

**From:** [Christopher Hine](#)  
**To:** [employee\\_all](#)  
**Subject:** California Public Records Act (CPRA) requests  
**Date:** Wednesday, October 24, 2018 3:32:00 PM  
**Attachments:** [CPRA San Jose opinion- LCW.docx](#)

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The district has recently experienced an increase in requests for records under the California Public Records Act (CPRA). CPRA is a state law which allows any member of the public to inspect “public records” upon request. Simply put, any writing, electronic or otherwise, may be a public record if it was created by a public employee on public business. There are a number of exceptions to the public’s access under CPRA but the presumption is that the public is allowed access unless an exception applies. (A CPRA request is sometimes mistakenly called a Freedom Of Information Act (FOIA) request. FOIA is a federal law that does not apply to state agencies).

A recent court decision, *City of San Jose v. Superior Court (Smith) (2017) 389 P.3d 848*, held that public records on the personal devices of employees and officials (including phones, tablets and personal computers) must be produced in response to a CPRA request. An excerpt of an analysis by the Liebert, Cassidy, Whitmore law firm is attached for further information.

What this means for us as a district is that 1) we should limit our use of personal devices to conduct district business and use district equipment if possible 2) if you are asked to produce records pursuant to a CPRA request you should check your personal devices for public records responsive to the request 3) it is a good practice to periodically purge your email and text messages; however, please do not purge them immediately after receiving a CPRA request 4) if you receive a public records request please forward it immediately to the General Counsel’s office. This last step is very important because the district only has ten days to respond with any objections to a valid CPRA request.

Please contact me or my Executive Assistant, Suzanne Galindo, if you have any questions.

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