

University of California
Office of the President

Senior Vice President—
Business and Finance

Research Administration Office

Memo

Operating Guidance

No. 04 - 02
April 19, 2004

CONTRACT AND GRANT OFFICERS (CAMPUS AND LAB)* VICE CHANCELLORS--ADMINISTRATION VICE CHANCELLORS--RESEARCH

Subject: Provision of Information on Citizenship, Visa Status, Nationality or Country of Origin:
Federal and State Law and Regulation

The University policy prohibiting "Acceptance of Funds Restricted to U.S. Citizens" in research contracts was initially adopted by the Council of Chancellors in 1988 and promulgated by *Contracts and Grant Operating Guidance Memo 90-03*. [See <http://www.ucop.edu/raohome/cgmemos/90-03.html>] The policy was reaffirmed in a memo from the Vice Provost for Research in 1999. The 1999 memo further states that, consistent with the policy as established in 1988, "it is University practice that access to University classrooms, libraries, laboratories, and specialized research facilities is open, without regard to citizenship, residency status, or Visa category. Questions regarding citizenship status may not be asked of those entering such facilities, unless the Chancellor and the President have approved an exception to the policy. At present, the only exception is for classified research conducted at the UC/DOE Laboratories and selected off-campus locations." *Contract and Grant Operating Guidance Memo 00-05* distributed the reaffirmation of University policy on "Unacceptable Controls Based on Citizenship Status". [<http://www.ucop.edu/raohome/cgmemos/00-05.html>]

Recently, new terms requesting the citizenship, "country of origin," or nationality of employees under an award are beginning to appear in Requests for Proposals, proposal application forms, and award documents. This Memo provides the OP Research Administration Office guidance for responding to such requests from a sponsor. The Office of General Counsel has reviewed this Memo.

Overview:

The provision of information regarding citizenship, nationality, country of origin, or visa status to any sponsor, other than the U.S. Citizenship and Immigration Services (USCIS) [formerly the Immigration and Naturalization Service (INS)], the Department of Labor or "to a governmental entity when required by State or Federal law" is a violation of the Immigration Reform and Control Act of 1986 (P. L. 99-603) and the California Information Practices Act of 1977 (Civil Code Section 1798 et seq.).

The Immigration Reform and Control Act of 1986 prohibits using the documentation collected by an employer to verify eligibility to work for any purpose other than to comply with the Act and to disclose such documentation to the INS and the U.S. Department of Labor. The California Information Practices Act of 1977 (Civil Code Section 1798-1798.78) limits the collection and dissemination of personal information to that which is relevant and necessary to accomplish a purpose authorized by the California Constitution or statute or mandated by the federal government. A notice must be provided

*Note: The addressees above represent the standard distribution of Contract and Grant Memos. Additional addressees, if any, may be added based on the subject of the Memo. See cc's.

at the time the information is collected as to how the information will be used and disclosed and individuals must generally be provided with an accounting of all permitted disclosures.

In addition, the California Public Records Act (Government Code Section 6254 et seq.) exempts certain types of personal information from disclosure, where disclosure would constitute an "unwarranted invasion of personal privacy". [*UC Business and Finance Bulletin RMP-8*, "Legal Requirements on Privacy of and Access to Information" sect. 1798.24, <http://www.ucop.edu/ucophome/policies/bfb/rmp8.html>] Finally, Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment on the basis of national origin.

A summary of the applicable sections of the federal and State regulations and University implementing policy with regard to this issue is provided below. Detailed information from these regulations is provided in the Attachment to this Memo.

