

CALIFORNIA PRIVACY PROTECTION AGENCY

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Date: July 11, 2024

To: California Privacy Protection Agency Board
(Meeting of July 16, 2024)

From: Maureen Mahoney
Deputy Director of Policy & Legislation

Subject: **Agenda Item 7— Legislative Update and Possible Authorization for CPPA's Positions on Pending Legislation**

As part of this meeting's Legislative Update, this memo outlines how staff intends to modify the current process of the California Privacy Protection Agency (CPPA or Agency) to ensure appropriate and timely engagement on legislative issues, including to:

- (1) Track, monitor, analyze, and provide technical assistance on legislation;
- (2) Take a position on introduced legislation, whether state or federal; and
- (3) Put forward legislative proposals to California lawmakers.

The process seeks to enable the Agency Board to make informed decisions about legislation affecting the Agency, to enable all Board members to have meaningful input into the legislative decision-making process, and to enable staff to respond to fast-moving legislation in a timely and effective manner.

Considering introduced legislation: The Agency may want to take a position on state or federal bills that meaningfully affect the Agency, for example, bills that amend the California Consumer Privacy Act (CCPA), task the Agency with specific responsibilities, or present significant overlap with the CCPA and implementing regulations. The process for tracking, evaluating, providing technical assistance, and taking formal positions on bills is as follows:

- **Bill tracking.** Legislative staff will track California, federal, and multistate bills that relate to the processing of personal information, consistent with the CCPA's mandate to "[m]onitor relevant developments relating to the protection of personal information,"¹ and Board members and staff may individually identify bills for the Deputy Director of Policy & Legislation to monitor at any time.

¹ Civ. Code § 1798.199.40(h).

- **Technical assistance.** Staff will provide technical feedback to legislative staff, consistent with the CCPA mandate to provide technical assistance to the legislature on privacy legislation upon request,² and to cooperate with other entities to ensure consistent application of privacy protections.³ Technical assistance could include encouraging consistency with the CCPA and requesting an Agency role, such as an enforcement or consulting role, in bills that are within the Agency’s jurisdiction, taking into account Agency resources.
 - In terms of providing technical assistance, in staff’s view, the Agency’s jurisdiction encompasses bills that relate to the processing of personal information. This includes bills relating to artificial intelligence to the extent that personal information or privacy is implicated.

- **Formal positions.** Staff will develop brief bill analyses of introduced legislation that in staff’s view meaningfully affects the Agency, typically with a recommended position – support, support if amended, oppose unless amended, or oppose – and, if appropriate, a general description of substantive amendments that staff recommends. Bill analyses will be distributed to the Board and posted publicly with the meeting agenda. The Deputy Director will present the bill recommendations for consideration and possible vote by the Board.
 - In terms of taking formal positions, staff recommends that the Board only consider bills that meaningfully affect the Agency, including bills that amend the CCPA, task the Agency with specific responsibilities, seek to preempt the CCPA, or present significant overlap with the CCPA and implementing regulations.

- **Timing.** Because of the legislative calendar, staff recommends that the Board consider relevant California bills on a regular schedule, though circumstances may require the Board to convene at other times as well.⁴ Policy bills typically must advance out of the first house by June and be approved by the full legislature by September. Prior to September, the Governor has 12 days to act on a bill. Starting September 1, all bills that advance to the Governor have a month on which to be acted.⁵ Accordingly, staff recommends that the Agency

² *Id.* at § 1798.99.140(g)

³ *Id.* at § 1798.99.140(i).

⁴ The Board’s discussion in July 2022 is an example – there, the Board held a special meeting for the purpose of discussing a bill that had to be reviewed on an accelerated timeline.

⁵ Office of the Assembly Chief Clerk, 2024 Legislative Deadlines, <https://www.assembly.ca.gov/schedules-publications/legislative-deadlines>. Budget bills follow a separate timeline. The Governor proposes a budget to the Legislature by January 10. Legislative hearings on the Budget Bill typically begin in the late winter. The Governor typically updates the budget proposal in May. The Budget Bill must be passed by both houses of the legislature by June 15, and the Governor typically has 12 working days to sign the Budget Bill. Finally, Budget trailer bills are separate bills that make any necessary statutory changes to implement the Budget Bill, and are heard concurrently with the Budget Bill. State of California Department of Finance, California’s Budget

plan for the Board to meet by May each year to consider bills, and take up additional bills as needed in July.

- **Communicating the Agency's position.** Staff will communicate to stakeholders and the public any positions taken by the Agency through Board action, though there are no guarantees that the Agency's input will affect the status of the bill. Staff will provide updates to the Board and staff on the status of legislation affecting the Agency.

CPPA legislative proposals: From time to time, the Agency may choose to propose legislation to the California Legislature.⁶ Board members and staff may individually suggest legislative ideas to the Deputy Director of Policy & Legislation at any time, and Board members may also suggest legislative ideas at public meetings.

Staff will analyze these proposals in the fall of each year, or as circumstances require. Brief memos analyzing proposals will be distributed to the Board and posted publicly with the meeting materials. At the meeting, the Board will have the opportunity to discuss proposals and may choose to bring them to a vote.

In order to meet legislative deadlines, staff recommends that the Board consider and approve CPPA legislative proposals no later than December of each year. The Legislature reconvenes in January. Bill requests typically must be submitted to the Office of Legislative Counsel in late January, with the bill introduction deadline in February.⁷

Staff will socialize Board-approved proposals with the California legislature and Governor's office, though there are no guarantees that the proposals will be taken up by the Legislature. Staff will provide updates to the Board and staff on the status of the proposals.

Process (last visited July 8, 2024), <https://dof.ca.gov/budget/californias-budget-process/>; California State Senate, The Budget Process: A Citizen's Guide to Participation, https://www.senate.ca.gov/sites/senate.ca.gov/files/the_budget_process.pdf.

⁶ See, for example, Letter from the Medical Board of California to Senate Pro Tempore Toni Atkins and Assembly Speaker Anthony Rendon, Re: Medical Board of California 2022 Legislative Requests (Jan. 5, 2022), <https://www.mbc.ca.gov/Download/Documents/MBCLegislativeRequests-20220105.pdf>.

⁷ Office of the Assembly Chief Clerk, 2024 Legislative Deadlines, <https://www.assembly.ca.gov/schedules-publications/legislative-deadlines>.