

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 82

23STCP04182

January 15, 2025

**CALIFORNIA POLICY CENTER, INC., A CALIFORNIA
CORPORATION vs LOS ANGELES UNIFIED SCHOOL
DISTRICT**

9:30 AM

Judge: Honorable Stephen I. Goorvitch
Judicial Assistant: R. Mendoza
Courtroom Assistant: R. Monterroso

CSR: Linda Lee CSR # 13568 (Remote)
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Craig Alexander

For Respondent(s): Manuel Francisco Martinez (in court) and Alyse Nichols (Telephonic)

NATURE OF PROCEEDINGS: Hearing on Petition for Writ of Mandate

Pursuant to Government Code sections 68086, 70044, and California Rules of Court, rule 2.956, Linda Lee, CSR # 13568, certified shorthand reporter is appointed as an official Court reporter pro tempore in these proceedings, and is ordered to comply with the terms of the Court Reporter Agreement. The Order is signed and filed this date.

The matter is called for hearing.

The Court posts a tentative ruling in advance of the hearing for the parties to review.

After reading and considering all moving and opposing documents, hearing argument, and conferring with counsel, the Court rules as follows:

The Court issues its ruling in accordance with the "Order Granting in Part and Denying in Part Petition for Writ of Mandate" which is signed and filed this date and incorporated herein by reference.

Summary of the Court's ruling:

1. The petition for writ of mandate is granted in part. The Los Angeles Unified School District shall either: (a) Produce the accounting records reflecting whether each employee is paying union dues and the amounts paid (with any appropriate redactions); or (b) Identify and produce records and/or information that is responsive to the purpose of Petitioner's request, e.g., extract the responsive data and produce a copy to Petitioner.

2. The petition for writ of mandate is otherwise denied.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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CSR: Linda Lee CSR # 13568 (Remote)
ERM: None
Deputy Sheriff: None

3. Respondent shall comply with the writ and file a return within 90 days of service of the writ. Neither party has requested that the Court conduct an in camera review of responsive documents.

4. The Court declines to issue a declaratory judgment because Petitioner has an adequate remedy with respect to the petition for writ of mandate.

5. The Court declines to issue injunctive relief because Petitioner has an adequate remedy with respect to the petition for writ of mandate.

6. Petitioner shall pay the costs of extraction, if any, per Government Code section 7922.575(b). The parties shall meet-and-confer on this issue and, if necessary, file a noticed motion to resolve any disputes concerning the cost.

7. Petitioner may be entitled to attorney's fees or costs if the Court determines that Petitioner prevailed in this action. (Gov. Code § 7923.115(a); Fontana Police Dpet. v Villegas-Banuelos (1999) 74 Cal.App.4th 1249, 1252.) The Court orders the parties to meet-and-confer and, if necessary, Petitioner may file a notice motion.

8. The Court orders the parties to meet-and-confer and to lodge a proposed judgment.

9. The Court's clerk shall provide notice.

The Petition for Writ of Mandate filed by California Policy Center, Inc., a California corporation on 11/14/2023 is Granted in Part.

Certificate of Mailing is attached.

California Policy Center

v.

Los Angeles Unified School District

Case No. 23STCP04182

Hearing: January 15, 2025
Location: Stanley Mosk Courthouse
Department: 82
Judge: Stephen I. Goorvitch

FILED
Superior Court of California
County of Los Angeles
JAN 15 2025
David W. Slayton, Executive Officer/Clerk of Court
By: R. Mendoza, Deputy