U.S. Citizenship and Immigration Service Regulation and Federal Privacy Act:

Under the Immigration Reform and Control Act of 1986, employers are required to obtain documentation proving that an individual is eligible to work in the United States. However, the Act also prohibits the use of this documentation for any other purpose and prohibits discrimination on the basis of citizenship status. Accordingly, documentation of eligibility to work collected and used for the specific requirements set forth in the implementing regulation cannot be collected and used for other purposes. [8CFR part 274a.2.(b)(2)(iii) http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/cfr_2002/janqtr/pdf/8cfr274a.2.pdf]

In addition to restrictions on the use of information under the USCIS regulation, the USCIS Form I-9, "Employment Eligibility Verification" provides a Privacy Act Notice under the federal Privacy Act. [<http://uscis.gov/graphics/formsfee/forms/files/i-9.pdf>] Under the federal Privacy Act, federal agencies may only maintain records about an individual as necessary to accomplish a purpose of the agency required to be accomplished by statute or Executive Order of the President. The agency must establish a system of records that is published in the *Federal Register* describing the categories of individuals and information to be maintained, the users and purposes of the use, and the practices regarding storage, access controls, retention, and disposal of the records. Finally, under the federal Privacy Act, the agency must inform each individual on the form used to collect the information of the authority which authorizes the collection, the purpose for which the information will be used, and the routine uses that may be made of the information as described in the system of records for the information collection. The Office of Management and Budget has approved the USCIS Form I-9; the Privacy Act Notice on the I-9 states, in part: "This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by officials of the U.S. Immigration and Naturalization Service, the Department of Labor and the Office of Special Counsel for Immigration Related Unfair Employment Practices." The personally identifiable information collected on an approved federal form such as the I-9 cannot be provided to other government agencies or private organizations for purposes other than those originally stated in the Privacy Act Notice provided at the time of the information collection.

State Information Practices Act, California Public Records Act, and University Policy:

Business and Finance Bulletin RMP-7, "Privacy of and Access to Information Responsibilities," summarizes general policy and establishes responsibilities in this area. The Bulletin can be found at: <http://www.ucop.edu/ucophome/policies/bfb/rmp7.html> More detailed information about the legal requirements regarding privacy as well as access to records can be found in *Business and Finance Bulletin RMP-8*, "Legal Requirements on Privacy and Access to Information." This Bulletin can be found at: <http://www.ucop.edu/ucophome/policies/bfb/rmp8toc.html>

RMP-8 includes a summary of the California Information Practices Act of 1977 and the California Public Records Act. The California Information Practices Act of 1977 parallels the federal Privacy Act. It limits the scope of personal information that can be collected and requires that a Notice be provided to the individual describing why the information is being collected and how it will be used. Accordingly, the University has provided a State Privacy Notice on the I-9 form in addition to the OMB approved federal Privacy Act Notice. The University developed a cover page for the federal I-9 form that includes the State Privacy Notice, which states in part: "The principal purpose for requesting the information on this form is to verify the individual's eligibility for employment in the United States. University policy and federal statute authorize the maintenance of this information. Furnishing all information requested on this form is mandatory—failure to provide such information may result in a determination that the applicant is ineligible for employment. Information furnished on this form will be made available for inspection for United States Immigration and Naturalization Service or Department of Labor Officers."

In addition to limiting the amount of information that may be collected about an individual and requiring a Privacy Notice at the time such information is collected, under the State Information Practices Act, the University is precluded from releasing certain personal information about its employees. *RMP-8*, "Legal Requirements on Privacy of and Access to Information", section VII. B. sets forth categories of information and disclosure restrictions associated with each category. The category "Personal Information (Section B.4) includes Citizenship, along with items such as birth date, social security number, home address and home telephone number. Section B. states "Full access to personal information is provided to the individual to whom the information pertains, but very limited disclosure of it is allowed to other persons or agencies." *RMP-8*, Section G.4., establishes 14 circumstances under which the University will disclose personal information "in a manner that would link the information disclosed to the individual to whom it pertains...." Among the exceptions allowing the University to disclose such personal information include "the prior written voluntary consent of the individual to whom the record pertains" and "to a governmental entity when required by State or Federal law." (Information Practices Act section 1798.24(a) and (f).)

