

## CALIFORNIA CONSUMER PRIVACY ACT (PART 1)

### What is the California Consumer Privacy Act (CCPA)?

The CCPA is a law that initially went into effect in 2020 and was subsequently amended. The CCPA gives California consumers various rights in their personal private information that certain companies collect and use in the course of business. Responsibilities for entities that are Covered and non-Covered Businesses (defined below) are different. Obligations of non-Covered Businesses and penalties for non-compliance are explained in CALIFORNIA CONSUMER PRIVACY ACT (Part 2).

### What does the CCPA protect?

The CCPA protects the “personal information” of any natural person who resides in California. Personal information is defined as any data that could reasonably be associated or linked with a household or consumer. This could broadly include names, addresses, email addresses, social security numbers, bank details, employment details, IP addresses, purchasing history, and any inferences drawn from other information to create a consumer profile. The CCPA does not distinguish between electronic records and other forms of records, so even paper files could be subject to the CCPA. Notably, personal information does not include information that is publicly available, deidentified, or aggregated.

### Who must comply with the CCPA?

The CCPA applies to any “Covered Business” if ONE of the following apply:

1. The business has \$25 million or more in annual revenues;
2. The business derives half or more of its revenues from the sale of consumer personal information; or
3. The business annually buys, sells, or otherwise shares for commercial purposes, the personal information of 100,000 or more consumers, households or devices.

### A Covered Business is:

- a for-profit legal entity (including sole proprietorships);
- that does business in the state of California;
- that collects a person’s personal information either directly or through another (such as a salesperson collecting consumer information on behalf of their broker); and
- determines the purpose and means of processing the information (does not merely passively collect personal information but affirmatively chooses what to collect and how to use it).

### What does the CCPA require a Covered Business to do?<sup>1</sup>

- Pre-collection Notice: Before a Covered Business collects a consumer’s personal information, it must give the consumer notice of (i) the categories of personal information to be collected, (ii) the purposes for which the consumer’s personal information will be used, and (iii) whether the personal information is sold or shared.
- Right to Notice: Respond to a consumer, at no charge and within 45 days, with the categories of personal information collected, the specific personal information about the consumer collected, and the third parties to whom the business has sold or shared the consumer’s personal information.
  - The business typically must provide at least two methods for a consumer to request such a report, including at minimum a toll-free telephone number and, if the business has a website, a website address.
- Right to Deletion: A Covered Business must delete personal information it possesses relating to that consumer after a consumer request.
  - This right is not absolute; CCPA lists various reasons a Covered Business may refuse the consumer’s deletion request, including completion of the transaction for which the personal information was collected, or to comply with other legal obligations such as a real estate licensee’s obligation to maintain records for three years.
- Right to Correct: A Covered Business must correct inaccurate personal information it possesses relating to that consumer after receiving a verifiable request from the consumer.
- Right to Know: Consumers have the right to know whether their personal information is collected, sold, or shared by a Covered Business. Upon receipt of a verifiable request from the consumer, a Covered Business must disclose certain information prescribed by the CCPA.
- Right to Opt-Out: If a Covered Business sells or shares a consumer’s personal information, it must provide a clear and conspicuous link on its website titled “Do Not Sell My Personal Information” that links to a page where the consumer may opt-out.

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<sup>1</sup> Only a limited number of obligations are addressed herein, but the CCPA is a voluminous law, so other provisions may also apply. To fully understand compliance obligations, please refer to the CCPA and the supporting regulations. See Cal.Civ.Code §1798.100 et seq; 11 CCR § 7000 et seq.