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# A BILL FOR AN ACT

RELATING TO THE OFFICE OF INFORMATION PRACTICES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 92F-3, Hawaii Revised Statutes, is  
2 amended by adding three new definitions to be appropriately  
3 inserted and to read as follows:

4           "Guidance" means a written discussion of the major legal  
5 and factual issues raised by an inquiry, including the most  
6 likely resolution of a complaint made in the inquiry, if  
7 applicable, but does not rise to the level of an opinion.

8           "Opinion" means a written discussion of legal and factual  
9 issues raised by an inquiry, including the findings and  
10 conclusions reached by the director of the office of information  
11 practices regarding those issues, regardless of whether the  
12 inquiry alleges violations of this chapter or part I of chapter  
13 92 or otherwise raises disputed issues of law or fact, or the  
14 inquiry seeks an advisory legal interpretation of this chapter  
15 or part I of chapter 92.



1       "Ruling" means a written opinion providing firm and final  
2 legal determination of all disputed issues raised by an inquiry  
3 alleging violations of this chapter or part I of chapter 92."

4       SECTION 2. Section 92F-42, Hawaii Revised Statutes, is  
5 amended to read as follows:

6       **"§92F-42 Powers and duties of the office of information**  
7 **practices.** The director of the office of information practices:

- 8       (1) Shall, upon request, review and ~~[rule]~~ issue a ruling  
9       on an agency denial of access to information or  
10       records, or an agency's granting of access; provided  
11       that any review by the office of information practices  
12       shall not be a contested case under chapter 91 and  
13       shall be optional and without prejudice to rights of  
14       judicial enforcement available under this chapter;  
15       provided that if the office of information practices  
16       issues written guidance to a complainant concluding  
17       that an agency denial of access most likely will be  
18       upheld, and includes reasons for that decision and  
19       informs the complainant of the right to bring a  
20       judicial action under section 92F-15(a), then no



- 1           further action is required by the office of  
2           information practices;
- 3           (2) Upon request by an agency, shall provide and make  
4           public advisory guidelines, opinions, or other  
5           information concerning that agency's functions and  
6           responsibilities;
- 7           (3) Upon request by any person, may provide advisory  
8           opinions or other information regarding that person's  
9           rights and the functions and responsibilities of  
10          agencies under this chapter;
- 11          (4) May conduct inquiries regarding compliance by an  
12          agency and investigate possible violations by any  
13          agency;
- 14          (5) May examine the records of any agency for the purpose  
15          of paragraphs (4) and (18) and seek to enforce that  
16          power in the courts of this State;
- 17          (6) May recommend disciplinary action to appropriate  
18          officers of an agency;
- 19          (7) Shall report annually to the governor and the state  
20          legislature on the activities and findings of the



- 1 office of information practices, including  
2 recommendations for legislative changes;
- 3 (8) Shall receive complaints from and actively solicit the  
4 comments of the public regarding the implementation of  
5 this chapter;
- 6 (9) Shall review the official acts, records, policies, and  
7 procedures of each agency;
- 8 (10) Shall assist agencies in complying with the provisions  
9 of this chapter;
- 10 (11) Shall inform the public of the following rights of an  
11 individual and the procedures for exercising them:
- 12 (A) The right of access to records pertaining to the  
13 individual;
- 14 (B) The right to obtain a copy of records pertaining  
15 to the individual;
- 16 (C) The right to know the purposes for which records  
17 pertaining to the individual are kept;
- 18 (D) The right to be informed of the uses and  
19 disclosures of records pertaining to the  
20 individual;



1 (E) The right to correct or amend records pertaining  
2 to the individual; and

3 (F) The individual's right to place a statement in a  
4 record pertaining to that individual;

5 (12) Shall adopt rules that set forth an administrative  
6 appeals structure which provides for:

7 (A) Agency procedures for processing records  
8 requests;

9 (B) A direct appeal from the division maintaining the  
10 record; and

11 (C) Time limits for action by agencies;

12 (13) Shall adopt rules that set forth the fees and other  
13 charges that may be imposed for searching, reviewing,  
14 or segregating disclosable records, as well as to  
15 provide for a waiver of fees when the public interest  
16 would be served;

17 (14) Shall adopt rules which set forth uniform standards  
18 for the records collection practices of agencies;

19 (15) Shall adopt rules that set forth uniform standards for  
20 disclosure of records for research purposes;



- 1           (16) Shall have standing to appear in cases where the  
2                   provisions of this chapter or part I of chapter 92 are  
3                   called into question;
- 4           (17) Shall adopt, amend, or repeal rules pursuant to  
5                   chapter 91 necessary for the purposes of this chapter;  
6                   and
- 7           (18) Shall take action to oversee compliance with part I of  
8                   chapter 92 by all state and county boards, including:
- 9                   (A) Receiving and resolving complaints[+] by issuing  
10                   a ruling on whether a violation occurred;  
11                   provided that if the office of information  
12                   practices issues written guidance to a  
13                   complainant concluding that a board most likely  
14                   did not violate part I of chapter 92, and  
15                   includes reasons for that decision and informs  
16                   the complainant of the right to bring a judicial  
17                   action under section 92-12(c), then no further  
18                   action is required by the office of information  
19                   practices;
- 20                   (B) Advising all government boards and the public  
21                   about compliance with chapter 92; and



1           (C) Reporting each year to the legislature on all  
2           complaints received pursuant to section 92-1.5."

3           SECTION 3. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5           SECTION 4. This Act shall take effect on January 1, 2023.



**Report Title:**

Uniform Information Practices Act; Open Meetings; Office of Information Practices

**Description:**

Requires the Director of the Office of Information Practices to provide either a ruling or guidance in writing on open records responses and open meetings complaints. Defines "guidance", "opinion", and "ruling". Effective 1/1/2023. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