Conclusions:

Under the USCIS regulation and the federal Privacy Act Notice on the I-9 form, only representatives of USCIS, the Department of Labor, and the Special Counsel for Immigration Related Unfair Employment Practices may inspect the I-9. Inspection or collection of this information by other federal

agencies is prohibited under the Immigration Reform and Control Act, section 1324a(b)(5), "Limitation on Use of Attestation Form," which states:

A form designated or established by the Attorney General under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act. [<http://frwebgate1.access.gpo.gov/cgi-bin/waisgate.cgi?WaisdocID=83907112626+0+0+0&Waisaction=retrieveaccess.gpo.gov/cgi-bin/waisgate.cgi?WaisdocID=83907112626+0+0+0&Waisaction=retrieve>]

Allowing other federal agencies to inspect the I-9, or copying and submitting the I-9 and the supporting documentation to other federal agencies or private organizations, also contradicts the statements in the Privacy Act Notice on the I-9 form regarding the purpose, use, and disclosure of the information. Any other federal agency would need to establish that it has a right to collect the information under the federal Privacy Act prior to implementation of any collection of information about an individual's citizenship, VISA, or nationality status. The California Information Practices Act also generally prohibits the distribution of personal information without the consent of the individual, and limits the permitted uses to those listed in the State Privacy Notice. The University has previously notified the individual at the time the citizenship and VISA status information was collected that it would be used for the limited purpose of determining eligibility for employment and would only be released to the federal INS and Department of Labor.

To the extent that a copy of the I-9 form or information provided on it is requested to be sent to a federal agency, then the system of records being created by the federal agency would also contain Social Security number, driver's license number, date of birth, mother's maiden name, and address of the individual. Prior to establishing a system of records to collect citizenship, VISA, or nationality information, or collection of the other information contained on the I-9, the federal agency would need to justify that maintaining this information about the individual "is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President." [5USC552a(e)(1) <http://frwebgate5.access.gpo.gov/cgi-bin/waisgate.cgi?WaisdocID=840569364517+0+0+0&Waisaction=retrieve>]

At present, the U.S. Citizenship and Immigration Services (USCIS) within the federal Department of Homeland Security is responsible for administration and enforcement of the Immigration Reform and Control and the Immigration and Nationality Acts. Other federal agencies are not responsible for monitoring employer's compliance with USCIS regulations.

Recommendations:

- 1) Notify any federal or private agency requesting personal information about University employees to be assigned to a project, particularly citizenship, visa status, nationality or country of origin, that the University is precluded under federal and State laws, including the Immigration Reform and Control Act of 1986 and the California Information Practices Act, from providing such information; that providing the information is also contrary to the federal Privacy Act Notice on the Office of Management and Budget approved form I-9, Employment Eligibility Verification, issued by the U.S. Citizenship and Immigration Services which forms the basis for the collection of such

April 19, 2004

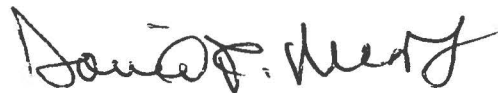
Page 5

information, so that providing such information could also constitute a violation of the federal Privacy Act of 1974.

- 2) Inform the agency that the University can provide assurance of compliance with the Immigration Reform and Control Act of 1986; that we will certify that documentation of Employment Eligibility Verification has been secured for all persons employed by the University; and that we would be happy to allow agents of the U.S. Citizenship and Immigration Services as well as the Department of Labor or the Office of Special Counsel for Immigration Related Unfair Employment Practices, to inspect such documentation, consistent with the federal Privacy Act Notice on the information collection I-9 form.
- 3) If the agency persists, indicate that we can provide a description of the types of documents collected to assure compliance with the eligibility to work requirements of the USCIS regulations, but could not provide copies of such documents to the agency. Further, the University can provide general demographic information about its workforce. However, if the agency can provide a copy of the system of records which the agency has established under the federal Privacy Act of 1974, and has an OMB approved form for collection of the information containing a federal Privacy Act Notice, then the University may consider whether a collection of information under the California Information Practices Act could be constructed so that the University could collect the information and disclose it to the agency under the conditions and restrictions of the approved federal and State system of records.

Refer: Barbara Yoder
Barbara.Yoder@ucop.edu
(510) 987-9848

Subject: 14
Organization: U-115



David F. Mears
Director

Attachment

Cc: Vice Provost Coleman
University Academic Council
University Committee on Research Policy
Council of Vice Chancellors for Research

ATTACHMENT TO C& G OPERATING GUIDANCE MEMO 04- 01

Federal Privacy Act of 1974 (P.L. 93-579) [<http://frwebgate5.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=840569364517+0+0+0&WAIAction=retrieve>]

The Privacy Act, 5USC552a, establishes standards for federal agencies in maintaining records on individuals. 5USC section 552a, states:

(a) Definitions. --For purposes of this section --

.....

