Prepared by the Personnel Management Office.
This is a new Administrative Procedure.

October 1988

GENERAL



A9.025 FAIR INFORMATION PRACTICE (CONFIDENTIALITY OF PERSONAL RECORDS)

1. Purpose. To comply with provisions of the Fair Information Practice Act governing an individuals access to the individuals personal records and access to those personal records by the public and governmental agencies. This procedure implements Chapter 92E, Hawaii Revised Statutes, as amended, and Title 20, Administrative Rules, University of Hawaii, Chapter 16, Personal Records.

2. Objective.

   a. To provide an individual access to his/her personal records maintained by the University.

   b. To provide an individual the opportunity to request correction of a record where there is evidence of a factual error, misrepresentation, or misleading entry.

   c. To permit the disclosure by the University of a personal record to other agencies provided that such disclosure is in accordance with Section 92E-5, HRS.

3. Applicability/Responsibility.

   a. This procedure is applicable to all individuals about whom a personal record is maintained by the University. A "personal record" means any item, collection, or grouping of information about an individual that is maintained by an agency. It includes, but is not limited to, the individuals educational, financial medical, or employment history, or items that contain or make reference to the individuals name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph. "Personal record" includes a "public record" which is defined as any written or printed report, book or paper, map or plan of the State or of a county and their respective subdivisions and boards, which is the property thereof, and in or on

which an entry has been made or is required to be made by law, or which any public officer or employee has received or is required to receive for filing, but shall not include records which invade the right or privacy of an individual.

b. Vice Presidents, Chancellors and Directors of organized research units shall designate an office on their respective campuses to which all requests for records will be sent and appoint a designee within that office who will be responsible for administering this procedure.

4. Individual Access to Personal Records.

a. An individual desiring to inspect and review his or her personal record shall adhere to the following procedures:

1) The individual shall provide a properly executed Section A of Request for Personal Record Information (Form A see attached) to the office designated to receive such requests.

2) The designee for personal records shall make a reasonable effort to verify the identity of the individual requesting to inspect his or her personal records.

3) Upon termination of the inspection and review of the personal record, the individual shall properly complete Section C of the Request for Personal Record Information (Form A - see attached).

4) The designee for personal records must comply with the individuals request within ten working days following the date of receipt of the request. The ten-day period may be extended for an additional twenty working days if the University provides to the individual within the initial ten working days of a written explanation of the unusual circumstances causing the delay.

5) Should the individual request an explanation or interpretation of the personal record, the designee for personal records shall assist the individual in obtaining such an explanation or interpretation.

6) A record of disclosure of personal records shall be maintained by the designee for personal records by the proper execution of Section B of the Request for Personal Record Information (Form A - see attached).



7) A record of requests and disclosure of personal records shall be maintained by the designee for personal records in the individuals file (Form B - see attached).

8) Upon request, copies of any portion of the individuals personal record shall be provided within the time period prescribed in subsection 4) above. The designee shall charge the individual for any copies and for certification of copies. The cost shall include the cost of duplication, transcription of the record, if necessary, and any search required to find the records involved.

5. Exemptions and Limitations on Individual Access.

a. An individual may be denied access to the record if the individual is unable to produce verification or identity in accordance with this procedure;

b. An individual may be denied access to personal records, or information in such records:

1) Maintained by an agency that performs as its or as a principal function any activity pertaining to the enforcement of criminal laws or any activity pertaining to the prevention, control, or reduction of crime, and which consist of:

a) Information which fits or falls within the definition of "criminal history record information" in section 846-1; or

b) Information or reports prepared or compiled for the purpose of criminal intelligence or of a criminal investigation, including reports of informers, witnesses, and investigators; or

c) Reports prepared or compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through

confinement, correctional supervision, and release from supervision.

2) The disclosure of which would reveal the identity of a source who furnished information to the agency under an express or implied promise of confidentiality.

3) Consisting of testing or examination material or scoring keys used solely to determine individual qualifications for appointment or promotion in public employment, or used as or to administer a licensing examination or an academic examination, the disclosure of which would compromise the objectivity, fairness, or effectiveness of the testing or examination process.

4) Including investigative reports and materials, related to an upcoming, ongoing, or pending civil or criminal action or administrative proceeding against the individual.

5) Required to be withheld from the individual to whom it pertains by statute or judicial decision or authorized to be so withheld by constitutional or statutory privilege.

c. Nothing in this procedure shall be construed to permit or require the University to withhold or deny access to a personal record, or any information in a personal record where any statute, administrative rule, rule of court, judicial decision or other law authorizes or allows an individual to gain access to his/her personal record.

