Points to Remember about Access to Government Records under California Public Records Act
The agency has the burden of justifying the denial of access.
The request need not be in writing.
The request need not identify the requester.
The request need not state the requester’s purpose.
The agency need not compile lists or write reports.
The scope of the request must be reasonably clear.
The agency must do its best to help the requester succeed.
Fees are for the costs of copying, not for those of inspection.
Prompt access is required for clearly public records.
Journalists and other people have the same rights of access.
Points to Remember about Access to Government Records under California Public Records Act
Top Ten Points to Remember about Exemptions from the California Public Records Act
Most CPRA exemptions are discretionary.
Exemptions from the California Public Records Act

Exemptions are waived by selective disclosure.
An exempt part does not justify withholding the whole.
Drafts are not inherently and entirely exempt.
Litigation documents may be withheld while the case is alive.
Personal information may be withheld if release would unjustifiably invade privacy.
Law enforcement investigative files may be withheld, but not the basic facts.
Information that is privileged or confidential otherwise is exempt.
The “balancing test” may justify non-disclosure in well-defined instances.
The deliberative process privilege may apply to pre-decisional records.
Points to Remember about Exemptions from the California Public Records Act
“A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.”
The CalAware Audit

January 2006

• 31 State Agencies
The CalAware Audit

January 2006

• Average Grade “F”
The CalAware Audit

August 2006

• Average Grade “C+”
The CalAware Audit

Three Concerns:
The CalAware Audit

Three Concerns:

1. Customer Service
The CalAware Audit

Three Concerns:

1. Customer Service
2. Responsiveness
The CalAware Audit

Three Concerns:

1. Customer Service
2. Responsiveness
3. Guidelines/Copy Fees
Prop 59

“A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.”
Who needs to know how to handle CPRA requests?
Who needs to know how to handle CPRA requests?

- Anyone who greets the public
Customer Service

Who needs to know how to handle CPRA requests?

- Anyone who greets the public
  Security, Reception, etc.
- Anyone who processes the requests
Customer Service

Who needs to know how to handle CPRA requests?

- Anyone who greets the public
- Anyone who processes the requests
- Anyone who makes decisions that affect the Agency’s response
NOTE:
Requests may come from someone visiting in person, calling on the phone, sending a fax, or emailing your office.
Customer Service

Reception: What you need to know
Customer Service

CPRA Request Triggers:
- CPRA Request
- Public Records
- Public Documents
Customer Service

Do not ask any identifying information, including:
- Name
- Affiliation
- Purpose
Customer Service

- Reception should locate a request processor without delay
- A minimum of 3 request processors should be reachable by all receptionists
- At least one of these request processor should be available at all times
Customer Service

Join the CalAware Directory
- Free!
- Easy to update
- Streamlines the process
- Available October 20
Customer Service

REVIEW:

1. Determine that you are receiving a CPRA request
2. Do not ask for any identifying information
3. Locate the Agency staff person who is available to handle the request
Prop 59

“A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.”
Responsiveness

Always

Sometimes

Never
Responsiveness

⭐ Identify a list of most-likely requested documents according to their availability
⭐ Make this list available to all request processors
⭐ Keep this list updated at least quarterly
Responsiveness

Always, Sometimes, Never:

- Form 700
- Payroll Records (an identified non-contract employee)
- Settlement Agreements
- CPRA Guidelines
- Employee Medical Records
- Phone Records
- Employment Contracts
- Receipts (office supplies, furnishings, travel, etc.)
- Criminal Background Checks
- Statements of Departmental Policy
Responsiveness

Unsure?
Confused?
Need a second opinion?
- Call us
- Email us
- Message Board
Guidelines

The roadmap to public access
Guidelines

Do:
- Provide a good map for how to request records from your agency
- Write in language that is easy to understand
- List your hours
- List the name and contact info for the people in charge of handling requests

- List your copy fees
- Make it clear that requests need not be made in writing
- Give examples from your Always, Sometime, Never list
- Keep your guidelines brief, concise and updated
- Post your guidelines on your website
Do not:

- “Classify” the Guidelines
- Cut and paste from the CPRA
- Use legal jargon
- Use discouraging or intimidating language
Guidelines

Good Examples

Department of Justice
- Basic content

Department of Corporations
- What is available
- Sample letter
Guidelines

A word about copy fees
- Recent survey of copy fees
- Attorney General’s Office
- 10¢ recommended
- Reasonable formula
Copy Fees FORMULA

Consumables (paper and toner)
One cycle of copier (wear and tear)
Payroll

   divide: employee’s hourly wage
   by: 60 to get wage for one minute
   by: # of copies machine can make in one minute
One exam per Agency
Fax or mail back to us
Due: Friday, October 13
Results will be emailed and posted online
“A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.”
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