

KEY PROVISIONS OF THE PUBLIC RECORDS ACT

All State and local agencies are covered by the California Public Records Act (“Act”). It is not applicable to the Legislature or the judicial branch. Federal government agencies are covered by the Federal Freedom of Information Act 5 U.S.C. 522.

In enacting the statutes, the Legislature stated that access to information concerning the conduct of the public’s business is a fundamental and necessary right for every person of the State.

The Legislature also recognized the constitutional right and fundamental interest in the right to privacy in crafting a number of exemptions to the Act.

Disclosure exemptions are also provided to ensure the government’s interest in performing its assigned functions in a reasonably efficient manner (i.e. exemption for records relating to pending litigation or investigations).

What is a Public Record?

Any writing containing information relating to the public's business that is not otherwise exempt from disclosure

Includes electronic mail, electronic records and data

Does not include purely personal information

Applies to records in existence at the time of the request; it does not require the agency to make a report, compile data, or answer questions

To the extent reasonable, agencies are required to assist members of the public in identifying the records sought

Right to Inspect and Copy Public Records

Records may be inspected at an agency during regular business hours without charge.

Copies of records may be obtained for the direct cost of duplication.

If an agency must extract information from an electronic record or undertake programming, requestor must bear full cost including data compilation, extraction, and programming.

Agency generally has 10 days to make determination of whether disclosable (i.e. non-exempt) public records are sought and in the possession of the agency and to notify the requestor.

10-day period is for determination and response, not for production. Can be extended up to 14 days by written notice.

Production of documents must occur within a reasonable time.

Contents of Agency Response

If the records are not available with the response, the agency shall provide an estimated date that the records will be available as part of the response.

When the agency withholds exempt records, the agency must notify the requester of the reasons for withholding.

Agency need not list each withheld record and the reasons therefore.

Exemptions

The Act contains exemptions from disclosure

Other State and Federal statutes may prohibit disclosure