(4) the term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency,

(5) the term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

.....

(e) Agency Requirements.--Each agency that maintains a system of records shall--

(1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

.....

(3) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual--

(A) the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(B) the principal purpose or purposes for which the information is intended to be used;

(C) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

(D) the effects on him, if any, of not providing all or any part of the requested information;

(4) subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include--

(A) the name and location of the system;

(B) the categories of individuals on whom records are maintained in the system;

(C) the categories of records maintained in the system;

(D) each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(F) the title and business address of the agency official who is responsible for the system of records;

.....
(i) (1) Criminal Penalties.--
.....

(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirement of subsection (e) (4) of this section shall be guilty of a misdemeanor and fined not more than \$5,000.

USCIS Regulations

Documentation establishing eligibility to work in the United States required under Immigration Reform and Control Act of 1986, is implemented in Immigration and Naturalization Service (INS) [now U.S. Citizenship and Immigration Services (USCIS)] regulations. The requirement to control the "employment of aliens" is codified at 8 CFR Part 274a. This implementing regulation has sections regarding employment eligibility, documentation requirements, retention of documentation, use of such records, prohibited uses of such records, and record access requirements. [8CFR part 274a.2.http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/cfr_2002/jan_qtr/pdf/8cfr274a.2.pdf] Section 274a.2, "Verification of Employment Eligibility," establishes the requirements and procedures persons or entities must comply with when hiring individuals in the United States, pursuant to the Form I-9, "Employment Eligibility Verification Form." [<http://uscis.gov/graphics/formsfee/forms/files/i-9.pdf>] Although revisions to the I-9 are currently under consideration, the Form has not changed in the last ten years, nor has the *Handbook for Employers*, "Instructions for Completing Form I-9." The Office of Management and Budget (OMB) last approved version of the I-9 form is dated 11-21-91 and is marked OMB No. 1115-0136.

The law and the regulations state:

8CFR Part 274a.2.(b) (3) *Copying of documentation.* An employer, or a recruiter or referrer for a fee may, but is not required to, copy a document presented by an individual **solely for the purpose of complying with the verification requirements of this section.** [Emphasis added.] If such a copy is made, it must be retained with the Form I-9.

8CFR Part 274a.2.(b) (4) *Limitation on use of Form I-9.* Any information contained in or appended to the Form I-9, including copies of documents listed in paragraph (c) of this section used to verify an individual's identity or employment eligibility, **may be used only for enforcement of the Act** and Sections 1001, 1028, 1546, or 1621 of Title 18, United States Code. [Emphasis added.]

The I-9 form is completed and signed by both the individual person being employed and an authorized representative of the employer. The USCIS law and regulation merely require that the employer inspect the employment eligibility verification documentation. The signature of the employer's representative on the I-9 form is a simple certification that the documents were inspected, appear to be genuine, and relate to the employee named. The employer must maintain I-9 records in its own files. However, there are limitations and restrictions on use of such documents. In addition to having

columns where the employer cites the eligibility document inspected, there is an Anti-Discrimination Notice on the form, as well as a Privacy Act Notice in the instructions for completing the form.

The I-9 form contains personal information, including the individual's name, maiden name, address, date of birth, and Social Security number, as well as the name and title of the employer's Authorized Representative. The documents listed to establish identity and eligibility to work contain additional information, including issuing authority, document number, and expiration date (if any). To the extent that the employer duplicates the documents presented in the employment eligibility verification process and appends them to the I-9, such documents as a driver's license or passport contain additional personal information, such as height, weight, and photograph.

The OMB approved I-9 form Employment Eligibility Verification, issued by the U.S. Department of Justice, Immigration and Naturalization Service, (now USCIS) "Instructions", states:

Employers must sign and date the certification. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. These photocopies may only be used for the verification process and must be retained with the I-9. (Section 2, I-9, Instructions)

The I-9 Instructions also contain a Privacy Act Notice, as follows:

Privacy Act Notice. The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 USC 1324a).

