

Memorandum 2019-13

**California Public Records Act Clean-Up:
Part 5. Specific Types of Public Records
(Chapters 14-19)**

As directed by the Legislature, the Commission¹ is preparing a nonsubstantive recodification of the California Public Records Act (“CPRA”).² For purposes of a tentative recommendation, the Commission has decided to recodify the CPRA in a new division (Division 10) in Title 1 of the Government Code. That division would be split into six parts (Parts 1-6), as detailed in the Commission’s tentative outline.³ This memorandum presents a staff draft of the following chapters in Part 5:

- Chapter 14. Public Employee or Official
- Chapter 15. Public Entity Spending, Finances, and Oversight
- Chapter 16. Regulation of Financial Institutions and Securities
- Chapter 17. Security Measures and Related Matters
- Chapter 18. State Compensation Insurance Fund
- Chapter 19. Test Materials, Test Results, and Related Matters

Staff Notes in the attached draft provide some background information and raise a few issues for consideration. **Commissioners and other interested persons should review the attached draft and determine whether any revisions are needed.**

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. Gov’t Code §§ 6250-6276.48.

3. The current version of the tentative outline is attached to Memorandum 2018-64. For the most recent cumulative draft of material tentatively approved by the Commission, see Memorandum 2018-65.

Comments on any aspect of the draft would be helpful.⁴ Of particular note, the staff would appreciate suggestions regarding which code provisions to mention in which Comments, so as to make the proposed recodification as user-friendly as possible.

NEXT STEPS

If the Commission approves the attached draft for inclusion in a tentative recommendation (as is, or with revisions), it will have completed a proposed recodification of the entirety of Article 1 of the CPRA (Gov't Code §§ 6250-6270.5). To be ready to release a tentative recommendation, some important tasks remain:

- (1) Prepare a preliminary part (a narrative explanation of the proposal).
- (2) Prepare the conforming revisions and repeals (i.e., proposed legislation to repeal the existing CPRA and update statutory cross-references to material that would be relocated).
- (3) Determine how to handle Article 2 of the CPRA (Gov't Code §§ 6275-6276.48), which is essentially a list of CPRA exemptions throughout the codes.

Unless the Commission otherwise directs, the staff will turn to these matters next and give them high priority.

Respectfully submitted,

Barbara Gaal
Chief Deputy Counsel

4. Written comments can be in any form. They should be directed to bgaal@clrc.ca.gov. Comments may also be made orally at the Commission's upcoming meeting, which will be open to the public. The agenda is available at http://www.clrc.ca.gov/Menu1_meetings/agenda.html.

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DRAFT LEGISLATION

1 **Staff Note.** This is a work in progress. The material shown below may be changed. For the
2 current tentative outline of proposed Division 10 of Title 1 of the Government Code, see
3 Memorandum 2018-64.

4 A draft of an official Commission “Comment” follows each proposed code section in the
5 proposed recodification. Such Comments will be included in any final recommendation. The
6 Comments indicate the source of each recodified code section (or provision within the code section)
7 and describe how the recodified code section (or provision) compares with prior law. Courts have
8 routinely held that the Commission’s Comments are evidence of legislative intent with regard to
9 any legislation that implements a Commission recommendation.

10 There is a “disposition table” at the end of the proposed recodification. It summarizes, in tabular
11 form, the disposition of every provision of the existing code that has been included in this proposed
12 recodification.

13 There is also a “derivation table” at the end of the proposed recodification. It summarizes, in
14 tabular form, the statutory derivation of every new code provision in this proposed recodification.

15 Some provisions in this draft are followed by a “Staff Note.” Most of the Staff Notes are intended
16 to be temporary and will not be part of the Commission’s final recommendation. In general, the
17 Staff Notes serve to flag issues requiring special attention or treatment.

18 Some provisions in this draft contain a bracketed reference to one or more existing code sections.
19 As new Division 10 is drafted, these references will be conformed to the new numbering scheme.

20 In some places, it is necessary to refer to a section that has not yet been drafted. That is done by
21 referring to “Section 79xx.xxx.” The Commission will fill in these references as it drafts the
22 proposed recodification.

23 All of the proposed provisions would be located in the Government Code. All references are to
24 the Government Code unless otherwise indicated.

25 The Commission welcomes public comment on any issue relating to the content of this draft or
26 any other aspect of its ongoing CPRA Clean-Up study. Comments should be directed to Barbara
27 Gaal (bgaal@clrc.ca.gov).

28 **Gov’t Code §§ 7920.000-79xx.xxx (added). California Public Records Act**

29 SEC. ____ . Division 10 (commencing with Section 7920.000) is added to Title 1 of the
30 Government Code, to read:

31 **DIVISION 10. ACCESS TO PUBLIC RECORDS**

32

1 preservation in the State Archives, see Section 7928.215. For additional guidance on disclosure of
2 the Governor’s correspondence, see Section 7928.000.

3 See Sections 7920.525 (“public records”), 7920.540 (“writing”).

4 **Staff Note.** Existing Section 6268 was amended by 2018 Cal. Stat. ch. 92, § 90 (SB 1289
5 (Committee on Judiciary) (maintenance of the codes)). Proposed Sections 7928.005 (continuing
6 the substance of Section 6268(a)) and 7928.010 (continuing the substance of Section 6268(b)-(c))
7 incorporate the revisions made in 2018, which were technical in nature.

8 **§ 7928.010. Special rule for Governor who held office between 1974 and 1988**

9 7928.010. (a)(1) For a Governor who held office between 1974 and 1988, Section
10 7928.005 does not apply to public records or other writings that were in the Governor’s
11 direct custody or control at the time of leaving office, except to the extent that the Governor
12 may voluntarily transfer those records or other writings to the State Archives.

13 (2) Subdivision (a) does not apply to enrolled bill files, press releases, speech files, or
14 writings relating to applications for clemency or extradition.

15 (b)(1) Notwithstanding any other law, the public records and other writings of any
16 Governor who held office between 1974 and 1988 may be transferred to any educational
17 or research institution in California. With respect to public records, however, public access,
18 as otherwise provided for by this division, shall not be restricted for a period greater than
19 50 years or the death of the Governor, whichever is later.

20 (2) Records or writings shall not be transferred pursuant to this subdivision unless the
21 institution receiving them agrees to maintain, and does maintain, the materials according
22 to commonly accepted archival standards.

23 (3) An institution receiving public records pursuant to this subdivision shall not destroy
24 any of those records without first receiving the written approval of the Secretary of State,
25 as custodian of the State Archives. The Secretary of State may require that the records be
26 placed in the State Archives rather than being destroyed.

27 (4) An institution receiving records or writings pursuant to this subdivision shall allow
28 the Secretary of State, as custodian of the State Archives, to copy, at state expense, and to
29 make available to the public, any and all public records, and inventories, indices, or finding
30 aids relating to those records that the institution makes available to the public generally.
31 Copies of those records in the custody of the State Archives shall be given the same legal
32 effect as is given to the originals.

33 **Comment.** Subdivision (a) of Section 7928.010 continues former Section 6268(b) without
34 substantive change.

35 Subdivision (b) continues former Section 6268(c) without substantive change. An outdated
36 reference to “this paragraph” (as opposed to “this subdivision”) in the second sentence of former
37 Section 6268(c) has been corrected. See 1988 Cal. Stat. ch. 503, § 1.

38 By its terms, Section 7928.010 only applies to governors who held office between 1974 and
39 1988. For guidance on archiving and disclosure of the records of other governors upon leaving
40 office, see Section 7928.005. For the Secretary of State’s authority to appraise and manage the
41 Governor’s records for preservation in the State Archives, see Section 7928.215. For additional
42 guidance on disclosure of the Governor’s correspondence, see Section 7928.000.

43 See Sections 7920.525 (“public records”), 7920.540 (“writing”).

1 **Staff Notes.**

2 (1) Existing Section 6268 was amended by 2018 Cal. Stat. ch. 92, § 90 (SB 1289 (Committee on
3 Judiciary) (maintenance of the codes)). Proposed Sections 7928.005 (continuing the substance of
4 Section 6268(a)) and 7928.010 (continuing the substance of Section 6268(b)-(c)) incorporate the
5 revisions made in 2018, which were technical in nature.

6 (2) Existing Section 6268(b) is awkwardly phrased. It provides:

7 (b) Except as to enrolled bill files, press releases, speech files, or writings relating to
8 applications for clemency or extradition, this section does not apply to public records
9 or other writings in the direct custody or control of any Governor who held office
10 between 1974 and 1988 at the time of leaving office, except to the extent that that
11 Governor may voluntarily transfer those records or other writings to the State Archives.

