

California Public Records Act

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The **California Public Records Act** (Statutes of 1968, Chapter 1473; currently codified as [California Government Code](#) §§ 6250 through 6276.⁴⁸^[1]) was a law passed by the [California State Legislature](#) and signed by the [governor](#) in 1968 requiring inspection or disclosure of governmental records to the public upon request, unless exempted by law.

The law is similar to the [Freedom of Information Act](#), except that "the people have the right of access to information concerning the conduct of the people's business" is enshrined in Article 1 of the [California Constitution](#) due to [California Proposition 59](#) (the Sunshine Amendment).

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Purpose^[edit]

When the legislature enacted CPRA, it expressly declared that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."^[2] Indeed, in California "access to government records has been deemed a fundamental interest of citizenship"^[3] and has emphasized that "maximum disclosure of the conduct of governmental operations [is] to be promoted by the act."^[4] By promoting prompt public access to government records, the CPRA is "intended to safeguard the accountability of government to the public."^[5] As the California Supreme Court recognized in *CBS v. Block*:

Implicit in a democratic process is the notion that government should be accountable for its actions. In order to verify accountability, individuals must have access to government files. Such access permits checks against the arbitrary exercise of official power and secrecy in the political process.^[6]

Public records and exemptions^[edit]

In accordance with this policy, public records are broadly defined to include "any writing containing information relating to the conduct of a public's business prepared, owned, used or retained by any state or local agency regardless of physical form or characteristic[.]"^[7] Citing with approval an even broader definition of public records adopted by the California Attorney General, another court has stated:

This definition is intended to cover every conceivable kind of record that is involved in the governmental process and will pertain to any new form of record-keeping instrument as it is developed. Only purely personal information unrelated to 'the conduct of the public's business' could

be considered exempt from this definition, i.e., the shopping list phoned from home, the letter to a public officer from a friend which is totally void of reference to governmental activities.^[8]

Moreover, unless the public records of a local agency are exempt from the provisions of the CPRA, they must be made available for public inspection.^[9] Exemptions must be narrowly construed and the public agency bears the burden of proving that an exemption applies.^[10]

Most of the exemptions under the CPRA are set forth under Section 6254 and are specific as to certain records or types of records, but under Section 6255 a general exemption exists where, on the facts of the particular case, "the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record".^[11] In reviewing the propriety of an agency decision to withhold records, a court is charged with ascertaining whether nondisclosure was justified under either of these statutes.^[12]

Because the CPRA was modeled after the [federal Freedom of Information Act](#) ("FOIA"), 5 U.S.C. Section 552 et seq, courts may look to case law under FOIA in construing the CPRA.^[13]

The [California Supreme Court](#) held that when a public official or employee uses a *personal* account and/or device to communicate about the conduct of public business, such as e-mails or text messages, the applicable writings may be subject to disclosure under the California Public Records Act.^[14]

Orders and appeals^[edit]

To facilitate prompt public access to public records, court orders either directing disclosure of public records or supporting an agency's decision of nondisclosure are immediately reviewable by an appellate court by way of an emergency petition seeking issuance of an extraordinary writ.^[15] In 1991, the California Supreme Court made clear that under this writ procedure, trial court orders are reviewable on their merits.^[16] Thus, when a trial court order under the CPRA is reviewed by an appellate court, the independent review standard is employed for legal issues and factual findings made by the trial court will be upheld if they are based on substantial evidence.^[17]

2013 changes to Act^[edit]

In 2013, as part of budget negotiations, the Legislature approved a plan to make certain provisions in the Act optional for local agencies; Governor [Jerry Brown](#) was expected to sign it into law. The move was done in order to save "tens of millions of dollars" in state reimbursements to local agencies that comply with the Act, according to Legislative Analyst's Office projections.^[18]

The changes were added to the 2013 budget as rider bills AB 76^[19] and SB 71.^[20] According to the bills, local agencies would no longer be required to provide the following, but are encouraged to follow them as "best practices":^[21]

- Respond to a public record request within 10 days
- Provide electronic records in its native format
- Provide a reason for denying a request

Open government advocates and several California newspapers came out strongly against the measure. Jim Ewert, general counsel of the California Newspaper Publisher's Association, called the move "the worst assault on the public's right to know I have seen in my 18 years of doing this."^[22] Several newspapers, including the [Oakland Tribune](#),^[23] [Fresno Bee](#),^[24] and Visalia Times-Delta,^[25] published editorials against the changes.