**Order Granting in Part and Denying in Part
Petition for Writ of Mandate**

INTRODUCTION

Petitioner California Policy Center (“Petitioner”) seeks a writ of mandate directing Respondent Los Angeles Unified School District (“Respondent,” “LAUSD,” or the “District”) to produce all public records responsive to Petitioner’s requests under the California Public Records Act (the “CPRA”). Petitioner seeks documents that set forth or “evidence” the monthly and total amounts of union dues paid by LAUSD for the months of May, June, July, and August 2023 to each collective bargaining unit and professional management association with which LAUSD has entered contracts. Respondent admits that it has “underlying accounting information reflecting whether each employee is paying union dues and the amounts paid.” However, Respondent argues that it need not produce these documents under the CPRA’s collective bargaining exemption for local agencies—Government Code section 7928.410—citing *Freedom Foundation v. Superior Court* (2022) 87 Cal.App.5th 47. The court finds that these documents are not exempt because they play no role in the LAUSD’s labor negotiations; they are merely payroll records. Therefore, the petition for writ of mandate is granted in part. The LAUSD shall either: (a) Produce the accounting records reflecting whether each employee is paying union dues and the amounts paid (with any appropriate redactions); or (b) Identify and produce records and/or information that is responsive to the purpose of Petitioner’s request, *e.g.*, extract the responsive data and produce a copy to Petitioner. The petition for writ of mandate is otherwise denied.

BACKGROUND

A. Petitioner’s CPRA Requests

Petitioner seeks to enforce its right to public records pursuant to two CPRA requests. The first request was made on June 1, 2023 (“June 2023 Request” or the “first request”). The second request was made on September 5, 2023 (“September 2023 Request” or the “second request”; collectively “CPRA Requests”). (Petition for Writ of Mandate (“Pet.”) ¶ 1.)

In the first request, Petitioner requested that Respondent produce the following records: “A. The total number of payers into each and every collective bargaining unit or professional association for May 2023”; and “B. The total number of people covered by a union collective

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bargaining agreement for May 2023.” (*Id.* ¶ 7 and Exh. A.) On August 4, 2023, Respondent’s counsel denied the first request, stating in pertinent part:

Please be advised that the District does not have a responsive record that contains all of items requested. With respect to your request that the District create a spreadsheet with this information, please be advised that the District has no duty to create records that do not exist.... *Haynie v. Superior Court* (2001) 26 Cal.4th 1061, 1073–1075 Moreover, none of information requested will be made available to you because it is exempt from disclosure under the CPRA and case law. (Gov. Code, §§ 7927.705 and 7928.405; *Freedom Foundation v. Superior Court* (2022) 87 Cal.App.5th 47....)

(*Id.* Exh. J.) In a responsive letter dated September 5, 2023, Petitioner explained – with respect to the June 2023 Request – that Petitioner “has been making this request to LAUSD for approximately five years” and “[t]his is the first time LAUSD has advised that this document was created by LAUSD in response to CPC’s records.” (*Id.* Exh. K.)

Petitioner sent the second request on September 5, 2023, which modified the first request to seek the following records:

1. A copy of each contract / MOU or other evidence of an agreement with any and all collective bargaining unit / professional management association that are currently in effect for the months of May, June, July and August 2023; and
2. Any documents that set forth the number of employees of each bargaining unit / association for which LAUSD is paying dues to each unit/association for each pay period for the months of May, June, July and August 2023; and / or
3. Any documents that set forth or evidence the total amount paid by LAUSD to each unit / association for each pay period for the months of May, June, July and August 2023.

(*Id.* ¶ 14, Exh. K.)

On or about September 15, 2023, Respondent produced certain responsive, non-exempt records and denied the remainder of the first and second requests. In a letter, Respondent’s counsel explained:

This most recent request [the June 2023 Request] is similar to prior requests received by Los Angeles Unified School District (“District”). In the past, the District created documents to respond to these similar requests because there was no single document that existed containing the requested information. In the past, the District created this document to provide your client with what was believed at the time to be public information. Since the publication of *Freedom Foundation v. Superior Court* (2022) 87 Cal.App.5th 47, this information has been deemed exempt from disclosure. Furthermore,

your assumption that the District altered an existing document is both unfounded and untrue.

.... [9191]

Please note that the responsive, non-exempt, information that you seek can be found at the following link:

<https://www.lausd.org/Page/4080>

Please be advised that the District does not have a responsive record that contains all of items of the remaining requests. With respect to your request that the District create a spreadsheet with this information, please be advised that the District has no duty to create records that do not exist.... *Haynie v. Superior Court* (2015) 26 Cal.4th 1061 Moreover, none of information requested will be made available to you because it is exempt from disclosure under the CPRA and case law. (Gov. Code, §§ 7927.705 and 7928.405; *Freedom Foundation v. Superior Court* (2022) 87 Cal.App.5th 47....)

