



DAVID Y. IGE
GOVERNOR

STATE OF HAWAII
OFFICE OF INFORMATION PRACTICES

CHERYL KAKAZU PARK
DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
Telephone: (808) 586-1400 FAX: (808) 586-1412
E-MAIL: oip@hawaii.gov
www.oip.hawaii.gov

December 19, 2019

VIA EMAIL

Ms. Shareen Kaheaku

Mr. Brandon Flores
Deputy Attorney General
Department of the Attorney General

Re: Child Support Enforcement Agency Denial of Access to General Records
(U APPEAL 20-11)

Dear Ms. Kaheaku and Mr. Flores:

The Office of Information Practices (OIP) opened an appeal regarding the response by the Child Support Enforcement Agency of the Department of the Attorney General (CSEA-AG) to Ms. Kaheaku's (Requester) request for records made under Part II of the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes (HRS) (the UIPA). Specifically, Requester requested access to "[a]ll CSEA packages sent to NV – since 2004 – For Adam Sakri. (Interstate packages) sent to welfare N.V. All supervisors names is for confidentiality Breach. – (2004-2015) Kamehameha Bank Account opened (2014) – per Steven Chu request. (1)(2019) – sent a modification to N.V. – last modification."¹

Requester, through emails and in a telephone conversation with OIP on December 16, 2019, has indicated that she does not accept OIP's initial inclinations as set forth in its letter to both parties dated October 8, 2019 (October 8 Letter) as resolving this appeal. Therefore, OIP will keep the appeal open and resolve it according to its general "first-in-first-out" policy, and cases older than this appeal will be completed first.

¹ As explained in OIP's letter to both parties dated October 8, 2019, this appeal file was randomly assigned to OIP's experimental alternative appeal resolution track pursuant to House Resolution (H.R.) 104, Regular Session of 2019, in which the Hawaii House of Representatives requested that OIP conduct an alternative appeal resolution pilot program and prepare "short, informal, unenforceable guidance" for files assigned to the alternative appeal resolution track within two weeks of receiving the agency's final response.

OIP understands that Requester has made additional record request(s) to CSEA-AG since the opening of this appeal, concerning the same matter but may involve some but not all of the same records that are the subject of this appeal. OIP has not received copies of any such request nor of any CSEA-AG response. Please be aware that OIP will make its determination with respect to only those records that are the subject of this appeal, that is, the four records that are described in the first paragraph of this letter.

Because this appeal involves various records and issues and OIP previously provided differing guidance for each record, OIP finds it may be helpful to summarize its understanding of the current status of each requested record and to suggest next steps. Please inform OIP if your understanding of the facts differs, and please provide the other party with a copy of your response.

I. All Supervisors' Names for Confidentiality Breach (2004 – 2015)

OIP's October 8 Letter provided informal guidance to CSEA-AG to send a revised Notice to Requester (NTR) requesting clarification of Requester's request for supervisors' names. October 8 Letter at 3. On December 10, 2019, CSEA-AG provided OIP with a copy of its "2nd Revised Notice" to Requester dated October 15, 2019 (2nd Revised Notice), which requested a "further description/clarification as to which 'supervisors' are subject to this request and narrow the time period of the search." In an email dated December 10, 2019, CSEA-AG informed OIP that it had "not received any clarification on 'supervisors names' to date."

Requester stated, in an email to OIP dated October 24, 2019, that "[t]he DAG mentioned in Court that Appellee [Mr. Sakri] did not have an outstanding bill with CSEA 12/14. He also mentioned that bill was irrelevant to Jurisdiction. . . . CSEA Supervisors and Lawyers told Appellee [Sakri] he did not owe anything to The State for years 2004-2014. For this reason, [h]e filed for Custody and has caused us grief since."² Further, in a telephone conversation with OIP on December 16, 2019, Requester clarified that she is seeking access to the name of one of the two CSEA-AG supervisors who told Mr. Sakri that he had no outstanding bill for child support, as she has the name of one of the supervisors, Mr. Steven Chu.³

OIP is treating this information as a clarification of Requester's record request. Therefore, OIP asks that CSEA-AG please provide a further response to Requester, based on this narrowed, more focused request. If no exception to disclosure applies under section 92F-13, HRS, please make the record available to Requester within ten business days following the date of receipt of this clarification of her request. If CSEA-AG is denying access to all or part of the record under an exception, please provide Requester with notice of the basis for the denial within that same timeframe. Hawaii Administrative Rules (HAR) §§ 2-71-13, -14.

