

Quick Review: The ABCs of Redaction

(April 2013)

When an agency is responding to a record request and a record contains information that may be withheld under one of the UIPA's exceptions to disclosure, the agency should not automatically withhold the entire record. Rather, the agency should determine whether the record is "reasonably segregable." Hawaii Administrative Rules (HAR) § 2-71-17. *The agency can withhold the entire record only where it is not "reasonably segregable;" otherwise, the agency must redact the information that can be withheld and disclose the remainder of the record.* OIP offers the following pointers on how to redact a record.

1. How to redact in way that makes it reasonably apparent where material has been redacted

As a rule, an agency's redactions must be done in a way that *makes it reasonably apparent that information has been redacted.* Exactly how to do that varies, depending on the format of the requested record.

Paper records:

For paper records, the agency *should black out rather than white out redactions.* Typically, this is done by making a copy of the record, covering anything to be redacted with black marker, and then (if the request was for a copy of the record) making a copy of the redacted record for the requester. So this:

Agency UIPA Coordinator Kimo Doe was unable to assist in the response to the recent requests as he was out of the office for most of the month recovering from the effects of knee surgery.

Would become this:

Agency UIPA Coordinator Kimo Doe was unable to assist in the response to the recent requests as he was out of the office for most of the month [REDACTED].

Electronic records:

For electronic records, that means *replacing text being redacted with Xs or something similar rather than simply deleting the information,* which would not make it reasonably apparent that information had been redacted. So this:

Name: Kimo Doe

Social security number: 575-12-3456

Cell phone number: 123-4567

Would become this:

Name: Kimo Doe

Social security number: XXX-XX-XXXX

Cell phone number: XXX-XXXX

OIP does not recommend highlighting the text to be redacted from an electronic record in black, as is possible in office programs such as Word, because a redaction by that method can be easily reversed by removing the highlight.

Audio recording:

To redact an audiotape, *first make a copy of the full original tape to redact.* The person doing the redaction then should *listen to that copy and mark the number shown on the tape recorder at the beginning and end of each segment to be redacted.* After doing that for the entire tape, the person should *then rewind to the number marking the beginning of the first segment to be redacted, press record, record the silence until reaching the number for the end of the segment, and then press stop.* (If the segment to be redacted is short enough that it won't be obvious from the silence that something was redacted, then the person could instead record white noise or static, but should be careful not to accidentally record background conversations.) The person should *then fast forward to the beginning of the next segment and repeat the process, until all segments had been redacted.*

Redaction of an electronic audio file or a video file would follow a similar procedure, assuming that the copy of the file being redacted could be partially recorded over.

2. How to tell if a record is “reasonably segregable”:

If it is impossible for technical reasons to separate information to be redacted from the remainder of a record, as can be the case with some types of electronic records in particular, then the record is not reasonably segregable and may be withheld as a whole.

If so little of a record would be left after redaction that it would not make sense or carry any information, then an agency may generally assume that it is not reasonably segregable and treat it as a record to be withheld in its entirety. However, there may be times when a requester nonetheless wants a copy of the record as redacted. For instance, even where the only thing left of a memorandum would be the “To” and “From “ and “Date” entries in the header, a requester may still want to see that a memorandum was in fact sent on that date. Thus, although an agency would normally simply withhold the record in that situation, if the requester has made clear that he or she is interested in getting the memorandum even with everything but the header blacked out, the agency should provide the redacted memorandum (and can charge the usual fees for its time spent in segregating and for the copies).

Similarly, where an agency is redacting personal contact information, such as a home address or telephone number, the agency may generally assume that the address or telephone number as a whole is not reasonably segregable and *withhold the entire address or telephone number*. However, if a requester *specifically asks* for more information *and is willing to pay* for the additional time the agency needs to spend on segregation, then the agency would only redact as much information as was necessary to prevent identification of the actual address or phone number. That would usually mean redacting the street number and in most cases the street name, but leaving the town, state, and zip code; and for a phone number, redacting the last four digits only. *For social security numbers, however, OIP has concluded that the entire number must be redacted to fully protect it; agencies should not disclose even the last four digits.*

For additional assistance, please check out OIP's training materials, including "Open Records: Guide to Hawaii's UIPA," at hawaii.gov/oip. For general advice, you may contact OIP's attorney of the day by calling (808) 586-1400 or e-mailing oipt@hawaii.gov.