
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~~] that 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~~] that set forth uniform
18 standards for the records collection practices of
19 agencies;

20 (15) Shall adopt rules that set forth uniform standards for
21 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 July 1, 2112.

6



Report Title:

Uniform Information Practices Act; Sunshine Law; Office of Information Practices

Description:

Defines "guidance", "opinion", and "ruling". 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. Effective 7/1/2112. (SD1)

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