(*Id.* ¶ 16, Exh. L.)

Because the second request modified the first request, the court focuses its analysis below on the categories of records sought in the second request. Furthermore, Respondent represents that only the second and third categories of records in the second request “remain at issue.” (Oppo. 2:22.) Petitioner has not argued, or cited evidence, to the contrary. (See Reese Decl. ¶¶ 6-12.)

THE CALIFORNIA PUBLIC RECORDS ACT

Pursuant to the CPRA—Government Code §§ 7921.000, et seq.¹—individual citizens have a right to access government records. In enacting the CPRA, the California Legislature declared that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” (Gov. Code § 7921.000; see also *County of Los Angeles v. Superior Court* (2012) 211 Cal.App.4th 57, 63.) Significantly, Article 1, Section 3(b) of the Constitution affirms that “[t]he people have the right of access to information concerning the conduct of the people’s business.” The Constitution mandates that the CPRA be “broadly construed,” while any statute “that limits the right of access” must be “narrowly construed.” (See *National Lawyers Guild v. City of Hayward* (2020) 9 Cal.5th 488, 507.)

The CPRA “does not allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.” (Gov. Code § 7921.300.) “Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by

¹ The CPRA statutes were re-numbered effective January 1, 2023. Unless otherwise stated, statutory references are to the Government Code.

disclosable electronic data and to ‘perform data compilation, extraction or computer programming if ‘necessary to produce a copy of the record.’” (*NLG, supra*, 9 Cal.5th at 503, discussing Gov. Code § 7922.575(b).) Thus, section 7922.575(b) provides:

(b) [T]he requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

.... ¶

(2) The request would require data compilation, *extraction*, or programming to produce the record.

(§ 7922.575(b) [emphasis added].)

In addition, the CPRA mandates that the responding agency “assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records.” (Gov. Code § 7922.600(a).) The responding agency “*shall* do all of the following, to the extent reasonable under the circumstances:

- (1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.
- (2) Describe the information technology and physical location in which the records exist.
- (3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.”

(Gov. Code § 7922.600(a) [emphasis added].)

Here, as noted above, the following two categories of records from Petitioner’s CPRA Requests remain at issue:

2. Any documents that set forth the number of employees of each bargaining unit / association for which LAUSD is paying dues to each unit/association for each pay period for the months of May, June, July and August 2023; and / or
3. Any documents that set forth *or evidence* the total amount paid by LAUSD to each unit / association for each pay period for the months of May, June, July and August 2023.

(Pet. ¶ 14, Exh. K [emphasis added]; *see also* Oppo. 2:22 and Reese Decl. ¶¶ 6-12.)

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Respondent admits that it possesses electronic accounting records “reflecting whether each employee is paying union dues and the amounts paid.” (Oppo. 2:10-11; *see also* Alexander Decl. Exh. P at 2.) Respondent admits that it maintains its own electronic accounting records (using SAP software), including “for payment of union dues” to the various unions of which its employees are members. (Oppo. 3:26-27, 4:13-22; Alexander Decl. Exh. P at 2-3.) Petitioner submits evidence that the total amount of union dues paid by Respondent to bargaining units may be determined from data that could be extracted from these records. (*See e.g.* OB 9:1-15, citing Alexander Decl. Exh. U, V, W and Reese Decl. ¶ 10, Exh. I-N). Stated another way, these accounting records “evidence” the amounts paid by LAUSD to each collective bargaining unit and professional management association for each pay period for the months of May, June, July and August 2023. (Pet. ¶ 14, Exh. K.) Accordingly, the court finds that Respondent has possession of some public records responsive to the CPRA Requests. In the alternative, even if the accounting records are not literally responsive to the CPRA Requests as worded, Respondent has a legal duty to assist Petitioner “to identify records and information that are responsive to the request or to the purpose of the request.” (Gov. Code § 7922.600(a)(1).)