12 Proposed Section 7928.010(a) attempts to restate this rule more clearly, without making any
13 substantive change.

14 **The Commission welcomes input on any aspect of its proposed recodification, but it would**
15 **especially appreciate public comment on the merits of rephrasing Section 6268(b) in this**
16 **manner or in some other way to improve clarity without making any substantive change.**

17 (3) The second sentence of existing Section 6268(c) says: “Records or writings shall not be
18 transferred pursuant to *this paragraph* unless the institution receiving them agrees to maintain, and
19 does maintain, the materials according to commonly accepted archival standards.” (Emphasis
20 added.) Section 6268(c) is not divided into paragraphs; the entire subdivision consists of a single
21 paragraph, making the quoted reference to “this paragraph” (as opposed to “this subdivision”)
22 slightly confusing.

23 Examination of the legislative history clarifies the situation. The material now labeled as
24 subdivision (c) of Section 6268 used to be in an unlabeled paragraph of that section. See 1988 Cal.
25 Stat. ch. 503, § 1. The quoted reference to “this paragraph” was thus meant to refer to the entirety
26 of what is now subdivision (c).

27 Accordingly, proposed Section 7928.010(b)(2) would refer to the material continuing
28 subdivision (c) — i.e., proposed Section 7928.010(b) or “this subdivision.” The Comment to
29 Section 7928.010 would note this correction.

30 Unless the Commission otherwise directs, the staff will include this correction in the list of
31 corrected cross-references at the end of the Commission’s proposed recodification.

32 **§ 7928.015. Authority of Secretary of State to appraise and manage Governor’s records**

33 7928.015. (a) The Secretary of State may appraise and manage new or existing records
34 that are subject to Section 7928.005 or 7928.010 to determine whether the records are
35 appropriate for preservation in the State Archives.

36 (b) For purposes of this section, the Secretary of State shall use professional archival
37 practices, including, but not limited to, appraising the historic value of the records,
38 arranging and describing the records, rehousing the records in appropriate storage
39 containers, or providing any conservation treatment that the records require.

40 **Comment.** Section 7928.015 continues former Section 6268.5 without substantive change.

41 For further guidance on archiving and disclosure of the Governor’s public records upon leaving
42 office, see Sections 7928.005-7928.010. For additional guidance on disclosure of the Governor’s
43 correspondence, see Section 7928.000.

44 See Section 7920.525 (“public records”).

Article 2. The Legislature

§ 7928.100. Records of Legislative Counsel

7928.100. (a) Except as provided in subdivision (b) and in Sections 7924.510, 7924.700, and 7927.605, this division does not require disclosure of any records that are in the custody of, or maintained by, the Legislative Counsel.

(b) Subdivision (a) does not apply to records in the public database maintained by the Legislative Counsel that are described in Section 10248.

Comment. Section 7928.100 continues former Section 6254(m) without substantive change. Section 7928.100 also continues the introductory clause of former Section 6254 (as applied to former Section 6254(m)) without substantive change.

For guidance on disclosure and archiving of the Governor’s records, see Sections 7928.000-7928.015.

Article 3. Online Posting or Sale of Personal Information of Elected or Appointed Official

Staff Note. This article would recodify existing Section 6254.21. Among other things, that section includes a definition of “elected or appointed official.” See Section 6254.21(f).

That definition of “elected or appointed official” expressly applies for purposes of Section 6254.21. It is also used in Section 6254.24’s definition of “public safety official,” which applies to the entire CPRA:

6254.24. As used in this chapter, “public safety official” means the following parties, whether active or retired:

(a) A peace officer as defined in Sections 830 to 830.65, inclusive, of the Penal Code, or a person who is not a peace officer, but may exercise the powers of arrest during the course and within the scope of their employment pursuant to Section 830.7 of the Penal Code.

(b) A public officer or other person listed in Sections 1808.2 and 1808.6 of the Vehicle Code.

(c) An “elected or appointed official” as defined in subdivision (f) of Section 6254.21.

(d)

(Emphasis added.) In addition, the terms “elected official” and “appointed official” are used without definition in another CPRA provision (Section 6254.16(e)).

Because the terms “elected official” and “appointed official” are used in more than one place in the CPRA, and because Section 6254.21(f)’s definition of those terms is used in a definition that applies to the entire CPRA, the staff does not recommend recodifying Section 6254.21(f)’s definition in this article. Instead, we suggest recodifying it in “Chapter 2. Definitions” of Part 1 of proposed new Division 10, as follows:

§ 7920.495. “Elected or appointed official”

7920.495. For purposes of Article 3 (commencing with Section 7928.200) of Chapter 5, “elected or appointed official” includes, but is not limited to, all of the following:

(a) A state constitutional officer.

(b) A member of the Legislature.

(c) A judge or court commissioner.

(d) A district attorney.

(e) A public defender.

(f) A member of a city council.

- 1 (g) A member of a board of supervisors.
- 2 (h) An appointee of the Governor.
- 3 (i) An appointee of the Legislature.
- 4 (j) A mayor.
- 5 (k) A city attorney.
- 6 (l) A police chief or sheriff.
- 7 (m) A public safety official.
- 8 (n) A state administrative law judge.
- 9 (o) A federal judge or federal defender.
- 10 (p) A member of the United States Congress or appointee of the President.

11 **Comment.** Section 7920.495 continues former Section 6254.3(f) without substantive
12 change. See Section 13 (singular includes plural and vice versa).

13 See Section 7920.530 (“public safety official”).

14 **Is this approach acceptable to the Commission?** If so, the staff will include proposed Section
15 7920.495 in the Commission’s next cumulative draft.

16 **§ 7928.200. Effect of article**

17 7928.200. (a) Nothing in this article is intended to preclude punishment instead under
18 Sections 69, 76, or 422 of the Penal Code, or any other law.

19 (b) An interactive computer service or access software provider, as defined in Section
20 230(f) of Title 47 of the United States Code, shall not be liable under this article unless the
21 service or provider intends to abet or cause imminent great bodily harm that is likely to
22 occur or threatens to cause imminent great bodily harm to an elected or appointed official.

23 **Comment.** Subdivision (a) of Section 7928.200 continues former Section 6254.21(e) without
24 substantive change.

25 Subdivision (b) continues former Section 6254.21(g) without substantive change.

26 See Section 7920.495 (“elected or appointed official”),

27 **§ 7928.205. Agency posting home address or phone number of elected or appointed official**
28 **on Internet**

29 7928.205. No state or local agency shall post the home address or telephone number of
30 any elected or appointed official on the Internet without first obtaining the written
31 permission of that individual.

32 **Comment.** Section 7928.205 continues former Section 6254.21(a) without substantive change.

33 For a prohibition on posting the home address or phone number of an elected or appointed official
34 (or the official’s spouse or child) on the Internet with knowledge and intent, see Section 7928.210.
35 For a prohibition on publicly posting or displaying the home address or phone number of an elected
36 or appointed official who has made a written demand for nondisclosure, see Sections 7928.215-
37 7928.225 & Comments. For a prohibition on solicitation, sale, or trade of an elected or appointed
38 official’s home address or phone number on the Internet with intent to cause imminent great bodily
39 harm, see Section 7928.230. For rules on disclosure of personal information of agency employees,
40 see Section 7928.300. For some of the laws governing disclosure of personal information of
41 members of the general public, see Sections 7927.400-7927.420.

42 See Sections 7920.495 (“elected or appointed official”), 7920.505 (“local agency”), 7920.535
43 (“state agency”). See also Section 7928.200 (effect of article).

1 **§ 7928.210. Posting home address or phone number of elected or appointed official, or**
2 **official’s spouse or child, on Internet with knowledge and intent**

3 7928.210. (a) No person shall knowingly post the home address or telephone number of
4 any elected or appointed official, or of the official’s residing spouse or child, on the Internet
5 knowing that person is an elected or appointed official and intending to cause imminent
6 great bodily harm that is likely to occur or threatening to cause imminent great bodily harm
7 to that individual.

8 (b) A violation of this section is a misdemeanor.

9 (c) A violation of this section that leads to the bodily injury of the official, or the official’s
10 residing spouse or child, is a misdemeanor or a felony.

11 **Comment.** Section 7928.210 continues former Section 6254.21(b) without substantive change.

12 For a rule prohibiting a state or local agency from posting the home address or phone number of
13 an elected or appointed official on the Internet without the official’s permission, see Section
14 7928.205. For a prohibition on publicly posting or displaying the home address or phone number
15 of an elected or appointed official who has made a written demand for nondisclosure, see Sections
16 7928.215-7928.225 & Comments. For a prohibition on solicitation, sale, or trade of an elected or
17 appointed official’s home address or phone number on the Internet with intent to cause imminent
18 great bodily harm, see Section 7928.230. For rules on disclosure of personal information of agency
19 employees, see Section 7928.300. For some of the laws governing disclosure of personal
20 information of members of the general public, see Sections 7927.400-7927.420.

