

SMALL BUSINESS:

What is a data Breach?

Unlawful or unauthorized access to customer information.

California Law	The law requires any person or business that conducts business in California, and any state or local agency that owns or licenses “computerized data” that includes personal information to notify any resident of California whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person as the result of a breach of security. Entities that maintain such data are required to notify the owner or licensee of the information in the event of breach of data.
Which California Government Agencies must be notified?	<ul style="list-style-type: none"> - California Attorney General must be notified if security breach is over 500 California residents as a result from a single security breach, and attach a copy of the security breach notification. <ul style="list-style-type: none"> o https://oag.ca.gov/ecrime/databreach/reporting - California Department of Public Health must be notified of breach involves health facilities no later than 5 business days after health facility has detected data breach. - In some cases, notifying statewide media is required, as well as posting notification of breach on website
What information must be compromised in order to be considered a data breach?	<ul style="list-style-type: none"> - Any information that can identify an individual. This can include, but is not limited to: <ul style="list-style-type: none"> o name, address, e-mail address, telephone number, Social Security number, credit card number, debit card number, bank account number, or driver’s license, any form of government id number, financial account numbers, etc. - Medical Information: <ul style="list-style-type: none"> o Customer or patient’s medical history (Mental or physical condition of patient, and treatment)
By when must a business notify victims?	<ul style="list-style-type: none"> - Immediately <ul style="list-style-type: none"> o California Law: “In the most expedient time possible and without unreasonable delay.”
What must be included in the notification?	<p>California law prefers notification to take the form of written or paper form. Usually, both written and electronic forms are sent. (business will be responsible for finding victims, and proving evidence that they tried to contact individual in all means possible).</p> <p>Note *Notice can be provided by an alternative means or at an alternative location as specified by the patient or patient’s personal representative in writing pursuant to 45 CFR § 164.522(b). Electronic notice by e-mail is permitted if the patient previously agreed in writing to receive electronic notice by e-mail.</p> <p>California requires the notification to be send out to victims to be in “plain language” and provided specific pieces of information on what victims must know in order to take appropriate defensive actions:</p> <ol style="list-style-type: none"> 1) The name and contact information of the notifying organization 2) The types of personal information involved and breached 3) Contact information for the credit reporting agencies in cases involving breach of social security or driver license numbers 4) Date of breach, and general description of the incident if known at time of notification. 5) Examples of information involved: “what information was involved,” “ what we are doing,” “ What you can do,” “ what we are doing,” “for more information,” and etc.
Can notification be delayed?	Notification may be delayed if law enforcement provides a written or oral statement that notice will impede a related investigation, or a written declaration that notice will undermine an ongoing, significant criminal investigation. Additional timing and documentation requirements may apply.
Potential Penalties	Violations may result in civil penalties.

California Civil Code s. 1798.29(a) for state agencies and California Civ. Code s. 1798.82(a) for businesses).Health & Safety Code § 1280.15: Notification requirements applicable to a clinic, health facility, home health agency, or hospice licensed pursuant to Cal. Health & Safety Code section 1204, 1250, 1725, or 1745. This is provided for informational purposes only. This summary only provides general information and not legal advice. Additional requirements may applicable. For more information about state data breach please seek legal advice. Sources:

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV§ionNum=1798.29

<https://oag.ca.gov/ecrime/databreach/list>