

California Consumer Privacy Act Preparation Checklist

The California Consumer Privacy Act (“CCPA”) became operative on January 1, 2020. In light of recent amendments, regulatory enforcement of the CCPA will not take place until July 1, 2020, or six months after implementing regulations have been published by the California Attorney General, whichever is sooner. Along with potentially large civil fines and statutory damages, the CCPA brings significant data protection compliance obligations. Rather than addressing every requisite action item for CCPA compliance, in this checklist we set forth high-level recommendations for organizations to consider as they prepare to meet their obligations under the CCPA. Ultimately, each organization will need to analyze its current CCPA-readiness; identify all gaps in its CCPA-readiness; and develop and implement a phased action plan for addressing such gaps.

Initial Steps

- Appoint Business Owner and Executive Sponsor for Assessing CCPA-Readiness
- Conduct CCPA Applicability Assessment for Organization and All Affiliates
- Develop/Update Data Flow Maps and Inventories to Determine:
 - Categories of California Resident Personal Information (“PI”) Collected;
 - Sources of PI;
 - Purposes for Collecting and Using PI;
 - Whether PI is Collected from Consumers under 16 Years of Age;
 - PI Sharing and/or Selling Practices, Including Categories of Third Parties Receiving or Accessing PI; and
 - Purposes for Sharing and/or Selling PI
- Develop and Implement Evergreening Process for Data Flow Maps and Inventories
- Review Pertinent Policies, Procedures, Work Flows, Checklists, Notices, Consent Forms, Contracts, and Other Pertinent Documentation for Compliance
- Conduct Interviews with or Surveys of Key Personnel in Pertinent Business Units to Supplement Information
- Assess Ability to Secure PI and Address Applicable Consumers’ Rights with Current Technical, Physical, and Organizational Controls
- Identify Gaps in CCPA-Readiness and Develop Phased Compliance Plan
- Estimate Costs; Obtain Budget Approval; and Build Necessary Executive Buy-In for Recommended Action Plan

Update Compliance Program

- Identify Core Team/Compliance Structure
- Develop Project Plan
- Update Pertinent Policies, Procedures, Workflows, etc., as Necessary
- Replace/Modify Technologies as Required to Meet CCPA Requirements (*e.g.*, Technological Capability to Comply with a Consumer's Request for Deletion of PI)
- Develop Processes for Ensuring CCPA Obligations are Considered in Connection with New Data Collection Practices and Uses; New Technologies; and New Product or Service Offerings
- Develop and Implement CCPA Training Programs for Employees Reflecting Job-Specific Responsibilities
- Adopt Compliance Monitoring Mechanisms/Processes
- Consider Additional Actions to Reduce Risk (*e.g.*, Legacy Information Review and Disposition; Consolidation of Data Storage Locations)
- Monitor and Address CCPA Developments (*e.g.*, Developments in the Law; Regulations; and Attorney General Guidance and Enforcement Actions)

Update Notices, Consent Forms and Practices, Privacy Policy, and Website

- Update Notices, Consent Forms, and Consent Practices (*e.g.*, Promptly Honoring Opt-Out Requests and Ensuring No Requests to Opt Back In are Sent for 12 Months) to Meet CCPA Requirements
- Develop Evergreening Process for Notices and Consent Forms as PI Practices Evolve
- Review and Update Current Online Privacy Policy to Meet CCPA Requirements, or Prepare a Separate California Privacy Policy to Address CCPA Notice Requirements
- If Business Sells PI, Prepare a "Do Not Sell My Personal Information" Link to Include on Website Homepage and in Online Privacy Policy

Update Vendor Contracts

- Update Vendor Selection, Contracting, and Auditing Practices
- Identify and Update, as Necessary, Contracts with Vendors Receiving or Accessing PI, Utilizing Contract Templates and Checklists
 - To the Extent Business Intends for Transfer of PI to Vendor to Not be Deemed a Sale, Confirm Contract Limits Vendor's Right to Retain, Use, or Disclose PI in Accordance with CCPA
 - Confirm Contract Requires Vendor to Accommodate Consumer Requests
- Identify and Address Any Vendors Receiving or Accessing PI Without Contract in Place
- Analyze and Address Identified Non-Compliant Vendor Risks

Develop/Update Consumer Rights Processes

- Implement or Update Policies and Procedures for Timely Addressing Consumer Rights to Access, Transfer, and Delete PI, and to Opt-Out of Sale of PI, Including the Following Steps:
 - Identify Consumer Rights Request;
 - Document Process, Including Timeliness of Response;
 - Provide Toll-Free Number and Web Address for Consumers to Submit Requests;
 - Verify Identity of Consumer or Identity and Authority of a Third Party to Act on Consumer's Behalf;
 - Provide All Requested Disclosable PI in Format that Permits Portability (*e.g.*, User-Friendly Export of PI); and
 - Comply with PI Deletion Requests, to Extent Appropriate
- Ensure Processes in Place to Address Opt-In and Opt-Out Rights of Different Categories of Consumers (*e.g.*, Right to Opt-In to Sale of PI for 13-16 Year-Old Consumers; Right to Opt-In to Sale of PI for Parents or Guardians of Consumers under 13 Years of Age; Right to Opt-Out of Sale of PI for Consumers Over 16 Years of Age)
- Confirm Processes in Place to Ensure Consumers are Not Discriminated Against (*e.g.*, Denied Goods or Services) for Exercising their Rights, and to Help Ensure Any Differences in Prices or Level/Quality of Goods or Services are Directly Related to Value Provided by Consumers' PI
- Confirm Notice Provided to Consumers of Any Financial Incentives for Collecting, Selling, or Deleting PI
- Confirm Process in Place to Ensure Consumers Opt-In Before they are Entered into Financial Incentive Program

Implement Updated Data Security Processes

- Assess and Update, as Necessary, Physical, Technical, and Administrative Security Measures, including the 20 data security controls published by the Center for Internet Security ("CIS" Controls)
- Regularly Test Effectiveness of Security Measures to Ensure "Reasonableness" of Procedures and Practices

This checklist is not intended to be an exhaustive list of all recommended CCPA-preparation steps. This checklist has been prepared as an informational, high-level overview of recommendations for CCPA preparation, and does not constitute legal advice.

If you have any questions concerning this checklist or related issues, or if you would like assistance conducting a CCPA-applicability analysis, developing policies and procedures for CCPA compliance; conducting a personal information audit; and/or addressing your organization's specific compliance challenges, please contact: **Laura Clark Fey at (913) 948-6301 or lfey@feyllc.com.**