21 See Sections 7920.495 (“elected or appointed official”), 7920.515 (“person”). See also Section
22 7928.200 (effect of article).

23 **§ 7928.215. Publicly posting or displaying home address or phone number of elected or**
24 **appointed official who has made written demand for nondisclosure**

25 7928.215. (a) For purposes of this section, “publicly post” or “publicly display” means
26 to intentionally communicate or otherwise make available to the general public.

27 (b) No person, business, or association shall publicly post or publicly display on the
28 Internet the home address or telephone number of any elected or appointed official if that
29 official has, either directly or through an agent designated under Section 7928.220, made
30 a written demand of that person, business, or association to not disclose the official’s home
31 address or telephone number.

32 (c) A written demand made under this section by a state constitutional officer, a mayor,
33 or a member of the Legislature, a city council, or a board of supervisors shall include a
34 statement describing a threat or fear for the safety of that official or of any person residing
35 at the official’s home address.

36 (d) A written demand made under this section by an elected official shall be effective for
37 four years, regardless of whether the official’s term has expired before the end of the four-
38 year period.

39 (e)(1) A person, business, or association that receives the written demand of an elected
40 or appointed official pursuant to this section shall remove the official’s home address or
41 telephone number from public display on the Internet, including information provided to
42 cellular telephone applications, within 48 hours of delivery of the written demand, and shall
43 continue to ensure that this information is not reposted on the same Internet Web site,

1 subsidiary site, or any other Internet Web site maintained by the recipient of the written
2 demand.

3 (2) After receiving the elected or appointed official’s written demand, the person,
4 business, or association shall not transfer the appointed or elected official’s home address
5 or telephone number to any other person, business, or association through any other
6 medium.

7 (3) Paragraph (2) does not prohibit a telephone corporation, as defined in Section 234 of
8 the Public Utilities Code, or its affiliate, from transferring the elected or appointed official’s
9 home address or telephone number to any person, business, or association, if the transfer
10 is authorized by federal or state law, regulation, order, or tariff, or necessary in the event
11 of an emergency, or to collect a debt owed by the elected or appointed official to the
12 telephone corporation or its affiliate.

13 **Comment.** Subdivision (a) of Section 7928.215 continues former Section 6254.21(c)(1)(E)
14 without substantive change.

15 Subdivision (b) continues former Section 6254.21(c)(1)(A) without substantive change.

16 Subdivision (c) continues former Section 6254.21(c)(1)(B) without substantive change.

17 Subdivision (d) continues former Section 6254.21(c)(1)(C) without substantive change.

18 Subdivision (e) continues former Section 6254.21(c)(1)(D) without substantive change.

19 For guidance on enforcement of this section and remedies for violation, see Section 7928.225.
20 For a rule prohibiting a state or local agency from posting the home address or phone number of an
21 elected or appointed official on the Internet without the official’s permission, see Section 7928.205.
22 For a prohibition on posting the home address or phone number of an elected or appointed official
23 (or the official’s spouse or child) on the Internet with knowledge and intent, see Section 7928.210.
24 For a prohibition on solicitation, sale, or trade of an elected or appointed official’s home address
25 or phone number on the Internet with intent to cause imminent great bodily harm, see Section
26 7928.230. For rules on disclosure of personal information of agency employees, see Section
27 7928.300. For some of the laws governing disclosure of personal information of members of the
28 general public, see Sections 7927.400-7927.420.

29 See Sections 7920.495 (“elected or appointed official”), 7920.515 (“person”). See also Sections
30 7920.120 & Comment (constitutionality), 7928.200 (effect of article).

31 **Staff Notes.**

32 (1) Existing Section 6254.21(c)(1) defines “publicly post” and “publicly display” for purposes
33 of that paragraph. Those terms are not used elsewhere in the CPRA.

34 Similarly, proposed Section 7928.215 (continuing the substance of Section 6254.21(c)(1)) would
35 define “publicly post” and “publicly display” for purposes of that section. This location seems more
36 appropriate than placing the definition in “Chapter 2. Definitions” of Part 1 of the recodified CPRA,
37 because the terms would only be used in Section 7928.215.

38 **Is the suggested approach acceptable to the Commission?**

39 (2) In six places, existing Section 6254.21(c) uses the phrase “person, business, or association.”
40 The phrase is also used once in existing Section 6254.21(d). It is not clear why the Legislature used
41 this phrase, because existing Section 6252(c) (proposed Section 7920.515) defines “person”
42 broadly for purposes of the CPRA:

43 6252. As used in this chapter:

44

45 (c) “Person” includes any natural person, corporation, partnership, limited liability
46 company, firm, or association.

1 The above definition expressly includes an association. It does not expressly include a
2 “business,” but it does expressly refer to a “corporation, partnership, limited liability company, [or]
3 firm”

4 Given Section 6252(c)’s broad definition of “person” for purposes of the CPRA, it might be
5 unnecessary to use the phrase “person, business, or association” in Section 6254.21(c)-(d) and the
6 proposed continuations of the pertinent parts of those provisions (proposed Sections 7928.215 and
7 7928.230). Referring to a “person” might be sufficient.

8 In perhaps an excess of caution, the staff nonetheless retained the phrase “person, business, or
9 association” in drafting proposed Sections 7928.215 and 7928.230. **Does the Commission want
10 to take such a cautious approach? Would it prefer to handle this point differently? Comments
11 on this point would be helpful.**

12 (3) The constitutionality of existing Section 6254.21(c) has been challenged under the First
13 Amendment and the Commerce Clause of the federal Constitution. See *Publius v. Boyer-Vine*, 237
14 F. Supp. 3d 997, 1029 (E.D. Cal. 2017) (preliminary injunction is warranted because “Plaintiffs are
15 likely to succeed on their claims that § 6254.21(c) violates the First Amendment as applied to them,
16 and also violates the dormant Commerce Clause as applied to Hoskins.”); see also *Publius v. Boyer-*
17 *Vine*, 321 F.R.D. 358 (E.D. Cal. 2017) (granting plaintiffs’ request for Doe Publius to proceed
18 anonymously).

19 The staff does not know the current status of this litigation. Presumably, we could find out from
20 Commissioner Boyer-Vine, who is the defendant in her official capacity as Legislative Counsel.

21 Regardless of what is happening in the litigation, **the Comment to proposed Section 7928.215**
22 **(continuing the substance of Section 6254.21(c)(1)) probably should refer to proposed Section**
23 **7920.120 (constitutionality), which states:**

24 7920.120. (a) A judicial decision or Attorney General opinion on the constitutionality
25 of a previously existing provision is relevant in determining the constitutionality of any
26 provision of this division, or any other provision of the CPRA Recodification Act of 2020,
27 Act of 2020, which restates and continues that previously existing provision.

28 (b) However, in enacting the CPRA Recodification Act of 2020, the Legislature has
29 not evaluated the constitutionality of any provision affected by the act, or the correctness
30 of any judicial decision or Attorney General opinion on the constitutionality of any provision
31 affected by the act.

32 (c) The CPRA Recodification Act of 2020 is not intended to, and does not, reflect any
33 any determination of the constitutionality of any provision affected by the act.

34 The staff followed that approach in drafting the Comment to proposed Section 7928.215, as well
35 as the Comments to proposed Sections 7928.220 (continuing the substance of Section
36 6254.21(c)(3)) and 7928.225 (continuing the substance of Section 6254.21(c)(2)).

37 **Is the staff’s treatment of this point acceptable? Does anyone have any suggestions or**
38 **concerns relating to this matter?**

39 **§ 7928.220. Designation of agent to make written demand**

40 7928.220. (a) An elected or appointed official may designate in writing the official’s
41 employer, a related governmental entity, or any voluntary professional association of
42 similar officials to act, on behalf of that official, as that official’s agent with regard to
43 making a written demand pursuant to this article.

44 (b) An appointed official who is a District Attorney, a Deputy District Attorney, or a
45 peace officer, as defined in Sections 830 to 830.65, inclusive, of the Penal Code, may also
46 designate the official’s recognized collective bargaining representative to make a written
47 demand on the official’s behalf pursuant to this article.

1 (c) A written demand made by an agent pursuant to Section 7928.215 shall include a
2 statement describing a threat or fear for the safety of that official or of any person residing
3 at the official’s home address.

4 **Comment.** Section 7928.220 continues former Section 6254.21(c)(3) without substantive
5 change.

6 For the effect of a demand under this section, see Sections 7928.215 (publicly posting or
7 displaying home address or phone number of elected or appointed official who has made written
8 demand for nondisclosure), 7928.225 (enforcement and remedies).

