

Interagency Sharing of Records: What You Should Know

Hawaii's public records law, the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes ("UIPA"), dictates which State and county government records are disclosable to the public. This is the area of the law that most people think of when they hear "UIPA."



One part of the UIPA, however, talks about how one agency may share non-public records with

another agency. Section 92F-19, at the end of Part II of chapter 92F, gives precise guidance on how and when agencies may share their non-public records with other agencies. The full text of Section 92F-19, and the rest of the UIPA, are available at www.state.hi.us/oip/uipa.

R When Agencies May Share Records With Other Agencies

Section 92F-19 is entitled "Limitations on disclosure of government records to other agencies." Section 92F-19(a) begins by stating that "No agency may disclose or authorize disclosure of government records to any other agency unless the disclosure is . . ." and then lists 11 times when agencies may share records with other agencies, as summarized here:



1) When disclosure is necessary for the requesting agency to **perform its duties and functions**; and the disclosure is "compatible with the purpose

for which the information was collected or obtained," or the disclosure is "consistent with the conditions or reasonable expectations of use and disclosure under which the information was provided."

2) When disclosure is to the **state archives**.

3) When disclosure is to another agency or state or the federal government or foreign law enforcement agency, for the purpose of a **civil or criminal law enforcement** activity, and pursuant to written agreement or request.

4) When disclosure is to a criminal law enforcement agency, "if the **information is limited** to an individual's

name and other identifying particulars, including present and past places of employment."

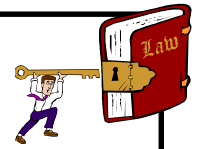
5) When disclosure is to "a **foreign government** pursuant to an executive agreement, compact, treaty, or statute."

6) When disclosure is to "the **legislature**, or a **county council**, or any committee or subcommittee thereof."

7) When disclosure is "pursuant to **an order of a court** of competent jurisdiction."

See *Interagency*, p. 2

OIP Opinions on Interagency Disclosure



The OIP has issued a large number of formal opinion letters on various aspects of interagency disclosure.

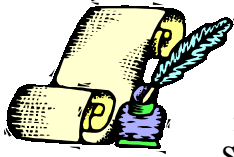
The following list is from the subject matter index of OIP's opinions, available at www.state.hi.us/oip/opinions, along with a summary and the full text of each opinion.

- Agencies of Other States, Disclosure to 90-1, 90-4, 90-29
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 - Requesting Agency's Duties and Functions
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- Requests not Required to be in Writing 90-9

Recent OIP Opinion

R *Closed Investigation of Deputy Attorney General*

Two individuals filed a complaint with the Attorney General against an employee. They later requested a redacted copy of the investigation conducted on the employee.




Under part II of the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes (“UIPA”), the employee who is the subject of the investigation has a significant privacy interest in “personnel” type information under section 92F-14(b)(4), Hawaii Revised Statutes (“HRS”), which outweighs any public interest in the record.

Thus, under part II of the UIPA, the requesters are not entitled to a redacted version of the investigation, and the Attorney General may withhold it from public disclosure.

However, because the investigation refers to the employee as well as one of the complainants, it is a joint personal record, i.e., it is both the employee’s and the complainant’s personal record. Under part III of the UIPA, only the complainant mentioned in the investigation is entitled to access information about him that is maintained by government.

This opinion sets forth an important policy with regard to joint personal records. If a record and/or information contains an individual’s name or other identifying particular, there is a presumption that it is a personal record entirely accessible to the requester (subject to the exemptions in section 92F-22, HRS).

However, this presumption can be rebutted if it can be shown that certain information is not “about” the requester, but is “about” someone else, and in the interest of protecting personal privacy, it would be a violation of part II of the UIPA to disclose the other person’s information to the requester.

Due to the unique circumstances in this case, segregation of the investigation is warranted, insofar as it is reasonably segregable, because disclosure to the complainant of the portions of the investigation that pertain solely to the employee would be a clearly unwarranted invasion of the employee’s privacy. [*OIP Op. Ltr. No. 03-18, November 12, 2003*] 

Interagency (from p. 1)

8) When disclosure is to “authorized officials of another agency, another state, or the federal government for the purpose of **auditing or monitoring an agency program** that receives federal, state, or county funding.”



9) When disclosure is to “the offices of the **legislative auditor**, the **legislative reference bureau**, or the **ombudsman** of this State for the performance of their respective functions.”

10) When disclosure is to “the **department of human resources development**, **county personnel agencies**, or line agency personnel offices for the performance of their respective duties and functions.”


11) When disclosure is “otherwise subject to disclosure under this chapter.”

R *Restrictions on Disclosure By the Receiving Agency*

Section 92F-19(b) ensures that disclosure restrictions travel with the records being shared. It places the following restrictions on the agency receiving the records: “An agency receiving government records pursuant to subsection (a) shall be subject to the same restrictions on disclosure of the records as the originating agency.”

In other words, if a record should not be disclosed to the public by the originating agency, then it may not be disclosed by the receiving agency.

R *OIP Opinions and Guidance*

In addition to its formal opinions on this subject (see the list on page 1), the OIP has also issued guidance regarding the disclosure of agency records to auditors, including outside auditors, internal auditors, and the Office of the Legislative Auditor. This guidance memorandum may be found in the Guidance section of www.state.hi.us/oip. 

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