6. Correction or Amendment of Personal Record.

a. After reviewing his or her record, an individual who believes his or her personal record contains information which contains a factual error, misrepresentation, or misleading entry may request the University to amend such records.

b. The individual shall file a properly executed Request for Correction or Amendment to Personal Records (Form C - see attached).



c. Within twenty working days after receipt of the request, the designee for personal records shall acknowledge receipt of the request in writing and

promptly:

1) Make the requested correction or amendment; or

2) Inform the individual in writing of its refusal to correct or amend the personal record, the reason for refusal, and the agency procedures for review of the refusal.

7. Limitations on Public Access to Personal Records. The personal record may not be disclosed by any means of communication to any person other than to the individual to whom the record pertains unless the disclosure is:

a. To a duly authorized agent of the individual to whom it pertains. The designee for personal records may require the agent to present written authorization or other documentation establishing the agent's authority to act on behalf of the individual and to obtain access to the individuals personal record.

b. Of information collected and maintained specifically for the purpose of creating a record available to the general public.

c. Pursuant to a statute of this State or the federal government that expressly authorizes the disclosure;

d. Pursuant to a showing of compelling circumstances' affecting the health or safety of any individual. The designee for personal records may require a person seeking disclosure for compelling circumstances to provide proof establishing those circumstances.

e. Pursuant to an order in any judicial or administrative proceeding to produce, disclose, or allow access to the record or information in the record, or when discovery of such record of information is allowed by prevailing rules of discovery or by subpoena.

8. Limitation on Disclosure of Personal Records to Other Agencies. The University may not disclose or authorize disclosure of personal records to any other agency unless the disclosure is:

a. Compatible with the purpose for which the information was collected or obtained;

b. Consistent with the conditions or reasonable expectations of use and disclosure under which the information was provided;

c. Reasonably appears to be proper for the performance of the requesting agency's duties and functions;

d. To the State Archives for purposes of historical preservation, administrative maintenance, or destruction;

e. To an agency or instrumentality of any government jurisdiction within or under the control of the United States, or to a foreign government if specifically authorized by treaty or statute, for a civil or criminal law enforcement investigation;

f. To the legislature of any committee or subcommittee thereof;

g. Pursuant to an order of a court of competent jurisdiction;

h. To authorized officials of a department of agency of the federal government for the purpose of auditing or monitoring an agency program that receives federal monies.

9. Procedure for Review of Denial for Access or Correction.

a. Following a denial of a request for access to or correction of a personal record, the affected individual may file a request for review of the decision of the designee for personal records.

b. A request for review shall be filed in writing with the Office of the President within twenty working days after the date of the designee's denial and shall concisely explain why the designee's determination was in error.

c. Within thirty working days after receipt of the request for review, the President or the President's Designee shall respond to the request in writing.

d. If the denial is affirmed, the President or his designee shall state his reasons in writing and (1) allow the individual to submit a rebuttal statement for

inclusion in the record and (2) inform the individual of his right to seek judicial review pursuant to Section 92E-11, HRS.

10. Retention of Personal Records. The University may choose to destroy a personal record except where there is an outstanding request to inspect and review that record. (In determining retention periods see AS.560, Records Management). An individuals written explanation or rebuttal of any or all of the content of his or her personal record which has been placed in that personal record, shall be destroyed only when the information to which it pertains also is destroyed. The Record of Requests for and Disclosure of Personal Records (Form B) is to be maintained for as long as the personal record to which it pertains is maintained.



# UNIVERSITY OF HAWAII
# REQUEST FOR PERSONAL RECORD INFORMATION

Section A

Name that will appear on records:

Your name:

Address:

Telephone number where you can be reached during business hours:

If you are seeking information about someone other than yourself, under what authority do you seek such information?

What records and/or information do you seek?

Date Signature

**PLEASE BE PREPARED TO PRESENT IDENTIFICATION**

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(To be filled in by Designee for Personal Records)

**Section B**

Request by individual is = Approved Disapproved

Date Signature

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(To be completed following the visual inspection of the requested personal records)

Section C

**I,** have had access to the personal records requested above.

Date Signature

FIPA Form A

Record of Requests and Disclosure of Personal Records

Individuals Name: _____

| Date | Requested by | Eligibility By Reason of | Purpose | Granted | Denied | Date | Per Official |
|---|---|---|---|---|---|---|---|
| ..... | ..... | ..... | ..... | ..... | ..... | .... | ..... |
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| ..... | ..... | ..... | ..... | ..... | ..... | .... | ..... |

Enter all reguests for and access to the individuals personal records.

FIPA Fom B

UNIVERSITY OF HAWAII

REQUEST FOR CORRECTION OR AMENDMENT OF PERSONAL RECORD

I, ..... upon viewing the documents)

..... authored by (if known)

..... and dated ..... in the

..... folder, hereby challenge the

following ..... factual error ..... misrepresentation ..... misleading entry:

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The reason for my challenge is

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FIPA Form C