9 See Sections 7920.495 (“elected or appointed official”), 7920.515 (“person”), 7920.540
10 (“writing”). See also Sections 7920.120 & Comment (constitutionality), 7928.200 (effect of
11 article).

12 **§ 7928.225. Enforcement and remedies**

13 7928.225. (a) An official whose home address or telephone number is made public as a
14 result of a violation of Section 7928.215 may bring an action seeking injunctive or
15 declarative relief in any court of competent jurisdiction.

16 (b) If a court finds that a violation has occurred, it may grant injunctive or declarative
17 relief and shall award the official court costs and reasonable attorney’s fees.

18 (c) A fine not exceeding one thousand dollars (\$1,000) may be imposed for a violation
19 of the court’s order for an injunction or declarative relief obtained pursuant to this section.

20 **Comment.** Section 7928.225 continues former Section 6254.21(c)(2) without substantive
21 change.

22 See Sections 7920.120 & Comment (constitutionality), 7928.200 (effect of article).

23 **§ 7928.230. Solicitation, sale, or trade of elected or appointed official’s home address or**
24 **phone number on Internet with intent to cause imminent great bodily harm**

25 7928.230. (a) No person, business, or association shall solicit, sell, or trade on the
26 Internet the home address or telephone number of an elected or appointed official with the
27 intent to cause imminent great bodily harm to the official or to any person residing at the
28 official’s home address.

29 (b) Notwithstanding any other law, an official whose home address or telephone number
30 is solicited, sold, or traded in violation of subdivision (a) may bring an action in any court
31 of competent jurisdiction.

32 (c) If a jury or court finds that a violation has occurred, it shall award damages to that
33 official in an amount up to a maximum of three times the actual damages but in no case
34 less than four thousand dollars (\$4,000).

35 **Comment.** Section 7928.230 continues former Section 6254.21(d) without substantive change.

36 For a rule prohibiting a state or local agency from posting the home address or phone number of
37 an elected or appointed official on the Internet without the official’s permission, see Section
38 7928.205. For a prohibition on posting the home address or phone number of an elected or
39 appointed official (or the official’s spouse or child) on the Internet with knowledge and intent, see
40 Section 7928.210. For a prohibition on publicly posting or displaying the home address or phone
41 number of an elected or appointed official who has made a written demand for nondisclosure, see
42 Sections 7928.215-7928.225 & Comments. For rules on disclosure of personal information of
43 agency employees, see Section 7928.300. For some of the laws governing disclosure of personal
44 information of members of the general public, see Sections 7927.400-7927.420.

1 See Sections 7920.495 (“elected or appointed official”), 7920.515 (“person”). See also Section
2 7928.200 (effect of article).

3 Article 4. Personal Information of Agency Employee

4 **§ 7928.300. Home address, home phone number, personal cellular phone number, birth**
5 **date, and personal email address of employee of public agency**

6 7928.300. (a) The home addresses, home telephone numbers, personal cellular telephone
7 numbers, and birth dates of all employees of a public agency shall not be deemed to be
8 public records and shall not be open to public inspection, except that disclosure of that
9 information may be made as follows:

10 (1) To an agent, or a family member of the individual to whom the information pertains.

11 (2) To an officer or employee of another public agency when necessary for the
12 performance of its official duties.

13 (3) To an employee organization pursuant to regulations and decisions of the Public
14 Employment Relations Board, except that the home addresses and any phone numbers on
15 file with the employer of employees performing law enforcement-related functions, and
16 the birth date of any employee, shall not be disclosed.

17 (4) To an agent or employee of a health benefit plan providing health services or
18 administering claims for health services to public agencies and their enrolled dependents,
19 for the purpose of providing the health services or administering claims for employees and
20 their enrolled dependents.

21 (b)(1) Unless used by the employee to conduct public business, or necessary to identify
22 a person in an otherwise disclosable communication, the personal email addresses of all
23 employees of a public agency shall not be deemed to be public records and shall not be
24 open to public inspection, except that disclosure of that information may be made as
25 specified in paragraphs (1) to (4), inclusive, of subdivision (a).

26 (2) This subdivision shall not be construed to limit the public’s right to access the content
27 of an employee’s personal email that is used to conduct public business, as decided by the
28 California Supreme Court in *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608.

29 (c) Upon written request of any employee, a public agency shall not disclose the
30 employee’s home address, home telephone number, personal cellular telephone number,
31 personal email address, or birth date pursuant to paragraph (3) of subdivision (a) and an
32 agency shall remove the employee’s home address, home telephone number, and personal
33 cellular telephone number from any mailing list maintained by the agency, except if the
34 list is used exclusively by the agency to contact the employee.

35 **Comment.** Section 7928.300 continues former Section 6254.3 without substantive change.

36 For rules governing online posting or sale of personal information of an elected or appointed
37 official, see Sections 7928.200-7928.230. For some of the laws governing disclosure of personal
38 information of members of the general public, see Sections 7927.400-7927.420.

39 See Sections 7920.520 (“public agency”), 7920.525 (“public records”), 7920.540 (“writing”).

40 **Staff Note.** A spelling error in Section 6254.3 was corrected by 2018 Cal. Stat. ch. 92, § 89 (SB
41 1289 (Committee on Judiciary) (maintenance of the codes)). Proposed Section 7928.300
42 (continuing the substance of Section 6254.3) incorporates the spelling correction made in 2018.

1 Article 5. Employment Contracts of Government Employees and
2 Related Matters

3 **§ 7928.400. Employment contract between agency and public official or public employee**

4 7928.400. Every employment contract between a state or local agency and any public
5 official or public employee is a public record that is not subject to Section 7922.000 and
6 the provisions listed in Section 7920.500.

7 **Comment.** Section 7928.400 continues former Section 6254.8 without substantive change.

8 See Sections 7920.505 (“local agency”), 7920.525 (“public records”), 7920.535 (“state agency”).

9 **§ 7928.405. State agency records relating to activities governed by specified employee**
10 **relations acts**

11 7928.405. (a) Except as provided in Sections 7924.510, 7924.700, and 7927.605, this
12 division does not require the disclosure of records of state agencies related to activities
13 governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing
14 with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, that
15 reveal a state agency’s deliberative processes, impressions, evaluations, opinions,
16 recommendations, meeting minutes, research, work products, theories, or strategy, or that
17 provide instruction, advice, or training to employees who do not have full collective
18 bargaining and representation rights under these chapters.

19 (b) This section shall not be construed to limit the disclosure duties of a state agency
20 with respect to any other records relating to the activities governed by the employee
21 relations acts referred to in this section.

22 **Comment.** Section 7928.405 continues former Section 6254(p)(1) without substantive change.
23 Section 7928.405 also continues the introductory clause of former Section 6254 (as applied to
24 former Section 6254(p)(1)) without substantive change.

25 See Section 7920.535 (“state agency”).

26 **§ 7928.410. Local agency records relating to activities governed by Meyers-Milias-Brown**
27 **Act**

28 7928.410. (a) Except as provided in Sections 7924.510, 7924.700, and 7927.605, this
29 division does not require the disclosure of records of local agencies related to activities
30 governed by Chapter 10 (commencing with Section 3500) of Division 4, that reveal a local
31 agency’s deliberative processes, impressions, evaluations, opinions, recommendations,
32 meeting minutes, research, work products, theories, or strategy, or that provide instruction,
33 advice, or training to employees who do not have full collective bargaining and
34 representation rights under that chapter.

35 (b) This section shall not be construed to limit the disclosure duties of a local agency
36 with respect to any other records relating to the activities governed by the employee
37 relations act referred to in this section.

38 **Comment.** Section 7928.410 continues former Section 6254(p)(2) without substantive change.
39 Section 7928.410 also continues the introductory clause of former Section 6254 (as applied to
40 former Section 6254(p)(2)) without substantive change.

41 See Section 7920.505 (“local agency”).

1 CHAPTER 15. PUBLIC ENTITY SPENDING, FINANCES, AND OVERSIGHT

2 Article 1. Access in General

3 **§ 7928.700. Access to agency contract requiring private entity to review, audit, or report on**
4 **that agency**

5 7928.700. Notwithstanding any contract term to the contrary, a contract entered into by
6 a state or local agency subject to this division, including the University of California, that
7 requires a private entity to review, audit, or report on any aspect of that agency shall be
8 public to the extent the contract is otherwise subject to disclosure under this division.

9 **Comment.** Section 7928.700 continues former Section 6253.31 without substantive change.
10 See Sections 7920.505 (“local agency”), 7920.535 (“state agency”).

11 **§ 7928.705. Specified records relating to public supply and construction contracts or to**
12 **acquisition of property by state or local agency**

13 7928.705. (a) Except as provided in subdivision (b) and in Sections 7924.510, 7924.700,
14 and 7927.605, this division does not require disclosure of the contents of real estate
15 appraisals or engineering or feasibility estimates and evaluations made for or by a state or
16 local agency relative to the acquisition of property, or to prospective public supply and
17 construction contracts, until all of the property has been acquired or all of the contract
18 agreement obtained.