This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States.

This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by officials of the U.S. Immigration and Naturalization Service, the Department of Labor and the Office of Special Counsel for Immigration Related Unfair Employment Practices.

Submission of the information required in this form is voluntary. However, an individual may not begin employment unless the form is completed, since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986."

The Anti-Discrimination Notice is printed on the I-9 form in two places: in the instructions and on the form itself. It states:

Anti-Discrimination Notice. It is illegal to discriminate against any individual (other than an alien not authorized to work in the U.S.) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate

against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

The *Handbook for Employers*, "Instructions for Completing Form I-9," (Publication M-274), issued by the Department of Justice, INS, provides additional guidance on the permitted use and disclosure of the I-9, and any documents copied and attached to the I-9. Part Four, "Unlawful Discrimination," states:

The Immigration and Nationality Act, as amended, and Title VII of the Civil Rights Act of 1964, as amended, prohibit employment discrimination. Employers with 4 or more employees are prohibited from discriminating against any person (other than an unauthorized alien) in hiring, discharging, or recruiting or referring for a fee because of a person's national origin, or in the case of a citizen or protected individual, because of a person's citizenship status. In practice, this means that employers must treat all employees the same when completing the Form I-9. Employers cannot set different employment eligibility verification standards or require that different documents be presented by different groups of employees.

Part Seven, Question 22, states:

Question: When I review an employee's identity and employment eligibility documents, should I make copies of them?

Answer: The law does not require you to photocopy documents. However, if you wish to make photocopies, you should do so for **all** employees, and you should retain each photocopy with the I-9. Photocopies must not be used for any other purpose."

State Information Practices Act and Public Records Act [Excerpts in RMP -8, Section VII - <http://www.ucop.edu/ucophome/policies/bfb/rmp8.html>]

The Information Practices Act of 1977 (Civil Code Section 1798-1798.78) was adopted by the California Legislature in order to protect the privacy rights of individuals and to limit the amount of personal information that is collected or disseminated by a government agency, as stated in Section 1798.1 of the Act:

"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.

Under the California Information Practices Act, (Civil Code Section 1798-1798.78), there are similar requirements to those of the federal Privacy Act that must be followed when personal information about an individual is to be collected and released under State law. The following are some pertinent sections of the statute:

“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.” (Section 2798.14)

“Each agency shall provide on or with any form used to collect personal information from individuals the notice specified in this section. . . . The notice shall include all of the following:

- (a) The name of the agency and the division within the agency that is requesting the information.
- (b) The title, business address, and telephone number of the agency official who is responsible for the system of records and who shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.
- (c) The authority, whether granted by statute, regulation, or executive order which authorizes the maintenance of the information.
- (d) With respect to each item of information, whether submission of such information is mandatory or voluntary.
- (e) The consequences, if any, of not providing all or any part of the requested information.
- (f) The principal purpose or purposes within the agency for which the information is to be used.
- (g) Any known or foreseeable disclosures which may be made of the information pursuant to subdivision (e) or (f) of Section 1798.24.
- (h) The individual’s right of access to records containing personal information which are maintained by the agency. (Section 1798.17)

“No agency may disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains unless the disclosure of the information is:

- (a) To the individual to whom the information pertains.
- (b) With the prior written voluntary consent of the individual to whom the record pertains, but only if such consent has been obtained not more than 30 days before the disclosure, or in the time limit agreed to by the individual in the written consent.
- (c) To a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected and the use or transfer is accounted for in accordance with Section 1798.25. . .
- (f) To a governmental entity when required by state or federal law. (Section 1798.24)

“Each agency shall keep an accurate accounting of the date, nature, and purpose of each disclosure of a record made pursuant to subdivision (i), (k), (l), (o), or (p) of Section 1798.24. The account shall also be required for disclosures made pursuant to subdivision (e) or (f) of Section 1798.24 unless notice of the type of disclosure has been provided pursuant to Sections 1798.9 and 1798.10.” (Section 1798.25)

State Privacy Act Notice: The University of California utilizes the form issued by the Immigration and Naturalization Service, Form I-9, Employment Eligibility Verification. UC has published a State Privacy Notice on the cover page of the I-9 form. The State Privacy Notice states:

“The State of California Information Practices Act of 1977 (effective July 1, 1978) requires the University to provide the following information to individuals who are asked to supply information about themselves:

The principal purpose for requesting the information on this form is to verify the individual’s eligibility for employment in the United States. University policy and federal statute authorize the maintenance of this information.

