

The Uniform Information Practices Act (Modified)



Hawaii's Public Records Law
Chapter 92F, HRS



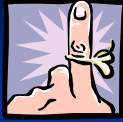
“[I]t is the policy of this State that the formation and conduct of public policy -- the discussions, deliberations, decisions and actions of government agencies -- shall be conducted as openly as possible.”

What is the Purpose of the UIPA?

- To protect the public's interest in disclosure;
- To open the governmental process to public scrutiny and public participation; and
- To make government accountable to individuals in the collection, use, and dissemination of information relating to them



UIPA Power Points (things to remember)



- Records presumed public
- 5 exceptions to disclosure
- Respond in 10 business days
- “Personal” records are different

General Rule

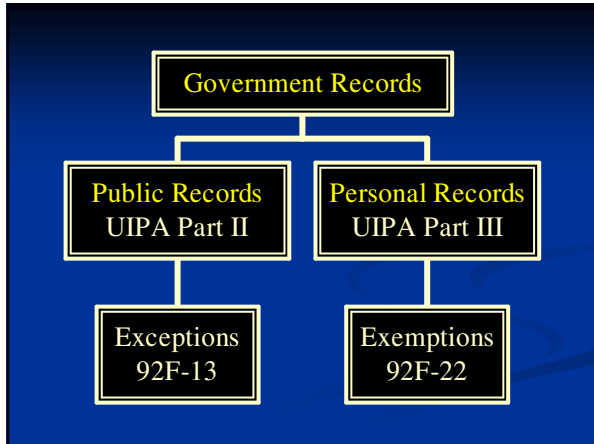
All government records are open to public inspection and copying unless restricted or closed by law



General Rule

All **government records** are open to public inspection and copying unless restricted or closed by law






PUBLIC RECORDS

Part II of the UIPA

Required Disclosure

Examples:

- Agency rules, policy and interpretations
- Final opinions and orders
- Government purchasing information
- Land ownership records and state leases
- Contract hires and consultants
- Minutes of agency meetings
- Certified payroll records
- Building permit information
- Rosters of licensees and permit holders
- Government personnel information
- Employee misconduct
- Written consent of individual to whom the record refers
- Federal or state law authorizes disclosure



5 Exceptions to Disclosure

1. Privacy Exception
2. Litigation Privilege Exception
3. Frustration Exception
4. Law or Order Exception
5. Legislature Exception



Privacy Exception



- “clearly unwarranted invasion of personal privacy”
 - “Significant privacy interest” and
 - Not outweighed by public interest in disclosure

Significant Privacy Interests

- Health information
- Social Security Numbers
- Personal contact information
- Financial information
- Criminal law investigation
- Social services or welfare benefits
- Personnel file type information



Public Interest In Disclosure

- Sheds light on agency's performance and conduct of government officials
- Promotes government accountability



Frustration Exception

- Avoid frustrating a legitimate government function



Examples of "Frustration"

- Open Investigation
- Confidential Sources
- Proprietary Information
- Confidential Business Information
- Internal Agency Memoranda
- Examination Materials



Examples of “Frustration”

■ Proprietary Information

- Research methods, records and data, computer programs and software, copyrighted information



Examples of “Frustration”

■ Confidential Business Information

- Trade secrets
- Confidential commercial and financial information
- Substantial competitive harm



Internal Agency Memos

- “Deliberative Process Privilege”
- Recommendations or opinions that are:
 - Pre-decisional, and
 - Part of the decision-making process



Interagency Disclosure

Required for performance of duties,
and

- Compatible with purpose, and
- Consistent with expected use

Interagency Disclosure

- To state archives
- For civil or criminal law enforcement activities
- To the legislature or county council
- Pursuant to court order
- To the auditor, LRB or Ombudsman
- To DHRD or personnel offices

Within 10 Business Days

Provide:

- Record,
- Notice, or
- Acknowledgement



Step 1

Identify the requested record

Step 2

Determine whether the agency
has the record

Step 3

Determine if an exception
applies

Step 4

Within 10 days, provide:

- Record
- Notice
- or -
- Acknowledgement

Fees

- May charge for:
 - search, review, and segregation; and
 - any other lawful fees (e.g., copying fees)
- Prepayment allowed
 - 50% of estimated search, review and segregation fee and
 - 100% of other estimated fees



Step 5

Search, review, and segregate

Step 6

Provide the record

“Personal Record”

- “About” the requester
- Contains or makes reference to the requester’s name, social security number or other identifying particular



Personal Record Exemptions

1. Criminal Law Enforcement Records
2. Confidential Source Records
3. Government Examination Materials
4. Investigative Reports or Materials
5. Records Protected by Law



Agency's Response

- Access within 10 business days
- Additional 20 business days if unusual circumstances exist



Right to Correct

- Any misleading or incorrect fact
- Within 20 days of receipt of written request, acknowledge receipt and:
 - Make correction or amendment, or
 - Inform requester of refusal, reason, and appeal procedures



Penalties

- Knowing or intentional violation:
 - actual damages (but not less than \$1,000) and attorney's fees and costs
- Complainant substantially prevails:
 - attorney's fees and costs





Need Help?

- Call AOD 586-1400



- E-mail AOD: oiip@hawaii.gov
- OIP Website: www.hawaii.gov/oiip
