

A stack of papers is shown in a close-up, slightly blurred perspective. One of the papers has a stamp that reads 'CLASSIFIED' and the number '5' below it. The text 'CLASSIFIED' is partially obscured by the title 'Privacy Regulations'.

Privacy Regulations

Dylan Bulmer - Nov 3, 2022

What is Privacy? I

Definitions

“[T]he *control over personal information* about oneself” [7]

What is Privacy? II

Definitions

The value that provides us the ability
to ***control the access*** others have to our data [\[4-6\]](#)

What is Privacy? III

My Definition

The ability to have ***complete control*** over your information.

(Bulmer, 2022)

Privacy Regulations I

Types of Regulation

Soft Law

- Industry self-regulation.
- Relies on companies regulating themselves .
- Agreements between two parties that are not legally binding.
- *“Due diligence”*

Hard Law

- Mandatory regulation/legal obligation.
- Enforced by designated authorities.

Privacy Regulations II

United States:

- FERPA (*passed 1974*)
- ECPA (*passed 1986*)
- HIPAA (*passed 1996*)
- COPPA (*passed 1998*)
- Gramm-Leach-Bliley Act (*passed 1999*)
- CCPA (*passed 2018*)
- CPRA (*passed 2020*)
- VCDPA (*passed 2021*)
- ColoPA (*passed 2021*)

Around the World:

- PIPEDA (*passed 2000*)
 - CPPA (*introduced 2020*)
- Philippines DPA (*passed 2012*)
- GDPR (*passed 2016*)
- LGPD (*passed 2018*)
- NZPA (*passed 2020*)
- POPIA (*passed 2021*)
- TTDSG (*enforced 2021*)

Privacy Regulations III

International Agreements

EU–U.S. Privacy Shield

- Created 2016 and deemed adequate.
- Replaced the US–EU Safe Harbor agreement.
- Allows the data transfer of personal information to the U.S.
 - Principles: notice, choice, accountability, security, data integrity, purpose limitation, access, enforce.
- **Swiss–U.S. was created 2017** with similar intent and principles.
- In 2020, the EU Court of Justice invalidated the European Commission’s adequacy determination for the Privacy Shield.
 - In other words: the Privacy Shield **no longer** complies with the GDPR.
 - *“That decision does not relieve participants in the EU-U.S. Privacy Shield of their obligations under the EU-U.S. Privacy Shield Framework.”* [17]

Maine Privacy Regulations

Privacy of broadband Internet access service customer personal information

“A provider may not use, disclose, sell or permit access to customer personal information” except if given consent, used for internal purposes, or “[t]o comply with a lawful court order.” [\[1\]](#)

L.D. 946

S.P. 275 – passed 2019

Facial Surveillance

“An Act To Increase Privacy and Security by Regulating the Use of Facial Surveillance Systems by Departments, Public Employees and Public Officials” [\[2\]](#)

L.D. 1585

H.P. 1174 – passed 2021

GDPR I

The GDPR is the governing privacy regulation for the European Union.

- Introduced April 27th, 2016
- Effective May 4th, 2018



GDPR II

“Rights of the data subject”

Article 15

Right of access

Article 16

Right to rectification

Article 17

Right to erasure

Article 18

Right to restriction of
processing

Article 20

Right to data
portability



GDPR III

Right to Erasure

Pros:

- Unnecessary information such as inadequate and/or inaccurate data can be removed from the internet.
- **Allows you to self-govern your online presence.**
- *Some state it can give you a "fresh start"*

Cons:

- Could conflict the use of information under Freedom of Speech.
 - *Some sources state that "Freedom of Speech" trumps the "Right to be Forgotten"*
- Can cause a lack of transparency.
- Overall, it can harm the public interest.