19 (b) This section does not affect the law of eminent domain.

20 **Comment.** Section 7928.705 continues former Section 6254(h) without substantive change.
21 Section 7928.705 also continues the introductory clause of former Section 6254 (as applied to
22 former Section 6254(h)) without substantive change.

23 See Sections 7920.505 (“local agency”), 7920.535 (“state agency”).

24 **§ 7928.710. Records relating to alternative investments of public investment funds**

25 7928.710. (a) For purposes of this section, the following definitions apply:

26 (1) “Alternative investment” means an investment in a private equity fund, venture fund,
27 hedge fund, or absolute return fund.

28 (2) “Alternative investment vehicle” means the limited partnership, limited liability
29 company, or similar legal structure through which the public investment fund invests in
30 portfolio companies.

31 (3) “Portfolio positions” means individual portfolio investments made by the alternative
32 investment vehicles.

33 (4) “Public investment fund” means any public pension or retirement system, and any
34 public endowment or foundation.

35 (b) Notwithstanding any provision of this division or other law, the following records
36 regarding alternative investments in which public investment funds invest are not subject
37 to disclosure pursuant to this division, unless the information has already been publicly
38 released by the keeper of the information:

39 (1) Due diligence materials that are proprietary to the public investment fund or the
40 alternative investment vehicle.

- 1 (2) Quarterly and annual financial statements of alternative investment vehicles.
- 2 (3) Meeting materials of alternative investment vehicles.
- 3 (4) Records containing information regarding the portfolio positions in which alternative
- 4 investment funds invest.
- 5 (5) Capital call and distribution notices.
- 6 (6) Alternative investment agreements and all related documents.
- 7 (c) Notwithstanding subdivision (b), the following information contained in records
- 8 described in subdivision (b) regarding alternative investments in which public investment
- 9 funds invest is subject to disclosure pursuant to this division and shall not be considered a
- 10 trade secret exempt from disclosure:
 - 11 (1) The name, address, and vintage year of each alternative investment vehicle.
 - 12 (2) The dollar amount of the commitment made to each alternative investment vehicle
 - 13 by the public investment fund since inception.
 - 14 (3) The dollar amount of cash contributions made by the public investment fund to each
 - 15 alternative investment vehicle since inception.
 - 16 (4) The dollar amount, on a fiscal yearend basis, of cash distributions received by the
 - 17 public investment fund from each alternative investment vehicle.
 - 18 (5) The dollar amount, on a fiscal yearend basis, of cash distributions received by the
 - 19 public investment fund plus remaining value of partnership assets attributable to the public
 - 20 investment fund's investment in each alternative investment vehicle.
 - 21 (6) The net internal rate of return of each alternative investment vehicle since inception.
 - 22 (7) The investment multiple of each alternative investment vehicle since inception.
 - 23 (8) The dollar amount of the total management fees and costs paid on an annual fiscal
 - 24 yearend basis, by the public investment fund to each alternative investment vehicle.
 - 25 (9) The dollar amount of cash profit received by public investment funds from each
 - 26 alternative investment vehicle on a fiscal year-end basis.

27 **Comment.** Subdivision (a) of Section 7928.710 continues former Section 6254.26(c) without
28 substantive change.
29 Subdivision (b) continues former Section 6254.26(a) without substantive change.
30 Subdivision (c) continues former Section 6254.26(b) without substantive change.

31 **Staff Note.** Existing Section 6254.26(c) defines “alternative investment,” “alternative
32 investment vehicle,” “portfolio positions,” and “public investment fund” for purposes of that
33 section. Those terms are not used elsewhere in the CPRA.

34 Similarly, proposed Section 7928.710 (continuing the substance of Section 6254.26) would
35 define “alternative investment,” “alternative investment vehicle,” “portfolio positions,” and “public
36 investment fund” for purposes of that section. This location seems more appropriate than placing
37 those definitions in “Chapter 2. Definitions” of Part 1 of the recodified CPRA, because the terms
38 would only be used in Section 7928.710.

39 **Is the suggested approach acceptable to the Commission?**

40 **§ 7928.715. Unique identifying code used by public agency to identify vendor or contractor**
41 **or affiliate**

42 7928.715. Nothing in this division requires disclosure of an identification number,
43 alphanumeric character, or other unique identifying code that a public agency uses to
44 identify a vendor or contractor, or an affiliate of a vendor or contractor, unless the

1 identification number, alphanumeric character, or other unique identifying code is used in
2 a public bidding or an audit involving the public agency.

3 **Comment.** Section 7928.715 continues former Section 6254.33 without substantive change.
4 See Section 7920.520 (“public agency”).

5 **§ 7928.720. Itemized statement of total expenditures and disbursements of judicial branch**
6 **agency**

7 7928.720. Notwithstanding Section 7920.535, an itemized statement of the total
8 expenditures and disbursements of any agency provided for in Article VI of the California
9 Constitution shall be open for inspection.

10 **Comment.** Section 7928.720 continues former Section 6261 without substantive change.

11 **Article 2. Requirements Specific to Online Access**

12 **§ 7928.800. Website of independent special district**

13 7928.800. In implementing this division, each independent special district shall maintain
14 an Internet Web site in accordance with Section 53087.8.

15 **Comment.** Section 7928.800 continues former Section 6270.6 without substantive change.

16 For an explanation of the role and importance of special districts, see 2018 Cal. Stat. ch. 408, §
17 1.

18 **Staff Note.** Section 6270.6 was just added to the codes by 2018 Cal. Stat. ch. 408, § 2 (SB 929
19 (McGuire)).

20 **CHAPTER 16. REGULATION OF FINANCIAL INSTITUTIONS AND**
21 **SECURITIES**

22 **§ 7929.000. Records of state agency that regulates or supervises financial institutions or**
23 **issuance of securities**

24 7929.000. Except as provided in Sections 7924.510, 7924.700, and 7927.605, this
25 division does not require disclosure of records contained in, or related to, any of the
26 following:

27 (a) Applications filed with any state agency responsible for the regulation or supervision
28 of the issuance of securities or of financial institutions, including, but not limited to, banks,
29 savings and loan associations, industrial loan companies, credit unions, and insurance
30 companies.

31 (b) Examination, operating, or condition reports prepared by, on behalf of, or for the use
32 of, any state agency referred to in subdivision (a).

33 (c) Preliminary drafts, notes, or interagency or intra-agency communications prepared
34 by, on behalf of, or for the use of, any state agency referred to in subdivision (a).

35 (d) Information received in confidence by any state agency referred to in subdivision (a).

36 **Comment.** Section 7929.000 continues former Section 6254(d) without substantive change.
37 Section 7929.000 also continues the introductory clause of former Section 6254 (as applied to
38 former Section 6254(d)) without substantive change.

1 **§ 7929.005. Disciplinary records made available to Department of Business Oversight**
2 **through computer system**

3 7929.005. (a) Any information reported to the North American Securities Administrators
4 Association/Financial Industry Regulatory Authority and compiled as disciplinary records
5 that are made available to the Department of Business Oversight through a computer
6 system constitutes a public record.

7 (b) Notwithstanding any other provision of law, upon written or oral request pursuant to
8 Section 25247 of the Corporations Code, the Department of Business Oversight may
9 disclose any of the following:

- 10 (1) The information described in subdivision (a).
11 (2) The current license status of a broker-dealer.
12 (3) The year of issuance of the license of a broker-dealer.

13 **Comment.** Section 7929.005 continues former Section 6254.12 without substantive change.
14 See Sections 7920.525 (“public records”), 7920.540 (“writing”).

15 **Staff Note.** Existing Section 6254.12 provides:

16 6254.12. Any information reported to the North American Securities Administrators
17 Association/Financial Industry Regulatory Authority and compiled as disciplinary records
18 which are made available to the Department of Business Oversight through a computer
19 system, shall constitute a public record. Notwithstanding any other provision of law, the
20 Department of Business Oversight may disclose that information and the current license
21 status and the year of issuance of the license of a broker-dealer upon written or oral request
22 pursuant to Section 25247 of the Corporations Code.

23 Proposed Section 7929.005 attempts to restate this rule in a more readable manner, without making
24 any substantive change.

