

REQUEST TO ACCESS A GOVERNMENT RECORD

This is a model form that may be used by a Requester to provide sufficient information for an agency to process a record request. Although the Requester is not required to use this form or to provide any personal information, the agency needs enough information to contact the Requester with questions about this request or to provide its response. This request may not be processed if the agency has insufficient information or is unable to contact the Requester.

DATE: March 7, 2017

TO: Office of the County Clerk
Agency that Maintains the Government Record

County of Kauai
4386 Rice St, Suite 101
Lihu'e, Hawaii 96766
Agency's Contact Information

FROM: Elizabeth P. Hodes on behalf of ACLU of Hawaii
Requester's Name or Alias

Elizabeth P. Hodes
Davis Wright Tremaine LLP
188 W. Northern Lights Blvd., #1100
Anchorage, AK 99503
Phone: (907) 257-5300
Email: elizabethhodes@dwt.com
Requester's Contact Information

AS THE REQUESTER, I WOULD LIKE THE FOLLOWING GOVERNMENT RECORD:

Describe the government record as specifically as possible so that it can be located. Try to provide a record name, subject matter, date, location, purpose, or names of persons to whom the record refers, or other information that could help the agency identify the record. A complete and accurate description of the requested government record will prevent delays in locating the record. Attach additional pages if needed.

This is a request for public records pursuant to the Hawaii Uniform Information Practices Act Haw. Rev. Stat. §91-1 et seq. As a civil rights organization, we request the following records, for among other purposes, to urge people to register to vote in Hawaii.

Section 8 of the National Voter Registration Act requires states to conduct a "general program that makes a reasonable effort to remove the names of ineligible voters" from the official voter list by reason of death or a change of residence. 52 U.S.C. § 20507(a). The same section provides that states "are not precluded" from removing voters from the official registration list due to (1) the request of the voter; (2) death; (3) criminal conviction; or (4) mental incapacity.

To investigate the implementation of this process, we request, pursuant to the Hawaii Uniform Information Practices Act, that your office produce the following materials:

(1) All copies of policies or procedures utilized from January 1, 2012 to the present concerning any and all processes for voter roll maintenance, i.e., periodic removal of ineligible voters from the official registration list. This includes, but is not limited to:

(a) Documents identifying the beginning and end dates of any such removal processes undertaken since January 1, 2012.

(b) Documents concerning any and all processes for identifying whether individuals on the official voter registration list have moved outside their county and/or state of residence.

(c) Documents concerning any and all procedures for removing voters on the basis of voter's death.

(d) Documents concerning any and all procedures for removing voters on the basis of felony criminal conviction, if such removal is required by state law.

(e) Documents concerning any and all procedures for removing voters on the basis of mental capacity.

(f) Documents concerning any and all procedures for removing voters pursuant to Haw. Rev. Stat. §§ 11-17 or 11-23.

(2) Documents from January 1, 2012 to the present concerning the number of voters removed from the official voter registration list through any of the processes encompassed in Request Number 1, including a numerical break-down of the total voters removed, by reason for removal from the rolls; county of residence; and race if applicable.

(3) Documents listing the voters removed from the official voter registration list through any of the processes encompassed in Request Number 1, including each removed voter's address, date of registration, date of cancellation, race if available, the reason for the voter's removal, the voter's state-issued "Voter Identification" number (if applicable), and any other contact information.

(4) Documents concerning the Interstate Crosscheck system, including but not limited to, information derived from the Interstate Crosscheck system concerning voters purportedly registered and/or voting in more than one state; and the use of any information from the Interstate Crosscheck system for the purpose of identifying whether individuals on the official voter registration list have moved outside their county of residence.

(5) Documents from January 1, 2012 to the present concerning the number of notices sent in total and by county to individuals pending removal for any reason, including, but not limited to, a suspected change in address, pursuant to 52 U.S.C. § 20507.

Documents listing the voters sent confirmation notices pending removal as described in Request Number 5, including each voter's address, date of registration, date of notice, race if available, the voter's state-issued "Voter Identification" number (if applicable), any other contact information, the reason for the notice, and the reason for the voter's removal.

I WOULD LIKE: (Please check one or more of the options below, as applicable)

To inspect the government record

- A copy of the government record:** (Please check only one of the options below.) See the next page for information about fees and costs that you may be required to pay for agency services to process your record request. Note: Copying and transmission charges may also apply to certain options.

- Pick up at agency (**date and time**): _____
 Mail (address): Elizabeth P. Hodes
Davis Wright Tremaine LLP
188 W. Northern Lights Blvd., #1100
Anchorage, AK 99503

Documents may be emailed, rather than mailed, if more convenient for the Office.

- E-mail (address): elizabethhodes@dwt.com
 Fax (toll free and only if available; provide fax number): _____
 Other, if available (please specify): _____

- If the agency maintains the records in a form other than paper, please advise in which **format you would prefer to have the record.**

- Electronic Audio Other (please specify): However records are maintained

- Check this box **if you are attaching a request for waiver of fees in the public interest** (See waiver information on next page).