GDPR IV

Privacy by Design

- “[D]ata protection through technology design.” [3]
 - Article 25: Data protection by design **and by default**
 - Recital 78: Appropriate Technical and Organisational Measures

“[T]he controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, **implement appropriate technical and organisational measures**, such as pseudonymisation, which are designed to **implement data-protection principles**, such as data minimisation, in an effective manner and to integrate the necessary safeguards into the processing” [3]

GDPR V

Guiding principles

1. Lawfulness, fairness and transparency

“[P]rocessed lawfully, fairly and in a transparent manner in relation to the data subject (‘lawfulness, fairness and transparency’);”

GDPR VI

Guiding principles

2. Purpose limitation

*“**[C]ollected for specified, explicit and legitimate purposes and not further processed** in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall, in accordance with [Article 89\(1\)](#), not be considered to be incompatible with the initial purposes (‘purpose limitation’);”*

GDPR VII

Guiding principles

3. Data minimization

“[A]dequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (‘data minimisation’);”

GDPR VIII

Guiding principles

4. Data accuracy

“[A]ccurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay (‘accuracy’);”

GDPR IX

Guiding principles

5. Storage limitation

*“[K]ept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; **personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes** in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject (‘storage limitation’);”*

GDPR X

Guiding principles

6. Data integrity and confidentiality

*“**[P]rocessed in a manner that ensures appropriate security of the personal data**, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures (‘integrity and confidentiality’).”*

GDPR XI

Guiding principles

7. Accountability

“The controller shall be responsible for, and be able to demonstrate compliance with, paragraph 1”
– Paragraph 1 is the previous six (6) principles

Questions on the GDPR?

CCPA I

The CCPA is the current governing privacy regulation in California.



CCPA II

Overview

- Published June 28th, 2018
- Effective January 1st, 2020
- Protects the residents of California

CCPA III

Individual Rights

§1798.100

§1798.110

§1798.115

Right of access

§1798.105

Right to delete

§1798.120

Right to restriction of
processing

§1798.100(d)

§1798.130(a)

Right to data
portability



CCPA IV

Children's Rights

- A minor is not explicitly defined
 - Specific rights exist for a person under the age of 16.
- Right to Opt-In
 - Selling of their data
 - Sharing of their data
- Right to Opt-Out

Is the CCPA effective?

CPRA I

The CPRA is an extension to the CCPA.



CPRA II

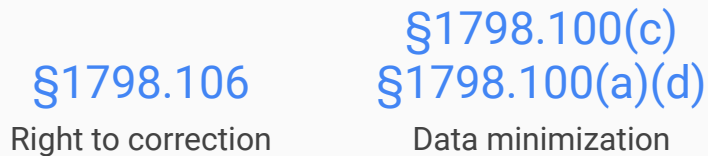
Overview

“In November 2020, California voters passed Proposition 24, the California Privacy Rights Act (“CPRA”).” [\[9\]](#)

- Introduced Nov 13th, 2019
- Effective January 1st, 2023
 - ... with a look-back to Jan. 1st, 2022
- The CPRA modifies and extends the existing CCPA
- Established California’s new agency, the California Privacy Protection Agency (CPPA).
 - Role is to implement and enforce privacy regulations in California.
 - Consists of five board members.

CPRA III

Important Modifications



Last updated: April 2022

Note: This tool is for informational purposes and is not legal advice. Whether a law includes a particular provision should always be verified via official sources.

	California	
	California Consumer Privacy Act	California Privacy Rights Act (fully operative Jan. 1, 2023)
	California Consumer Privacy Act Regulations	
Right to access	Section 1798.100	Section 1798.100
	Section 1798.110	Section 1798.110
	Section 1798.115	Section 1798.115
Right to correct		Section 1798.106
Right to delete	Section 1798.105	Section 1798.105
Right to portability	Sections 1798.100(d) and 1798.130(a)(2)	Section 1798.130(a)(3)(B)(iii)
Right to opt out of all or specific processing	Section 1798.120	Section 1798.120
Right to opt in for sensitive data processing		Section 1798.121*
Age-based opt-in right	Section 1798.120(c)	Section 1798.120(c)
Right not to be subject to fully automated decisions		Section 1798.185(a)(16)*

INDIVIDUAL RIGHTS

CPRA IV

Important Modifications

- New Category for Sensitive Personal Information (SPI)
 - SPI collection notification
- New Individual Rights
 - Right to Restrict Use of SPI
 - Right to Access Information About Automated Decision Making
 - Right to Opt-Out of Automated Decision-Making Technology

CPRA V

Important Modifications

- Sensitive Personal Information (SPI)
 - Information that reveals
 - Social security number, drivers license, state ID, or passport number.
 - Account log-in, financial account, debit card, or credit card accompanied by a password or access code
 - Precise geolocation.
 - Racial or ethnic origin.
 - Contents of mail, email, and text messages.
 - Genetic data.