25 **Would it be preferable to adhere to the existing text? Is there a better way to improve**
26 **readability without making any substantive change? The Commission welcomes input on any**
27 **aspect of its proposed recodification, but it would especially appreciate public comment on**
28 **the merits of rephrasing Section 6254.12 as shown above.**

29 CHAPTER 17. SECURITY MEASURES AND RELATED MATTERS

30 **§ 7929.200. Document assessing agency’s vulnerability to terrorist attack or other criminal**
31 **act intended to disrupt agency operations**

32 7929.200. Except as provided in Sections 7924.510, 7924.700, and 7927.605, this
33 division does not require disclosure of a document prepared by or for a state or local agency
34 that satisfies both of the following conditions:

- 35 (a) It assesses the agency’s vulnerability to terrorist attack or other criminal acts intended
36 to disrupt the public agency’s operation.
37 (b) It is for distribution or consideration in a closed session.

38 **Comment.** Section 7929.200 continues former Section 6254(aa) without substantive change.
39 Section 7929.200 also continues the introductory clause of former Section 6254 (as applied to
40 former Section 6254(aa)) without substantive change.

41 For guidance on the proper treatment of critical infrastructure information that is voluntarily
42 submitted to the Office of Emergency Services, see Section 7929.205. For guidance on handling
43 an information security record of a public agency, see Section 7929.210. For guidance regarding a
44 risk assessment or railroad infrastructure protection program that is filed with the Public Utilities

1 Commission, the Director of Homeland Security, and the Office of Emergency Services, see
2 Section 7929.215. For disclosure of records relating to crimes, weapons, or law enforcement, see
3 Sections 7923.600-7923.805.

4 See Sections 7920.505 (“local agency”), 7920.520 (“public agency”), 7920.535 (“state agency”).

5 **Staff Note.** Existing Section 6254(aa) provides:

6 6254. Except as provided in Sections 6254.7 and 6254.13, this chapter does not require
7 the disclosure of any of the following records:

8

9 (aa) A document prepared by or for a state or local agency that assesses its vulnerability
10 to terrorist attack or other criminal acts intended to disrupt the public agency’s operations
11 and that is for distribution or consideration in a closed session.

12 Proposed Section 7929.200 attempts to restate this rule in a more readable manner, without making
13 any substantive change.

14 **Would it be preferable to adhere to the existing text? Is there a better way to improve**
15 **readability without making any substantive change? The Commission welcomes input on any**
16 **aspect of its proposed recodification, but it would especially appreciate public comment on**
17 **the merits of rephrasing Section 6254(aa) as shown above.**

18 **§ 7929.205. Critical infrastructure information voluntarily submitted to OES**

19 7929.205. (a) As used in this section, “voluntarily submitted” means submitted without
20 the Office of Emergency Services exercising any legal authority to compel access to, or
21 submission of, critical infrastructure information.

22 (b) Except as provided in Sections 7924.510, 7924.700, and 7927.605, this division does
23 not require disclosure of critical infrastructure information, as defined in Section 131(3) of
24 Title 6 of the United States Code, that is voluntarily submitted to the Office of Emergency
25 Services for use by that office, including the identity of the person who, or entity that,
26 voluntarily submitted the information.

27 (c) This section does not affect the status of information in the possession of any other
28 state or local governmental agency.

29 **Comment.** Subdivision (a) of Section 7929.205 continues the second sentence of former Section
30 6254(ab) without substantive change.

31 Subdivision (b) continues the first sentence of former Section 6254(ab) without substantive
32 change. Subdivision (b) also continues the introductory clause of former Section 6254 (as applied
33 to former Section 6254(ab)) without substantive change.

34 For guidance on disclosure of a document assessing an agency’s vulnerability to terrorist attack
35 or other criminal acts intended to disrupt the agency’s operation, see Section 7929.200. For
36 guidance on handling an information security record of a public agency, see Section 7929.210. For
37 guidance regarding a risk assessment or railroad infrastructure protection program that is filed with
38 the Public Utilities Commission, the Director of Homeland Security, and the Office of Emergency
39 Services, see Section 7929.215. For disclosure of records relating to crimes, weapons, or law
40 enforcement, see Sections 7923.600-7923.805.

41 Subdivision (c) continues the third sentence of former Section 6254(ab) without substantive
42 change.

43 See Sections 7920.505 (“local agency”), 7920.515 (“person”), 7920.535 (“state agency”).

44 **Staff Note.** Existing Section 6254(ab) defines “voluntarily submitted” for purposes of that
45 subdivision. The phrase “voluntarily submitted” is not used elsewhere in the CPRA.

1 Similarly, proposed Section 7929.205 (continuing the substance of Section 6254(ab)) would
2 define “voluntarily submitted” for purposes of that section. This location seems more appropriate
3 than placing the definition in “Chapter 2. Definitions” of Part 1 of the recodified CPRA, because
4 the phrase would only be used in Section 7929.205.

5 **Is the suggested approach acceptable to the Commission?**

6 **§ 7929.210. Information security record of public agency**

7 7929.210. (a) Nothing in this division requires the disclosure of an information security
8 record of a public agency, if, on the facts of the particular case, disclosure of that record
9 would reveal vulnerabilities to, or otherwise increase the potential for an attack on, an
10 information technology system of a public agency.

11 (b) Nothing in this section limits public disclosure of records stored within an
12 information technology system of a public agency that are not otherwise exempt from
13 disclosure pursuant to this division or any other law.

14 **Comment.** Section 7929.210 continues former Section 6254.19 without substantive change.

15 For guidance on disclosure of a document assessing an agency’s vulnerability to terrorist attack
16 or other criminal acts intended to disrupt the agency’s operation, see Section 7929.200. For
17 guidance on the proper treatment of critical infrastructure information that is voluntarily submitted
18 to the Office of Emergency Services, see Section 7929.205. For guidance regarding a risk
19 assessment or railroad infrastructure protection program that is filed with the Public Utilities
20 Commission, the Director of Homeland Security, and the Office of Emergency Services, see
21 Section 7929.215. For disclosure of records relating to crimes, weapons, or law enforcement, see
22 Sections 7923.600-7923.805.

23 See Section 7920.520 (“public agency”).

24 **§ 7929.215. Risk assessment or railroad infrastructure protection program filed with PUC,**
25 **Director of Homeland Security, and OES**

26 7929.215. Nothing in this division or any other law requires disclosure of a risk
27 assessment or railroad infrastructure protection program filed with the Public Utilities
28 Commission, the Director of Homeland Security, and the Office of Emergency Services
29 pursuant to Article 7.3 (commencing with Section 7665) of Chapter 1 of Division 4 of the
30 Public Utilities Code.

31 **Comment.** Section 7929.215 continues former Section 6254.23 without substantive change.

32 For guidance on disclosure of a document assessing an agency’s vulnerability to terrorist attack
33 or other criminal acts intended to disrupt the agency’s operation, see Section 7929.200. For
34 guidance on the proper treatment of critical infrastructure information that is voluntarily submitted
35 to the Office of Emergency Services, see Section 7929.205. For guidance on handling an
36 information security record of a public agency, see Section 7929.210. For disclosure of records
37 relating to crimes, weapons, or law enforcement, see Sections 7923.600-7923.805.

38 **CHAPTER 18. STATE COMPENSATION INSURANCE FUND**

39 **Staff Note.** Existing Section 6254(ad) concerns records of the State Compensation Insurance
40 Fund. In the Commission’s tentative outline for recodifying the CPRA, the substance of Section
41 6254(ad) would go in a separate chapter entitled “State Compensation Insurance Fund,” not in
42 “Chapter 5. Health Care.” The staff implemented that approach here.

43 **Does anyone have concerns about placing the material relating to the State Compensation**
44 **Insurance Fund in a separate chapter?** That placement seems appropriate to the staff, because

1 workers' compensation is not just about health care; it also about providing an income stream when
2 a person's ability to earn income is disrupted due to a work-related injury.

3 **The Commission welcomes input on any aspect of its proposed recodification, but it would**
4 **especially appreciate public comment on this organizational issue.**

5 **§ 7929.400. Confidential medical information or other individually identifiable information**
6 **in records relating to claim**

7 7929.400. Except as provided in Sections 7924.510, 7924.700, and 7927.605, this
8 division does not require disclosure of records of the State Compensation Insurance Fund
9 that relate to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4
10 of the Labor Code, to the extent that confidential medical information or other individually
11 identifiable information would be disclosed.

12 **Comment.** Section 7929.400 continues former Section 6254(ad)(1) without substantive change.
13 Section 7929.400 also continues the introductory clause of former Section 6254 (as applied to
14 former Section 6254(ad)(1)) without substantive change.

15 For guidance on disclosure of other types of records of the State Compensation Insurance Fund,
16 see Sections 7929.405-7929.430. For some of the laws generally governing access to medical
17 records and other health care information, see Sections 7926.000-7926.500; see also Sections
18 7927.700 (personnel, medical, and similarly private files), 7929.600 (results of test in DMV study
19 of physical or mental factors affecting driving ability).

