

The Office of Information Practices ("OIP") is charged with the administration of Hawaii's open records law, the Uniform Information Practices Act (Modified), chapter 92F, HRS (the "UIPA"), and Hawaii's open meetings law, part I of chapter 92, HRS (the "Sunshine Law").

2009 Legislative Wrap-Up: Information Practices

During the 2009 Legislative session, OIP reviewed and monitored 103 bills affecting government information practices, and testified on 25 of these bills.

For information about the bills discussed below, including the text of bills, bill history, and committee reports, consult the Legislature's website at www.capitol.hawaii.gov.

✓ Bills Proposed by OIP

The Legislature held hearings on H.B. No. 1148, which proposed amendment to the notice provision of the Sunshine Law to allow boards to file their notices and agendas electronically on the State calendar in lieu of filing with the Office of the Lieutenant Governor. The House disagreed with the Senate's amendments to the bill and no further action was taken on this bill.

The Legislature declined to consider other bills that OIP had proposed. For details of the three bills proposed by OIP, see the February 2009 *OpenLine*.

✓ Other Sunshine Law Bills

S.B. No. 438 proposed amendment to the statute governing the Board of Education's (BOE) meetings, to allow the BOE to give only a two-day notice for meetings during the legislative session when the only items on the agenda relate to legislation. This bill was approved by the Legislature and became law without the Governor's signature.

S.B. No. 906 was proposed by the Administration to expand board members' ability to participate in meetings without being physically present by use of interactive conference technology. This bill sought to remove the current Sunshine Law requirement that the public must be able to view the board members' participation via video **and** audio technology. Although approved by the Senate Judiciary Committee, the bill did not receive further consideration.

✓ Other UIPA Bills

OIP testified about its concerns regarding H.B. No. 1212, a bill that sought to protect licensee complaint information from public disclosure despite the fact that the Legislature enacted the UIPA with the express provision that an individual licensee does not have a significant privacy interest in a record of complaints.

Specifically, the bill proposed to remove the longstanding provision in the UIPA that an individual licensee does not have a significant privacy interest in his or her record of complaints including all dispositions.

After being heard and approved, with amendments, by both House and Senate Judiciary Committees, the bill was left unresolved.

Similarly, H.B. No. 1359 proposed to prohibit the Office of Consumer Protection from disclosing consumer complaints where the complaints were resolved in favor of the businesses. No further action was taken on this bill after its hearing and approval by the House Judiciary Committee with amendments. 📧

OIP Informal Opinion Letters

Due to recent interest, OIP is adding to its website (www.hawaii.gov/oip) a list of its **informal** opinions along with summaries of those opinions. Most of these summaries have appeared in OIP's annual reports to the Governor and the Legislature, which may be accessed on OIP's website under *Reports*.

OIP issues **formal** opinions that are published and widely distributed. These opinions offer legal guidance to the public and government agencies by fully setting forth OIP's interpretations of provisions of the UIPA



See **Informal Opinions**, p. 2



OIP INFORMAL OPINIONS**Sunshine Law Opinions:****2009 Op Ltr No**

S Memo 09-9

S Memo 09-10

S Memo 09-11

S Memo 09-12

S Memo 09-13

S Memo 09-14

Subject

Sufficiency of Agenda and Circulation of Proposed Amendments to Bill

Amended Agenda and Adequate Notice

Testimony Limitation, Executive Meeting for Attorney Consultation, and Minutes

Whether the Act 213 Charter Schools Work Group Is Subject to the Sunshine Law

Board of Education Executive Session Notice and Procedures

Meeting Without Quorum

Board

Kauai County Council

State Procurement Policy Board

Maui County - Cost of Government Commission

Department of Education - Board of Education

Department of Education - Board of Education

Procurement Policy Board

**UIPA Opinions:****2009 Op Ltr No**

U Memo 09-5

U Memo 09-6

U Memo 09-7

Subject

Inmate Inspection of Records Before Payment of Copying Fees

Candidate's Financial Disclosure Statement

Police Chief's Evaluation

Agency

Department of Public Safety

Maui County - Board of Ethics

Honolulu Police Commission

UIPA Decisions on Appeal:**2009 Op Ltr No**

Memo Decision 09-13

Memo Decision 09-14

Memo Decision 09-15

Subject

Hawaii Superferry Records

Payroll Records

Laser Speed Detection Records

Agency

Office of the Governor

Department of Education

Honolulu Police Department

Informal Opinions (cont. from p. 1)

and the Sunshine Law. These opinions are chosen because of their discussion of general concepts under these laws and their broad applicability to similar factual situations. They are relied upon as precedent by OIP in the issuance of its opinions.

OIP issues **informal** opinions generally in instances where the legal questions raised by a dispute have been previously resolved and discussed in a formal opinion, and where the legal opinion is based upon specific facts that limit the opinion's usefulness for general guidance purposes. These opinions are often abbreviated in form and refer the reader to OIP's formal opinions for a full discussion of the legal concepts applied. OIP does not maintain a subject index for the informal opinions.

The informal opinion letter summaries are grouped into three categories (*see the box above*):

(1) **Sunshine Law Opinions.** These are advisory opinions rendered in response to a request for a legal opinion concerning the Sunshine Law, a request for an investigation

into a possible violation of the Sunshine Law, or a complaint filed against an action taken (or not taken) by a government board.

(2) **UIPA Opinions.** These are advisory opinions rendered in response to a request for a legal opinion concerning the UIPA.

(3) **UIPA Decisions on Appeal.** These are OIP determinations made in response to an appeal to OIP filed by a member of the public from a government agency's denial of access to a government record.

The opinions are numbered by fiscal year for reporting purposes in OIP's Annual Report, but will appear on OIP's website by calendar year. 📧

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