

INFORMATION PRACTICES ACT OF 1977

As outlined in technical letters HR/PR 93-01 and Supplement 1, each campus and the Chancellor's Office have the legal responsibility to administer and comply with provisions of the Information Practices Act (IPA). These documents are available at Human Resources Administration's Web page at <http://www.calstate.edu/HRAdm/policies.shtml>. Additionally, the IPA is contained in Sections 1798-1798.78, of the California Civil Code. The IPA places specific requirements on state agencies in relation to the collection, use, maintenance, and dissemination of information relating to individuals. Careless, accidental, or intentional disclosure of information to unauthorized persons can have far-reaching effects, which may result in disciplinary action against those involved in unauthorized disclosure (Section 1798.55) and civil action against the CSU with a right to be awarded reasonable attorney's fees, if successful. For reference, the following *summary* is provided.

Article 1: General Provisions and Legislative Findings

§1798.1 The Legislature declares that the right to privacy is a personal and fundamental right protected by Section 1 of Article I of the Constitution of California and by the United States Constitution and that all individuals have a right of privacy in information pertaining to them. The Legislature further makes the following findings:

- a) The right to privacy is being threatened by the indiscriminate collection, maintenance, and dissemination of personal information and the lack of effective laws and legal remedies.
- b) The increasing use of computers and other sophisticated information technology has greatly magnified the potential risk to individual privacy that can occur from the maintenance of personal information.
- c) In order to protect the privacy of individuals, it is necessary that the maintenance and dissemination of personal information be subject to strict limits.

Article 2: Definitions

§1798.3 As used in this chapter:

- a) The term "personal information" means any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual.
...
- c) The term "disclose" means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic or any other means to any person or entity.

Article 5: Agency Requirements

§1798.14 Each agency shall maintain in its records only personal information which is relevant and necessary to accomplish a purpose of the agency required or authorized by the California Constitution or statute or mandated by the federal government.

§1798.18 Each agency shall maintain all records, to the maximum extent possible, with accuracy, relevance, timeliness, and completeness...

§1798.20 Each agency shall establish rules of conduct for persons involved in the design, development, operation, disclosure, or maintenance of records containing personal information and instruct each such person with respect to such rules and the requirements of this chapter, including any other rules and procedures adopted pursuant to this chapter and the remedies and penalties for noncompliance.

§1798.21 Each agency shall establish appropriate and reasonable administrative, technical, and physical safeguards to ensure compliance with the provisions of this chapter, to ensure the security and confidentiality of records, and to protect against anticipated threats or hazards to their security or integrity which could result in any injury.

§1798.22 Each agency shall designate an agency employee to be responsible for ensuring that the agency complies with all of the provision of this chapter.

Article 6: Conditions of Disclosure

§1798.24 No agency may disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains...[Exceptions to this rule are listed in the statute.]

Article 10: Penalties

§1798.55 The intentional violation of any provision of this chapter or any rules or regulations adopted there under, by an officer or employee of any agency shall constitute a cause for discipline, including termination of employment.

§1798.56 Any person who willfully requests or obtains any record containing personal information from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than five thousand dollars (\$5,000), or imprisoned not more than one year, or both.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

Sections 42396 through 42396.5 of Title 5 of the California Code of Regulations address privacy and the principles of personal information management applicable to the California State University. Title 5 can be found on the Web at: <http://ccr.oal.ca.gov/>. For reference, the following *summary* is provided:

§42396.2 Principles of Personal Information Management. The following principles of personal information management shall be implemented within the California State University:

- a) There should be no personal information system the existence of which is secret.
- b) Personal information should not be collected unless the need for it has been clearly established in advance.
- c) Personal information should be appropriate and relevant to the purpose for which it has been collected.
- d) Personal information should not be transferred outside the California State University unless the transfer is compatible with the disclosed purpose for which it was collected.
- e) Personal information should be used as a basis for a decision only when it is accurate and relevant.
- f) There should be procedures established by which a person may learn what personal information about him or her has been retained by the California State University and where lawful, have those records disclosed to him or her, pursuant to the provisions of this Article.
- g) There should be established within the California State University procedures by which a person may request in writing addition to or deletion of personal information about himself or herself which does not meet the principles in this section. Such requests should be honored within a reasonable length of time or the person should be permitted to file a concise statement of dispute regarding the personal information which shall become a permanent part of the record, or, the disputed information should be destroyed.
- h) Precautions should be taken to prevent the unauthorized access to or use of personal information retained by the California State University.

These principles shall be construed and implemented so as to be consistent with all federal and state laws otherwise regulating or allowing for the use of personal information, including but not limited to Education Code Section 89546 relating to employee records.