20 **§ 7929.405. Contract negotiations and related deliberations**

21 7929.405. Except as provided in Sections 7924.510, 7924.700, and 7927.605, this
22 division does not require disclosure of records of the State Compensation Insurance Fund
23 that relate to discussions, communications, or any other portion of negotiations with
24 entities contracting or seeking to contract with the fund, and any related deliberations.

25 **Comment.** Section 7929.405 continues former Section 6254(ad)(2) without substantive change.
26 Section 7929.405 also continues the introductory clause of former Section 6254 (as applied to
27 former Section 6254(ad)(2)) without substantive change.

28 For guidance on disclosure of other types of records of the State Compensation Insurance Fund,
29 see Sections 7929.400, 7929.410-7929.430. For some of the laws generally governing access to
30 medical records and other health care information, see Sections 7926.000-7926.500; see also
31 Sections 7927.700 (personnel, medical, and similarly private files), 7929.600 (results of test in
32 DMV study of physical or mental factors affecting driving ability).

33 **§ 7929.410. Opinions, advice, strategy determinations, and similar materials**

34 7929.410. Except as provided in Sections 7924.510, 7924.700, and 7927.605, this
35 division does not require disclosure of records of the State Compensation Insurance Fund
36 that relate to the impressions, opinions, recommendations, meeting minutes of meetings or
37 sessions that are lawfully closed to the public, research, work product, theories, or strategy
38 of the fund or its staff, on the development of rates, contracting strategy, underwriting, or
39 competitive strategy pursuant to the powers granted to the fund in Chapter 4 (commencing
40 with Section 11770) of Part 3 of Division 2 of the Insurance Code.

41 **Comment.** Section 7929.410 continues former Section 6254(ad)(3) without substantive change.
42 Section 7929.410 also continues the introductory clause of former Section 6254 (as applied to
43 former Section 6254(ad)(3)) without substantive change.

1 For guidance on disclosure of other types of records of the State Compensation Insurance Fund,
2 see Sections 7929.400, 7929.405, 7929.415-7929.430. For some of the laws generally governing
3 access to medical records and other health care information, see Sections 7926.000-7926.500; see
4 also Sections 7927.700 (personnel, medical, and similarly private files), 7929.600 (results of test
5 in DMV study of physical or mental factors affecting driving ability).

6 **§ 7929.415. Records obtained to provide workers' compensation insurance**

7 7929.415. Except as provided in Sections 7924.510, 7924.700, and 7927.605, this
8 division does not require disclosure of records of the State Compensation Insurance Fund
9 obtained to provide workers' compensation insurance under Chapter 4 (commencing with
10 Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to,
11 all of the following:

12 (a) Any medical claims information.

13 (b) Policyholder information, provided that nothing in this section shall be interpreted to
14 prevent an insurance agent or broker from obtaining proprietary information or other
15 information authorized by law to be obtained by the agent or broker.

16 (c) Information on rates, pricing, and claims handling received from brokers.

17 **Comment.** Section 7929.415 continues former Section 6254(ad)(4) without substantive change.
18 Section 7929.415 also continues the introductory clause of former Section 6254 (as applied to
19 former Section 6254(ad)(4)) without substantive change.

20 For guidance on disclosure of other types of records of the State Compensation Insurance Fund,
21 see Sections 7929.400-7929.410, 7929.420-7929.430. For some of the laws generally governing
22 access to medical records and other health care information, see Sections 7926.000-7926.500; see
23 also Sections 7927.700 (personnel, medical, and similarly private files), 7929.600 (results of test
24 in DMV study of physical or mental factors affecting driving ability).

25 **§ 7929.420. Trade secrets**

26 7929.420. (a) Except as provided in Sections 7924.510, 7924.700, and 7927.605, this
27 division does not require disclosure of records of the State Compensation Insurance Fund
28 that are trade secrets pursuant to Section 6276.44, or Article 11 (commencing with Section
29 1060) of Chapter 4 of Division 8 of the Evidence Code, including, without limitation,
30 instructions, advice, or training provided by the State Compensation Insurance Fund to its
31 board members, officers, and employees regarding the fund's special investigation unit,
32 internal audit unit, and informational security, marketing, rating, pricing, underwriting,
33 claims handling, audits, and collections.

34 (b) Notwithstanding subdivision (a), the portions of records containing trade secrets shall
35 be available for review by the Joint Legislative Audit Committee, California State
36 Auditor's Office, Division of Workers' Compensation, and the Department of Insurance to
37 ensure compliance with applicable law.

38 **Comment.** Section 7929.420 continues former Section 6254(ad)(5) without substantive change.
39 Section 7929.420 also continues the introductory clause of former Section 6254 (as applied to
40 former Section 6254(ad)(5)) without substantive change.

41 For guidance on disclosure of other types of records of the State Compensation Insurance Fund,
42 see Sections 7929.400-7929.415, 7929.425, 7929.430. For some of the laws generally governing
43 access to medical records and other health care information, see Sections 7926.000-7926.500; see
44 also Sections 7927.700 (personnel, medical, and similarly private files), 7929.600 (results of test
45 in DMV study of physical or mental factors affecting driving ability). For other provisions on

1 access to trade secrets, see Sections 7924.305 (data submitted to Director of Pesticide Regulation
2 and designated as trade secret), 7924.510 (pollution information generally); see also Section
3 7920.537 (“trade secret”).

4 **Staff Note.** A bill enacted in 2018 inserted a comma after “including” in existing Section
5 6254(ad)(5)(A). See 2018 Cal. Stat. ch. 960, § 1 (AB 748 (Ting)). Proposed Section 7929.420
6 (continuing the substance of Section 6254(ad)(5)) reflects that recent change.

7 **§ 7929.425. Internal audits and related records**

8 7929.425. (a) Except as provided in Sections 7924.510, 7924.700, and 7927.605, this
9 division does not require disclosure of internal audits of the State Compensation Insurance
10 Fund containing proprietary information, or the following records of the State
11 Compensation Insurance Fund that are related to an internal audit:

12 (1) Personal papers and correspondence of any person providing assistance to the fund
13 when that person has requested in writing that the person’s papers and correspondence be
14 kept private and confidential. Those papers and correspondence shall become public
15 records if the written request is withdrawn, or upon order of the fund.

16 (2) Papers, correspondence, memoranda, or any substantive information pertaining to
17 any audit not completed or an internal audit that contains proprietary information.

18 (b) Notwithstanding subdivision (a), the portions of records containing proprietary
19 information, or any information specified in subdivision (a), shall be available for review
20 by the Joint Legislative Audit Committee, California State Auditor’s Office, Division of
21 Workers’ Compensation, and the Department of Insurance to ensure compliance with
22 applicable law.

23 **Comment.** Section 7929.425 continues former Section 6254(ad)(6) without substantive change.
24 Section 7929.425 also continues the introductory clause of former Section 6254 (as applied to
25 former Section 6254(ad)(6)) without substantive change.

26 For guidance on disclosure of other types of records of the State Compensation Insurance Fund,
27 see Sections 7929.400-7929.420, 7929.430. For some of the laws generally governing access to
28 medical records and other health care information, see Sections 7926.000-7926.500; see also
29 Sections 7927.700 (personnel, medical, and similarly private files), 7929.600 (results of test in
30 DMV study of physical or mental factors affecting driving ability). For guidance on access to an
31 agency contract requiring a private entity to review, audit, or report on that agency, see Section
32 7928.700.

33 See Sections 7920.515 (“person”), 7920.525 (“public records”), 7920.540 (“writing”).

34 **§ 7929.430. Contracts pursuant to chapter governing State Compensation Insurance Fund**

35 7929.430. (a) For purposes of this section, “fully executed” means the point in time when
36 all of the necessary parties to a contract have signed the contract.

37 (b) Except as provided in subdivision (d), records of the State Compensation Insurance
38 Fund that are contracts entered into pursuant to Chapter 4 (commencing with Section
39 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year
40 after the contract has been fully executed.

41 (c) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of
42 Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to
43 inspection one year after the amendment has been fully executed.

1 (d) Three years after a contract or amendment is open to inspection pursuant to this
2 section, the portion of the contract or amendment containing the rates of payment shall be
3 open to inspection.

4 (e) Notwithstanding any other law, the entire contract or amendment to a contract shall
5 be open to inspection by the Joint Legislative Audit Committee. The committee shall
6 maintain the confidentiality of the contract or amendment thereto until the contract or
7 amendment is open to inspection pursuant to this section.

8 (f) This section does not apply to a document related to a contract with a public entity
9 that is not otherwise expressly confidential as to that public entity.

10 **Comment.** Section 7929.430 continues former Section 6254(ad)(7) without substantive change.
11 See Section 13 (singular includes plural and vice versa).