FEES FOR PROCESSING PUBLIC RECORD REQUESTS

You may be charged fees for the services that the agency must perform when processing your request for public records, including fees for making photocopies and other lawful fees. **The first \$30 of fees charged for searching for a record, reviewing, and segregating will not be charged to you. Any amount over \$30 will be charged to you.** Fees are as follows:

Search for a Record	\$2.50 for 15 minutes
Review and Segregation of a Record	\$5.00 for 15 minutes

Generally, no search, review, and segregation fees may be charged if you are making a request for personal records that are about you.

WAIVER OF FEES IN THE PUBLIC INTEREST

As an alternative to the \$30 fee waiver (not in addition to), the agency may waive the first \$60 of fees for searching for, reviewing and segregating records when the waiver would serve the public interest. If you wish to apply for a waiver of fees in the public interest, you must attach to this request a statement of facts, including your identity as the requester, to show how the waiver of fees would serve the public interest. The criteria for this waiver, found at section 2-71-32, Hawaii Administrative Rules, are

- (1) The requested record pertains to the operations or activities of an agency;
- (2) The record is not readily available in the public domain; and
- (3) The requester has the primary intention and the actual ability to widely disseminate information from the government record to the public at large.

COSTS

The Agency may charge you any other lawful fees and the costs to copy and deliver your personal or public record request.

AGENCY RESPONSE TO YOUR REQUEST FOR ACCESS

The agency to which you addressed your request must respond within a set time period. The agency will normally respond to you within 10 business days from the date it receives your request; however, in *extenuating circumstances*, the agency must respond within 20 business days from the date of your request. If you have questions about the response time or the records being sought, you should first contact the agency and request to consult with the agency's UIPA contact person.

Please note that the Office of Information Practices (OIP) does not maintain the records of other agencies and a requester must seek records directly from the agency. If the agency denies or fails to respond to your written request for records or if you have other questions regarding compliance with the UIPA, then you may contact OIP at 808-586-1400, oip@hawaii.gov, or 250 South Hotel Street, Suite 107, Honolulu, Hawaii 96813.

REQUESTER'S RESPONSIBILITIES

You have certain responsibilities under section 2-71-16, Hawaii Administrative Rules, which include making arrangements to inspect and copy records, providing further clarification or description of the requested record as instructed by the agency's notice, and making a prepayment of fees and costs, if assessed. The rules and additional training materials are available online at oip.hawaii.gov or from OIP.

Request for Waiver of Fees in the Public Interest

March 7, 2017

Pursuant to section 2-71-32 of the Hawaii Administrative Rules, the American Civil Liberties Union of Hawaii Foundation ("ACLU") hereby requests a waiver of \$60 of the fees that may be assessed under section 2-71-31. The ACLU is a nonprofit, public-interest law firm; its mission is to protect individual freedoms guaranteed under the federal and state constitutions, including the right to vote. The ACLU has been engaged in legal action and public education in Hawaii since 1965 on issues affecting constitutional rights, including the right to vote.

Public dissemination of the information contained in these documents will contribute significantly to public knowledge and understanding of the Office of Election's compliance with the National Voter Registration Act. The ACLU has no commercial interest in the documents requested, and intends to publicize this information, as permitted by applicable law (as it has done with previous open records requests; *see, e.g.*, Michael Levine, *Honolulu Police Load Up on Taser Ammo, Pepper Spray, Bean Bags for APC*, Civil Beat, Sept. 26, 2011, available at <http://www.civilbeat.com/2011/09/12961-honolulu-police-load-up-on-taser-ammo-pepper-spray-bean-bags-for-apec/>).

The ACLU of Hawaii has the primary intention to publicize this information by posting the ACLU's request, and the Office of Elections' response, on its website, as permitted by applicable law. The ACLU of Hawaii has a page on its website devoted to informing the public about government responses to open records requests, <http://acluhi.org/open-records-requests/>, and the ACLU of Hawaii has the primary intention of posting the Agency's response on this web page. Additionally, the ACLU has approximately 4,200 members state-wide, and is able to disseminate this information to our members via our newsletter, our Facebook page (which has approximately 4,800 followers), our website (which has received over 150,000 hits since 2011), and our Twitter feed (which has over 3,300 followers). In addition to publicizing these records on our website, the ACLU of Hawaii intends to publicize this information by using some combination of Facebook, Twitter, and/or our newsletter to help spread this information to our members and the general public.

Depending on the nature of the records provided by the Office of Elections, we may also publicize this information by distributing the records to media outlets such as Civil Beat, the Honolulu Star Advertiser, Hawaii Public Radio, and/or various other media outlets, as permitted by applicable law. We have the ability to distribute this information to the media, insofar as we have a comprehensive e-mail database of media contacts, we have

OIP 1 (rev. 12/1/2015)

developed strong professional ties to many journalists over our 50-year history, and we interact with journalists on a regular basis.

The ACLU respectfully asks that, if the total fees for this request (including copying charges) are anticipated to exceed \$100.00, your agency notify us and obtain express written permission to proceed with the request.