



Frequently Asked Questions About The CPRA

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1) What is the CPRA?

- CPRA = California Privacy Rights Act of 2022
- Voted into law through ballot initiative (Proposition 24)
- Expands consumer privacy protections in California Consumer Privacy Act of 2018 (“CCPA”)
- Effective January 1, 2023 but covers information starting from January 1, 2022

2) Does CPRA change scope of covered businesses?

- Yes!
- Scope of covered businesses modified as follows:
 - \$25 million revenue threshold is based on calendar year
 - 50,000 consumer, household or devices threshold increased to 100,000
 - Devices removed from calculus

3) How does CPRA expand consumer rights?

- It expands “right to know” – removes 12-month lookback period for information collected on or after January 1, 2022
- Opt-out rights now apply to “sharing” personal information (“PI”)
 - Sharing means transferring or making PI available to third-party or cross-context behavioral advertising
 - New website link must state “Do Not Sell or Share My Personal Information”
- Modifies “right to delete”
 - CPRA expands list of third-parties that must be notified of deletion request to contractors or other third-parties, unless this proves impossible or involves disproportionate effort
 - Service providers or other third-parties must comply with deletion request and direct downstream service providers to do same
 - Rejecting deletion request for fraud prevention must be based on assessment of necessity and proportionality of retaining PI versus deleting it
- Expanded right to data portability – consumer may request PI transferred to another entity if technically feasible

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3) How does CPRA expand consumer rights? (cont.)

New Rights:

- Right to Correct
- Right to Opt-Out of Sharing Personal Information
- Right to Restrict Sensitive Information Processing
 - CPRA introduces new category of “sensitive” PI and provides consumers right to opt-out of use and disclosure
 - Sensitive PI includes SSN, precise geolocation, account information, racial or ethnic origin, etc.
- Automated Decision Making
 - Right to opt-out
 - Right to know information about logic involved
 - Newly formed privacy agency will need to clarify this right through regulations

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4) What changes do we need to make to CCPA notices and policies?

Notice at Collection and Privacy Policy will need to describe:

- The retention period or retention criteria for each category of personal information collected
- Details regarding the processing of sensitive personal information
- The new correction right
- Whether personal information is sold or shared
- Businesses must also publicly commit not to reidentify deidentified personal information

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5) Do we need to revise contracts with service providers?

Yes, contracts must:

- Limit service provider's use of PI to limited and specified purposes
- Obligate service provider to maintain same level of privacy protection that CPRA requires
- Grant business audit rights over service provider's compliance with CPRA
- Require service provider to notify business if it can no longer comply with CPRA
- Grant business right to take reasonable and appropriate steps to stop and remediate unauthorized use of PI

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6) Does CPRA continue or modify B2B and workforce PI exceptions?



No. Just continues them through January 1, 2023

- Starting January 1, 2023, the CCPA, as amended by CPRA, fully applies to employees who reside in California and to individual residents of California associated with B2B communications
- The financial sector privacy law exceptions (i.e., GLBA) would generally not apply to this data

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7) What other significant requirements does CPRA impose?



- Data minimization and retention limitation
- CPRA explicitly requires businesses to implement reasonable security procedures and practices
- Businesses that process PI in a manner presenting “significant risk” to consumers’ privacy or security are required to obtain annual independent cybersecurity audits and submit an annual risk assessment to newly created California Privacy Protection Agency

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8) Does CPRA change private right of action?

Yes, but in an insignificant way

- New category of PI subject to private right of action includes email address in combination with password or security question that would permit access to email account
- Relatedly for Attorney General actions, the 30-day cure period has been removed. Attorney General can go after businesses that are not compliant right away

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9) What Agency will enforce the CPRA?

- California Privacy Protection Agency (“Agency” and California Attorney General)
- Agency will take rulemaking role from Attorney General
- Agency given until July 1, 2022 to issue final regulations in following areas:
 - Responding to consumer requests to correct inaccurate information, opt-out of sharing personal information or limit sensitive personal information uses
 - Accessing personal information beyond the 12-month lookback period
 - Cybersecurity audits and submitting risk assessments to the Agency
 - The use of automated decision-making technology, including profiling, related to access and opt-out rights
 - The scope and process of the Agency’s audit authority
 - Requirements for an opt-out preference signal, if the business elects to use an opt-out preference signal for consumer requests not to sell or share personal information or to limit use of sensitive personal information
 - Defining many terms of significance under the CPRA such as “precise geolocation,” “intentionally interacts,” and “specific pieces of information obtained from a consumer.”

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Questions?

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Thank you!

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