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Public Law Update - Court of Appeal Rejects Rigid “Days or Weeks” CPRA Timelines, Deciding Agencies Must Make Records “Promptly Available” Based on the Facts of Each Request

Authored by partner Denise S. Bazzano and summer associate Johnson Yu.

Voice of San Diego v. San Diego Unified School District concerns the timing requirements imposed on public agencies responding to requests under the California Public Records Act (“CPRA”). Voice of San Diego (“Voice”), an online news organization, regularly submitted CPRA requests to the San Diego Unified School District concerning local education and District affairs. After years of requests, Voice alleged the District maintained a regular and ongoing practice of delaying, obstructing, and withholding public records in violation of the CPRA. This is an important decision for public agencies responding to CPRA requests because it confirms that “promptly available” for the actual production of documents responsive to a CPRA request is a flexible standard, not a one-size-fits-all deadline.

Voice argued that once a public agency determines it possesses disclosable records, the term “promptly available” in Government Code section 7922.530(a) is to be interpreted to mean the agency must produce those records within “days or a few weeks” of the CPRA’s initial 10-day determination deadline, or 24 days if unusual circumstances apply (initial 10-day plus 14-day extension for unusual circumstances). Voice also brought a taxpayer claim under Code of Civil Procedure section 526a, contending that the District’s use of public funds to maintain its allegedly unlawful CPRA practices constituted an illegal expenditure of public funds.

The trial court rejected Voice’s interpretation of the CPRA and found that Voice failed to prove the District maintained an unlawful practice of delaying or withholding public records. The trial court credited evidence that many of Voice’s requests were broad, complex, covered lengthy periods of time, required searches across multiple departments and schools, involved both electronic and hard-copy records, and required review and redaction for student and employee privacy. The trial court therefore entered judgment in favor of the District.

The Court of Appeal affirmed and rejected any interpretation that inserted words or quantification of timing for production of records into the CPRA. The Court held that the CPRA does not impose a fixed deadline for the actual production of public records. Although the CPRA requires an agency to make its initial determination within 10 days, subject to a limited extension for unusual circumstances, the statute separately requires only that disclosable records be made “promptly available.” The Court declined to graft a “days or weeks” requirement onto the statute where the Legislature had not included one.

Instead, the Court held that whether records have been made “promptly available” must be determined case by case. Relevant circumstances may include the specificity and breadth of the request, the nature and location of the records sought, the volume of data to be searched, the storage medium involved, the need for exemption review and redactions, the complexity of the request, the size and scope of the responding agency, the agency’s volume of other records requests, and external circumstances affecting the agency’s ability to respond.

The Court also rejected Voice’s taxpayer claim. Because Voice failed to establish that the District maintained an unlawful CPRA policy or practice, there was no illegal expenditure of public funds to enjoin under Code of Civil Procedure section 526a.

Voice of San Diego v. San Diego Unified School District is a significant decision for public agencies and provides important guidance on producing responsive records to CPRA requests, particularly large or complex requests requiring searches across multiple departments, substantial email review, privacy analysis, or rolling productions. The opinion does not permit agencies to delay or obstruct public access to records. But it does confirm that “promptly available” is a flexible standard, rather than a rigid deadline. Public agencies should continue to act diligently, communicate with requesters, document the scope and burden of requests, and consider rolling productions of responsive records, where appropriate.

Burke, Williams & Sorensen, LLP regularly advises clients on legal matters relating to public law and responding to CPRA requests.

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