Furnishing all information requested on this form is mandatory—failure to provide such information may result in a determination that the applicant is ineligible for employment. Information furnished on this form will be made available for inspection for United States Immigration and Naturalization Service or Department of Labor Officers.

Individuals have the right to review their own records in accordance with University personnel policy and collective bargaining agreements. Information on applicable policies or agreements can be obtained from campus or Office of the President Human Resources and Academic Personnel Offices.

The officials responsible for maintaining the information contained on this form are: campus or Office of the President Human Resources and Academic Personnel Offices or Campus Accounting Officers.”

University Policy Regarding Release of “Personal” Information:

State Information Practices Act section 1798.3 (a) defines "Personal Information" as: “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 statement made by, or attributed to, the individual.”

Under UC Business and Finance Bulletin RMP-8, Legal Requirement on Privacy of and Access to Information, <http://www.ucop.edu/ucophome/policies/bfb/rmp8.html> UC describes its implementation of the Federal Privacy Act, the California Public Records Act, and the California Information Practices Act. For the purposes of UC policy implementation of the California Information Practices Act in Section VII of RMP-8, UC has identified four categories of records containing personal information about an individual: Confidential Information, Confidential Academic Review Records, Nonpersonal Information, and Personal Information. Personal Information is defined in RMP-8, Section VII, B. 4. as:

.....all information that identifies or describes an individual except that information which is determined to be confidential, confidential academic, or nonpersonal as discussed in Subsections 1, 2, 3 above, and the disclosure of which would constitute an unwarranted

invasion of personal privacy. Thus, much information about individuals will fall under the personal category. Some examples of the most common types of personal information are:

- a. Birth date
- b. Citizenship
- c. Social security number
- d. Home address and home telephone number
- e. Income tax withholding
- f. Staff performance evaluations or letters of corrective actions
- g. Spouse's or other relatives' names

University policy, as established in Section VII.G., Disclosure of Information, of RMP-8, states in Section 4 that the University will not disclosure any personal information in a manner that would link the information disclosed to the individual to whom it pertains unless the disclosure of the information meets one of the allowable disclosures established in the California Information Practices Act as cited above.

While the Information Practices Act of 1977 is directly relevant to the legal restrictions on and requirements for the collection of personal information, it should be noted that the California Records Act also touches on the subject of access to records containing personal information. The California Public Records Act (Government code Section 6250 et seq.) establishes that access to information concerning the conduct of the people's business is a fundamental and necessary right, that public records are open to inspection, and are subject to copying, except as provided in the Act. Certain records are exempt from disclosure under Section 6254 of the Act, including "personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy." In addition, Section 6255 of the California Public Records Act states: "In addition to the types of records listed above, the University may withhold any records for which it can be demonstrated that the public interest served by not making the records public clearly, not minimally, outweighs the public interest served by disclosure of the record. The interest of the public and not just the interest of the University is to be considered."

California Constitution and Code of Civil Procedure:

The privacy clause of the California Constitution (Article 1, Section 1) has been construed to provide employees with a reasonable expectation of privacy in their employment records and a party seeking disclosure must show a compelling need for the information and demonstrate that there is no less intrusive means of obtaining relevant information. (El Dorado Savings & Loan v. Superior Court, 190 Cal. App. 3d 342) Also, section 1985.6 of the Code of Civil Procedure imposes certain requirements when a party to litigation seeks to subpoena the employment records of an individual from his or her employer, including providing advance written notice to the employee that the records are being subpoenaed along with instructions to the employee of how they can ask the court to quash the subpoena.