² Requester's email to OIP dated October 24, 2019 also refers to a "breach of confidentiality" by "CPS" or "CPS-Hawaii" and included a copy of a page from a court document that Requester contends "verif[ies] the breach of confidentiality" by Child Protective Services. That matter involves an entity other than CSEA-AG and is outside the scope of this appeal.

³ On December 16, 2019, Requester told OIP that she considers the CSEA-AG supervisors' disclosure to Mr. Sakri to be a "breach of confidentiality."

Please also provide OIP with notice of the action by CSEA-AG in response to the clarification.

II. (1)(2019) – Sent a modification to N.V. – last modification

CSEA-AG was unable to locate a 2019 modification requested by either Requester or Mr. Sakri. OIP suggested that if Requester has additional specific information concerning the “last modification” that would help CSEA-AG identify and locate the record, then she could submit a new record request that includes more details. October 8 Letter at 4.

On December 16, 2019, Requester explained to OIP in a telephone conversation that during July or August of 2019, CSEA-AG, in court, stated that it “sent a modification.” Requester recently received a copy of an October 2019 modification; however, Requester wants access to a copy of the modification referred to in court in July or August 2019. OIP suggests that Requester submit a new record request to CSEA-AG that includes this additional information and **provide OIP with a copy**. Further, if CSEA-AG receives such a request, OIP asks that CSEA-AG **provide OIP with notice of the action by CSEA-AG in response to the new request**.

III. Kamehameha Bank Account opened (2014) per Steven Chu request

OIP’s October 8 Letter provided informal guidance to CSEA-AG to provide Requester with an unredacted copy of the Kamehameha Federal Credit Union direct deposit authorization and enrollment form, after taking steps to prevent an inadvertent disclosure of information carrying privacy interests. As noted above, on December 10, 2019, CSEA-AG provided OIP with a copy of its 2nd Revised Notice, to which CSEA-AG had attached a copy of the “unredacted document in response to ‘Kamehameha bank account opened (2014).’” Therefore, CSEA-AG has granted Requester’s record request with respect to the “Kamehameha bank account.” This issue now appears to be moot.

IV. All CSEA packages sent to Nevada since 2004 for Mr. Sakri (Interstate Packages)

In a telephone conversation with OIP on December 16, 2019, Requester stated that she had not received any of the requested Interstate Packages. However, on August 29, 2019, Requester had forwarded to OIP an email she received from CSEA-AG, which included as attachments CSEA-AG’s Notice to Requester dated August 7, 2019 and “Interstate Packages to/from Nevada Office of the District Attorney Family Support Division (redacted)” dated December 4, 2014 and February 18, 2015. Thus, Requester had received via email redacted Interstate Packages for December 4, 2014 and February 18, 2015 (total of 35 pages).

Further, in response to OIP’s request that CSEA-AG provide Requester with properly redacted (blacked out) Interstate Packages at no additional cost, CSEA-AG informed OIP in its written response dated September 24, 2019 that it had done so, although CSEA-AG did not provide details on when and how the records were sent. OIP now asks CSEA-AG to **provide OIP with a copy of the transmittal letter or email that CSEA-AG sent to Requester with the properly redacted Interstate Packages dated December 4, 2014 and February 18, 2015**.

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In its October 8 Letter, OIP stated that it was inclined to find that under the UIPA, CSEA-AG may not withhold certain information concerning Mr. Sakri and Requester's minor children. October 8 Letter at 5. OIP asks that **CSEA-AG inform OIP in writing whether it has provided the Interstate Packages to Requester without redacting** the dates of birth, social security numbers and home addresses of Mr. Sakri and the minor children, and if it has not, the justification for withholding the information. If CSEA-AG has provided unredacted Interstate Packages to Requester, OIP asks that CSEA-AG **provide OIP with a copy of the letter or email that transmitted the records.**

With respect to any other "interstate package" dating back to 2004, CSEA-AG stated that "[i]f documents dating back to 2004 were in KEIKI, they cannot be accessed by CSEA staff. An IT specialist would have to create a program to search for documents that old." OIP's inclination was that the records, if any, were not "readily retrievable" from CSEA-AG's database given its existing programming capabilities. October 8 Letter at 5.

This letter also serves as notice that OIP is not representing anyone in this matter. OIP's role herein is as a neutral third party.

Please provide the information requested above within ten business days. Thank you in advance for your continued cooperation and assistance. If you have any questions concerning this letter, please do not hesitate to contact me.

Very truly yours,



Mimi Horiuchi
Staff Attorney

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