

JAN 25 2023

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-42, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§92F-42 Powers and duties of the office of information
4 practices. The director of the office of information practices:

5 (1) Shall, upon request, review and either rule or provide
6 guidance on an agency denial of access to information
7 or records, or an agency's granting of access;
8 provided that any review by the office of information
9 practices shall not be a contested case under chapter
10 91 and shall be optional and without prejudice to
11 rights of judicial enforcement available under this
12 chapter; provided further that all rulings and
13 guidance issued pursuant to this section, or summaries
14 thereof, shall be made publicly available online
15 within a reasonable amount of time from the issuance
16 of the ruling or guidance;



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



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



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

3 (12) Shall adopt rules that set forth an administrative
4 appeals structure [~~which~~] that provides for:

5 (A) Agency procedures for processing records
6 requests;

7 (B) A direct appeal from the division maintaining the
8 record; and

9 (C) Time limits for action by agencies;

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

15 (14) Shall adopt rules [~~which~~] that set forth uniform
16 standards for the records collection practices of
17 agencies;

18 (15) Shall adopt rules that set forth uniform standards for
19 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[+], either by
10 determining whether a violation occurred or
11 providing guidance;

12 (B) Advising all government boards and the public
13 about compliance with chapter 92; and

14 (C) Reporting each year to the legislature on all
15 complaints received pursuant to section 92-1.5.

16 As used in this section, "guidance", means an informal
17 written discussion of the major legal and factual issues raised
18 by an inquiry, including the most likely resolution of a
19 complaint made in the inquiry, if applicable. "Guidance" does
20 not include a ruling in the form of a formal opinion providing
21 firm and final legal determination of all issues raised by an



1 inquiry. "Guidance" may, in the discretion of the director of
2 the office of information practices, be issued in lieu of a
3 ruling."

4 SECTION 2. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act shall take effect upon its approval.
7

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be 'J. W.', is written over a horizontal line that serves as a signature line.

S.B. NO. 1253

Report Title:

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

Description:

Allows the Office of Information Practices to resolve open meeting and open record complaints through either a legal determination on whether a violation occurred or written guidance on the relevant legal requirements.

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

