the Governor. All leaders need advisors and the discussions between a leader and his or her advisors should have to be subject to the requirement of notices and minutes. This allows for more frank discussions and the quick decision making that is a necessary function of the executive branch. The ability to have these frank discussions and make split second decisions will be hampered by the need for notice and the recording of minutes. Notices and minutes are something that instead should be reserved for policy making bodies and by nature is not suitable for the rapid decision making that is required for the actual execution of policies.</p>
<p>SAN AGUSTIN, Joe Shimizu (D) (Incumbent)</p>	<p>Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".</p>
<p>SEAU, Sandra Reyes (R) Familian Tung & Kinto</p>	<p>Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".</p>
<p>SHELTON, Amanda (D) (Incumbent) Familian Carabao</p>	<p>Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".</p>
<p>TAITAGUE, Telo Teresa (R) (Incumbent) Tell it to Telo</p>	<p>Regardless of where Adelup receives advice and recommendations regarding the current public health emergency or any policy proposal, the buck stops with the governor. She is ultimately responsible for making decisions on proposed laws, executive orders, and guidelines. However, it would help for the governor to promote greater transparency by conducting regular briefings and include representatives from the Physician Advisory Council to help address questions and concerns raised by the media and members of the public.</p>
<p>TERLAJE, Jose Toves (D) (Incumbent) Jose "Pedo" Toves Terlaje</p>	<p>Candidate did not respond to question 6.</p>
<p>TERLAJE, Therese M. (D) (Incumbent) Attorney</p>	<p>The governor as the decision maker should disclose the specific findings or recommendations she is relying on and the source of those findings or recommendations. That is the surest way to build the trust of the community and to ensure additional helpful information can be considered during a health emergency. If an Advisory Council established as an agency of the government of Guam is making formal recommendations then the process should comply with the Open Government Law. However, I would not want to require 5 days notice for voluntary physicians who are not making decisions for the government to discuss among themselves or to give advice to the governor in a health emergency.</p>
<p>TORRES, Mary Camacho (R) (Incumbent) MARY- Your Voice</p>	<p>Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".</p>