12 For guidance on disclosure of other types of records of the State Compensation Insurance Fund,
13 see Sections 7929.400-7929.425. For some of the laws generally governing access to medical
14 records and other health care information, see Sections 7926.000-7926.500; see also Sections
15 7927.700 (personnel, medical, and similarly private files), 7929.600 (results of test in DMV study
16 of physical or mental factors affecting driving ability).

17 **Staff Note.** Existing Section 6254(ad)(7) defines “fully executed,” but only for purposes of that
18 paragraph.

19 Subdivisions (q), (t), and (w) of Section 6254 also use the phrase “fully executed,” but they do
20 not define it. Similarly, existing Sections 6254.14 and 6254.22 use the phrase “fully executed”
21 without defining it.

22 Because the definition of “fully executed” in Section 6254(ad)(7) only applies for purposes of
23 that paragraph, the staff included that definition in proposed Section 7929.430, which would
24 continue the substance of Section 6254(ad)(7). This location seems more appropriate than placing
25 the definition in “Chapter 2. Definitions” of Part 1 of the recodified CPRA, because the definition
26 would only apply to Section 7929.430.

27 **Is the suggested approach acceptable to the Commission?**

28 CHAPTER 19. TEST MATERIALS, TEST RESULTS, AND RELATED
29 MATTERS

30 **§ 7929.600. Results of test in DMV study of physical or mental factors affecting driving**
31 **ability**

32 7929.600. Nothing in this division requires the disclosure of the results of a test
33 undertaken pursuant to Section 12804.8 of the Vehicle Code.

34 **Comment.** Section 7929.600 continues former Section 6254.1(c) without substantive change.

35 For some of the laws generally governing access to medical records and other health care
36 information, see Sections 7926.000-7926.500; see also Sections 7927.700 (personnel, medical, and
37 similarly private files), 7929.400-7929.430 (records of State Compensation Insurance Fund).

38 **§ 7929.605. Materials used to administer licensing, employment, or academic examination**

39 7929.605. Except as provided in Sections 7924.510, 7924.700, and 7927.605, and in
40 Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the
41 Education Code, this division does not require disclosure of test questions, scoring keys,
42 and other examination data used to administer a licensing examination, examination for
43 employment, or academic examination.

1 **Comment.** Section 7929.605 continues former Section 6254(g) without substantive change.
2 Section 7929.605 also continues the introductory clause of former Section 6254 (as applied to
3 former Section 6254(g)) without substantive change.

4 For further guidance on disclosure of materials used to administer academic examinations, see
5 Section 7929.610 (disclosure of public school statewide test materials to legislative or executive
6 branch).

7 **§ 7929.610. Disclosure of public school statewide test materials to legislative or executive**
8 **branch**

9 7929.610. (a) Notwithstanding the provisions listed in Section 7920.500, upon the
10 request of any Member of the Legislature or upon request of the Governor or the
11 Governor’s designee, test questions or materials that would be used to administer an
12 examination and are provided by the State Department of Education and administered as
13 part of a statewide testing program of pupils enrolled in the public schools shall be
14 disclosed to the requester.

15 (b) The questions or materials described in subdivision (a) may not include an individual
16 examination that has been administered to a pupil and scored.

17 (c) The requester may not take physical possession of the questions or materials
18 described in subdivision (a), but may view the questions or materials at a location selected
19 by the department.

20 (d) Upon viewing this information, the requester shall keep the materials that the
21 requester has seen confidential.

22 **Comment.** Section 7929.610 continues former Section 6254.13 without substantive change.

23 For additional guidance on disclosure of materials used to administer academic examinations,
24 see Section 7929.605.

DISPOSITION OF FORMER LAW

Note. This table shows the proposed disposition of the following provisions of the California Public Records Act (Gov't Code §§ 6250-6276.48). Unless otherwise indicated, all statutory references are to the Government Code.

Existing Provision	Proposed Provision(s)	Existing Provision	Proposed Provision(s)
6254 intro cl (re (d))	7929.000	6254(ad)(7)	7929.430
6254 intro cl (re (g))	7929.605	6254.1(c)	7929.600
6254 intro cl (re (h))	7928.705	6254.3	7928.300
6254 intro cl (re (l))	7928.000	6254.8	7928.400
6254 intro cl (re (m))	7928.100	6254.12	7929.005
6254 intro cl (re (p)(1))	7928.405	6254.13	7929.610
6254 intro cl (re (p)(2))	7928.410	6254.19	7929.210
6254 intro cl (re (aa))	7929.200	6254.21(a)	7928.205
6254 intro cl (re (ab))	7929.205(b)	6254.21(b)	7928.210
6254 intro cl (re (ad)(1))	7929.400	6254.21(c)(1)(A)	7928.215(b)
6254 intro cl (re (ad)(2))	7929.405	6254.21(c)(1)(B)	7928.215(c)
6254 intro cl (re (ad)(3))	7929.410	6254.21(c)(1)(C)	7928.215(d)
6254 intro cl (re (ad)(4))	7929.415	6254.21(c)(1)(D)	7928.215(e)
6254 intro cl (re (ad)(5))	7929.420	6254.21(c)(1)(E)	7928.215(a)
6254 intro cl (re (ad)(6))	7929.425	6254.21(c)(2)	7928.225
6254(d)	7929.000	6254.21(c)(3)	7928.220
6254(g)	7929.605	6254.21(d)	7928.230
6254(h)	7928.705	6254.21(e)	7928.200
6254 (l)	7928.000	6254.23	7929.215
6254(m)	7928.100	6254.26(a)	7928.710(b)
6254(p)(1)	7928.405	6254.26(b)	7928.710(c)
6254(p)(2)	7928.410	6254.26(c)	7928.710(a)
6254(aa)	7929.200	6254.31	7928.700
6254(ab) 1st sent	7929.205(b)	6254.33	7928.715
6254(ab) 2d sent	7929.205(a)	6261	7928.720
6254(ad)(1)	7929.400	6268(a)	7928.005
6254(ad)(2)	7929.405	6268(b)	7928.010(a)
6254(ad)(3)	7929.410	6268(c)	7928.010(b)
6254(ad)(4)	7929.415	6268.5	7928.015
6254(ad)(5)	7929.420	6270.6	7928.800
6254(ad)(6)	7929.425		

DERIVATION OF NEW LAW

Note. This table shows the derivation of each proposed provision in this draft. Unless otherwise indicated, all statutory references are to the Government Code.

Proposed Provision	Existing Provision(s)	Proposed Provision	Existing Provision(s)
7928.000	6254 (l) & 6254 intro cl (re (l))	7928.715.....	6254.33
7928.005	6268(a)	7928.720.....	6261
7928.010(a).....	6268(b)	7928.800.....	6270.6
7928.010(b).....	6268(c)	7929.000.....	6254(d) & 6254 intro cl (re (d))
7928.015	6268.5	7929.005.....	6254.12
7928.100	6254(m) & 6254 intro cl (re (m))	7929.200.....	6254(aa) & 6254 intro cl (re (aa))
7928.200	6254.21(e)	7929.205(a).....	6254(ab) 2d sent
7928.205	6254.21(a)	7929.205(b).....	6254(ab) 1st sent & 6254 intro cl (re (ab))
7928.210	6254.21(b)	7929.210.....	6254.19
7928.215(a).....	6254.21(c)(1)(E)	7929.215.....	6254.23
7928.215(b).....	6254.21(c)(1)(A)	7929.400.....	6254(ad)(1) & 6254 intro cl (re (ad)(1))
7928.215(c).....	6254.21(c)(1)(B)	7929.405.....	6254(ad)(2) & 6254 intro cl (re (ad)(2))
7928.215(d).....	6254.21(c)(1)(C)	7929.410.....	6254(ad)(3) & 6254 intro cl (re (ad)(3))
7928.215(e).....	6254.21(c)(1)(D)	7929.415.....	6254(ad)(4) & 6254 intro cl (re (ad)(4))
7928.220	6254.21(c)(3)	7929.420.....	6254(ad)(5) & 6254 intro cl (re (ad)(5))
7928.225	6254.21(c)(2)	7929.425.....	6254(ad)(6) & 6254 intro cl (re (ad)(6))
7928.230	6254.21(d)	7929.430.....	6254(ad)(7)
7928.300	6254.3	7929.600.....	6254.1(c)
7928.400	6254.8	7929.605.....	6254(g) & 6254 intro cl (re (g))
7928.405	6254(p)(1) & 6254 intro cl (re (p)(1))	7929.610.....	6254.13
7928.410	6254(p)(2) & 6254 intro cl (re (p)(2))		
7928.700	6254.31		
7928.705	6254(h) & 6254 intro cl (re (h))		
7928.710(a).....	6254.26(c)		
7928.710(b).....	6254.26(a)		
7928.710(c).....	6254.26(b)		