Because of the outcry from the media, state leaders backed down within the week and promised to reverse the changes. The Assembly passed a measure to revoke that provision in the budget bill, and Brown said he supports the revocation.^[26]

In September 2013 the legislature approved a constitutional amendment proposal,^[27] authored by state senator [Mark Leno](#), which would incorporate the Public Records Act into the [California State Constitution](#). The amendment clarifies that local governments must comply with requests for publicly available documents, and requires local governments to pay the costs of those requests in full. The proposed amendment went to the voters for approval in June 2014,^[28] and was passed with 61.8% of the vote.^[29]

See also [\[edit\]](#)

- [Freedom of information law in California](#)
- [Bagley-Keene Act](#)
- [Brown Act](#)
- [Californians Aware](#)
- [County of Santa Clara v. California First Amendment Coalition](#)

Notes [\[edit\]](#)

1. [Jump up](#) [§§ 6250](#)
2. [Jump up](#) Cal. Gov't Code § 6250.
3. [Jump up](#) *CBS v. Block*, 42 Cal. 3d 646, 652 n.5, 230 Cal. Rptr. 362, 725 P. 2d 370 (1986).
4. [Jump up](#) *Id.* at 651-52 (emphasis added).
5. [Jump up](#) [Register Div. of Freedom Newspapers Inc. v. County of Orange](#), 158 Cal. App. 3d 893, 901, 205 Cal. Rptr. 92 (1984).
6. [Jump up](#) *Id.* at 651.
7. [Jump up](#) Cal. Gov't. Code § 6252(e).
8. [Jump up](#) *San Gabriel Tribune v. Superior Court*, 143 Cal. App. 3d 762, 774; 192 Cal. Rptr. 415, 422 (1983)(internal citations omitted); see also [Versaci v. Superior Court](#), 127 Cal. App. 4th 805, 813, 26 Cal. Rptr. 3d 92 (2005)(quoting *Coronado Police Officers Ass'n v. Carroll*, 106 Cal. App. 4th 1001, 1006, 131 Cal. Rptr. 2d 553 (2003)(citing with approval same definition)).
9. [Jump up](#) *Williams v. Superior Court*, 5 Cal. 4th 337, 346, 19 Cal. Rptr. 2d 882, 852 P. 2d 377 (1993).
10. [Jump up](#) *Bakersfield City School Dist. v. Superior Court*, 118 Cal. App. 4th 1041, 1045, 13 Cal. Rptr. 3d 517 (2004); *CSU Fresno Association v. Superior Court*, 90 Cal.App. 4th 810, 831, 108 Cal. Rptr. 2d 870 (2001); see also *Lorig v. Medical Bd.*, 78 Cal. App. 4th 462, 467, 92 Cal. Rptr. 2d 862 (2000); *County of Los Angeles v. Superior Court*, 82 Cal. App. 4th 819, 825, 98 Cal. Rptr. 2d 564 (2000).
11. [Jump up](#) Cal. Gov't Code § 6255 (commonly called the "catch all" exemption).
12. [Jump up](#) Cal. Gov't Code § 6259(b).
13. [Jump up](#) See [Times Mirror Co. v. Superior Court](#), 53 Cal. 3d 1325, 1338, 283 Cal. Rptr. 893, 813 P.2d 240 (1991); [ACLU v. Deukmejian](#), 32 Cal. 3d 440, 447, 186 Cal. Rptr. 235, 651 P.2d 822 (1982); but see *Williams*, 5 Cal. 4th at 348-54 (holding that CPRA's exemption for law enforcement investigatory records did not incorporate FOIA criteria and thus courts cannot look to FOIA cases to interpret Section 6254(f) of the CPRA, but must look to the statutory language of the CPRA provision to construe the statute).
14. [Jump up](#) *City of San Jose v. Superior Court*, 2 Cal. 5th 608 (March 2017).

