

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”).

## 2011 Legislature

### Bills of Interest

**H.B. No. 1411** – Seeks to place a confidentiality provision within the UIPA to require agencies to keep all pending complaint information related to “consumer complaints” confidential.



**H.B. No. 109** – Seeks to add permitted interactions under the Sunshine Law for board members to attend public gatherings or professional association conferences and activities.

**S.B. No. 1094** – Seeks to eliminate the requirement that a government employee’s name be considered public and for “regulatory agenc[ies]” to disclose any information about their employees, including information such as job titles, salary information, qualifications, and dates of service; seeks to narrow the types of public employee positions for which exact compensation, rather than a salary range, must be disclosed.

**H.B. No. 549** – Seeks to require electronic filings on the state calendar on the state website for state boards in lieu of filing a hard copy with the Lieutenant Governor’s office.

*This following are summaries of formal and informal OIP opinions issued.*

### OIP Formal Opinion Letter Summaries

#### UIPA Workers’ Compensation Records

Requester asked OIP whether the Department of Labor and Industrial Relations (DLIR) properly denied Requester’s request for workers’ compensation records under part II of the UIPA.

As part of its investigation of a current workers’ compensation claim, Requester sought to learn whether the claimant had made workers’ compensation claims in the past, as well as some basic information about any such claims (the date of the accident, the claim number, the insurance carrier, the employer, and the body part injured).



The individual in question was a private sector employee. Although the request was related to a current workers’ compensation claim, Requester did not obtain a written consent to disclosure from the individual whose information was requested.

DLIR denied the request based on the lack of written consent and the claimant’s privacy interest, and subsequently clarified that the denial relied on the UIPA’s privacy exception, HRS § 92F-13(1), HRS.

OIP addressed the question of whether workers’ compensation claim information identifying a private sector claimant (with the exception of final decisions) is public under the UIPA. OIP found that this information is not public.



With the exception of disputed claims on which a final decision has been issued, an individual has a significant privacy interest in the fact that he or she has filed a workers’ compensation claim. See HRS §§ 92F-13(1) and -14.

For private sector employees, the public interest in an individual’s claim is minimal and does not outweigh that significant privacy interest. Thus, DLIR properly withheld the workers’ compensation claim information under the UIPA’s privacy exception. [OIP Op. Ltr. No. 10-05]

See OIP Formal Opinion s, p.2

## OIP Formal Opinions (cont. from p. 1)

### UIPA Traffic Accident Data

The Department of Transportation (DOT) asked OIP whether it is required to disclose accident data for a certain location in response to a request made under the UIPA, where the record requester is engaged in a court proceeding against a county involving an accident at that location.



OIP addressed the question of whether DOT may withhold traffic accident

data from the requester based upon the discovery and evidentiary privilege established by federal law under § 409 of Title 23 of the United States Code.

OIP found that where the State or a county is or may be a party to a judicial action, government data that pertains to the defense of that action may be withheld from the requester under HRS § 92F-13(2), where it falls within the privilege created under §409.

Thus, to the extent that data was actually compiled or collected by DOT for purposes of a federal program identified in §409 to which the privilege would apply, DOT may withhold the traffic accident data from the requester. [OIP Op. Ltr. No. 10-04]

## OIP Informal Opinion Letter Summaries

### UIPA Unemployment Insurance Benefits Records

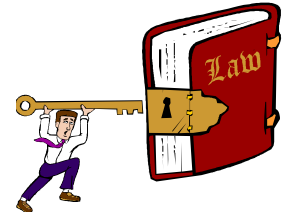
Requester asked whether the Employment Security Appeals Referees' Office, Department of Labor and Industrial Relations (DLIR), properly denied his request under part III of the UIPA for copies of documents submitted by his employer (Employer's Records) in its request to reopen the appeals officer's decision on



Requester's claim for unemployment insurance benefits.

OIP found that DLIR may properly withhold the Employer's Records from Requester under HRS § 383-95(a) and HRS § 92F-22(5).

Disclosure of information obtained from an employer or employee pursuant to administration of HRS chapter 383, Hawaii Employment Security Law, is governed by HRS § 383-95(a).



DLIR must hold information obtained from an employer pursuant to chapter 383 confidential, except that such information must be supplied to the claimant "to the extent necessary for the proper presentation of the claimant's claim in any proceeding" under that chapter. HRS § 383-95(a).

Thus, absent any proceeding on a claimant's claim, DLIR may withhold from the claimant information received from an employer based upon the UIPA's exemption to disclosure for records "required to be withheld from the individual to whom it pertains by statute." HRS § 92F-22(5).

DLIR's July 1 letter to Requester stated that access was being denied because "the employer's request to reopen was denied, by decision dated June 21, 2010, and there is no evidence the employer further appealed the decision in Circuit Court[.]"

Absent any facts asserted by Requester that presented a basis for disclosure under HRS § 383-95(a), OIP concluded that DLIR's response was proper under the UIPA. [UIPA Memo 11-1]

*Note: Summaries of OIP's formal and informal opinion letters, as well as copies of the formal opinion letters, are available at [hawaii.gov/oip](http://hawaii.gov/oip). Just follow the link to Laws/Rules/Opinions.* 📄

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