

CALIFORNIA CONSUMER PRIVACY ACT (PART 1)

What is the California Consumer Privacy Act (CCPA)?

The CCPA is a law that went into effect on January 1, 2020 that 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 not Covered Businesses (defined below) are different. Obligations of Not Covered Businesses and penalties for non-compliance are explained in CALIFORNIA CONSUMER PRIVACY ACT (Part 2).

What does CCPA protect?

The law 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. CCPA does not distinguish between electronic records and other forms of records, so even paper files fall under CCPA protection.

Who must comply with the CCPA?

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 50,000 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 law require a Covered Business to do?

- **Pre-collection Notice:** Before a business collects a consumer’s personal information, it must give the consumer notice of the categories of personal information to be collected and the purposes for which the consumer’s personal information will be used.
- **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:** The 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 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 Opt-Out:** If the business sells 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.