CPRA VI

Important Modifications

- Rights extend to third parties involved with a business
 - Right to Delete
 - Right to Access
 - Right to Opt-Out
 - Right to Data Portability
- A business must inform the data subject about data retention

CPRA VII

Important Modifications

- Children's Rights
 - Right to Opt-In
 - Cannot be asked again for 12 months.
 - Can be asked again once the data subject turns 16.
 - Violation fines are \$7,500 per child under the age of 16.

Questions?

Thank you!

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References I

- [1] 129th MAINE LEGISLATURE. (2019). BROADBAND INTERNET ACCESS SERVICE CUSTOMER PRIVACY [PDF]. <https://mainelegislature.org/legis/bills/getPDF.asp?paper=SP0275&item=1&snum=129> (accessed 19 October 2022).
- [2] 130th MAINE LEGISLATURE. (2021). FACIAL SURVEILLANCE [PDF]. Available at: <https://legislature.maine.gov/legis/bills/getPDF.asp?paper=HP1174&item=1&snum=130> (accessed 19 October 2022).
- [3] GDPR. (2018). General Data Protection Regulation (GDPR). Available at: <https://gdpr-info.eu/> (accessed 26 October 2022).
- [4] Gavison, R. (1980). Privacy and the Limits of Law. *The Yale Law Journal*, 89(3), 421–471. Available at: <https://doi.org/10.2307/795891> (accessed 28 October 2022).
- [5] Allen, A. (1988). *Uneasy Access: Privacy for Women in a Free Society*.
- [6] Moore, Adam D., Privacy: Its Meaning and Value (2003). *American Philosophical Quarterly*, Vol. 40, pp. 215-227, Available at: <https://ssrn.com/abstract=1980880> (accessed 28 October 2022).
- [7] Parent, W. A. (1983). Privacy, Morality, and the Law. *Philosophy & Public Affairs*, 12(4), 272–273. <http://www.jstor.org/stable/2265374> (accessed 28 October 2022).
- [8] California Law. (2018, 2020). California Consumer Privacy Act of 2018. Available at: https://leginfo.ca.gov/faces/codes_displayText.xhtml?division=3.&part=4.&lawCode=CIV&title=1.81.5 (accessed 29 October 2022).
- [9] California Privacy Protection Agency. (2020). Regulations. Available at: <https://cppa.ca.gov/regulations/> (accessed 29 October 2022).
- [10] IAPP. (2022). Global Comprehensive Privacy Law Mapping Chart. Available at: https://iapp.org/media/pdf/resource_center/global_comprehensive_privacy_law_mapping.pdf (accessed 29 October 2022).
- [11] Securiti. (2021). CPRA vs. CCPA: What Has Changed and How Can Businesses Prepare? Available at: <https://securiti.ai/cpra-vs-ccpa/> (accessed 29 October 2022).

References II

- [12] California Attorney General. (2018). California Consumer Privacy Act. Available at: <https://oag.ca.gov/privacy/ccpa> (accessed 29 October 2022).
- [13] Baker Law. (2018). CCPA and GDPR Comparison Chart [PDF]. Available at: <https://www.bakerlaw.com/webfiles/Privacy/2018/Articles/CCPA-GDPR-Chart.pdf> (accessed 29 October 2022).
- [14] OneTrust DataGuidance. (2019). Comparing privacy laws: GDPR v. CCPA [PDF]. Available at: https://fpf.org/wp-content/uploads/2019/12/ComparingPrivacyLaws_GDPR_CCPA.pdf (accessed 29 October 2022).
- [15] California Secretary of State. (2020). Text of proposed laws, Proposition 24 [PDF]. Available at: <https://vig.cdn.sos.ca.gov/2020/general/pdf/topl-prop24.pdf> (accessed 29 October 2022).
- [16] IAPP (2022). EU-US Privacy Shield. Available at: <https://iapp.org/resources/article/eu-us-privacy-shield/> (accessed 2 November 2022).
- [17] International Trade Administration (2022). Privacy Shield Overview. Available at: <https://www.privacyshield.gov/Program-Overview> (accessed 2 November 2022).