15. **Jump up**[^] Cal. Gov't Code § 6259(c).
16. **Jump up**[^] Times Mirror Co., 53 Cal. 3d at 1336; see also [State Bd. of Equalization v. Superior Court](#), 10 Cal. App. 4th 1177, 1185, 13 Cal. Rptr. 2d 342 (1992) (echoing the decision in Times Mirror and stating that the scope of review by a writ of review is equivalent with the scope of review on appeal).
17. **Jump up**[^] Times Mirror Co., 53 Cal. 3d at 1336 (citing Block, 42 Cal. 3d at 650-51).
18. **Jump up**[^] "[Budget bill would make it optional for California local governments to comply with public records laws](#)". [Sacramento Bee](#). 2013-06-19. Retrieved 2013-06-19.
19. **Jump up**[^] "[SB 71](#)". [OpenStates](#). Retrieved 2013-06-19.
20. **Jump up**[^] "[SB 71](#)". [OpenStates](#). Retrieved 2013-06-19.
21. **Jump up**[^] "[Budget could limit public's access to government documents](#)". [L.A. Times](#). 2013-06-18. Retrieved 2013-06-19.
22. **Jump up**[^] "[California Legislature Guts State Records Law](#)". [Courthouse News Service](#). 2013-06-18. Retrieved 2013-06-18.
23. **Jump up**[^] "[Oakland Tribune editorial: State lawmakers must restore California Public Records Act](#)". [Courthouse News Service](#). 2013-06-18. Retrieved 2013-06-19.
24. **Jump up**[^] "[EDITORIAL: Tell Jerry Brown to veto attack on Public Records Act](#)". [Fresno Bee](#). 2013-06-18. Retrieved 2013-06-19.
25. **Jump up**[^] "[Editorial: RIP, California Public Records Act](#)". [Visalia Times-Delta](#). 2013-06-19. Retrieved 2013-06-19.
26. **Jump up**[^] Orr, Katie (June 20, 2013). "[California Assembly Repeals Changes To Public Records Act](#)". KPBS Radio News. Retrieved 24 June 2013.
27. **Jump up**[^] [SCA 3](#) from the California Legislature website
28. **Jump up**[^] White, Jeremy B. (September 10, 2013). "[California Public Records Act amendment going to June ballot](#)". [Sacramento Bee](#). Retrieved 13 September 2013.
29. **Jump up**[^] [Bowen, Debra](#). "[Statement of Vote, June 3, 2014 Statewide Direct Primary Election](#)" (PDF). California Secretary of State. pp. 108–109. Retrieved 11 February 2015.

References^[edit]

- "[California Attorney General's Summary of the California Public Records Act 2004](#)" (PDF). [California Attorney General](#).
- "[Top 10 Points to Remember about Making a CPRA Request](#)" (PDF). [Californians Aware](#).
- "[Top 10 Points to Remember about Exemptions from the CPRA](#)" (PDF). [Californians Aware](#).
- "[Open Government Guide CA item](#)". [Reporters Committee for Freedom of the Press](#).

External links^[edit]

- [CPRA guide](#) from the First Amendment Project
- [Constitution of California](#), Article 1, §3(b)
- [California Government Code](#), §6250-§6270.5
- [CalAware Today](#) (News Blog about CPRA and Other Public Records Issues)

- [Community Forum](#) from [CalAware](#) (Public Records Access Discussion Board)

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