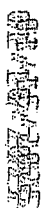
B. The Records Are Not Exempt under Government Code Section 7928.410 or *Freedom Foundation v. Superior Court* (2022) 87 Cal.App.5th 47

Respondent argues that any “conceivable” responsive records are exempt from disclosure under Government Code section 7928.410 and *Freedom Foundation v. Superior Court* (2022) 87 Cal.App.5th 47 (“*Freedom Foundation*”).

Freedom Foundation concerned Government Code section 7928.405, which exempts certain records of state agencies. Government Code section 7928.410, which is relevant to this case, provides a similar exemption for records of local agencies. Specifically, section 7928.410 provides in full, as follows:

- (a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of records of local agencies related to activities governed by Chapter 10 (commencing with Section 3500) of Division 4, that reveal a local agency’s deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under that chapter.
- (b) This section shall not be construed to limit the disclosure duties of a local agency with respect to any other records relating to the activities governed by the employee relations act referred to in this section.

(Gov. Code § 7928.410.)



Respondent argues that the exemption in section 7928.410 applies to all “activities governed by Chapter 10 (commencing with Section 3500) of Division 4,” which includes the Meyers-Miliias-Brown Act (“MMBA”). (Gov. Code § 3500.5.) The Court of Appeal has summarized the purposes of the MMBA as follows:

The purposes of the [MMBA] are to promote full communication between management and labor and improve employer-employee relations. According to the Act, these purposes will be effectuated by establishing methods to resolve labor disputes and by providing a uniform basis for recognizing the right of public employees to organize and be represented by employee organizations.... The Act sets forth certain principles which public agencies must follow. These primarily include the recognition of employee organizations in representing public employees, and the mutual obligations of public agencies and ‘recognized employee organizations’ to meet and confer in good faith regarding wages, hours and other conditions of employment, and to reduce their agreements to binding written memoranda of agreement.

(*Relyea v. Ventura County Fire Protection Dist.* (1992) 2 Cal.App.4th 875, 880.) Since the MMBA applies to more than just collective bargaining, Respondent contends that the exemption applies to everything that Respondent does with its unions. Respondent’s interpretation is not persuasive for several reasons.

Respondent fails to give effect to subdivision (b) of section 7928.410, which states that “[t]his section shall not be construed to limit the disclosure duties of a local agency with respect to any other records relating to the activities governed by the employee relations act referred to in this section.” “When interpreting statutory language, we may neither insert language which has been omitted nor ignore language which has been inserted.” (See *People v. National Auto. and Cas. Ins. Co.* (2002) 98 Cal.App.4th 277, 282.) “[I]nterpretations which render any part of a statute superfluous are to be avoided.” (*Young v. McCoy* (2007) 147 Cal.App.4th 1078, 1083.) If the Legislature had intended to exempt all employer relations described in “Chapter 10 (commencing with Section 3500) of Division 4,” as Respondent contends, it would not have needed to exclude from the exemption any other activities as it did in subdivision (b).

Similarly, Respondent’s interpretation fails to give meaning to subdivision (a) of section 7928.410. Specifically, only documents “that reveal a local agency’s deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy” are exempt. There would have been no reason for the Legislature to provide this itemized list if it had intended to exempt everything mentioned in Chapter 10 (commencing with Section 3500), as Respondent asserts.

Respondent also does not give a “reasonable and commonsense” interpretation of the statute or acknowledge that CPRA exemptions are to be narrowly construed. In interpreting a statute, the court must “give the provision a reasonable and commonsense interpretation consistent with the apparent purpose and intention of the lawmakers, practical rather than technical in nature, which upon application will result in wise policy rather than mischief or absurdity.” (*People v. Burgess* (2022) 86 Cal.App.5th 375, 382, internal quotation marks

omitted.) Moreover, Article 1, Section 3(b) of the California Constitution mandates that the CPRA be “broadly construed,” while any statute “that limits the right of access” must be “narrowly construed.” (See *NLG, supra*, 9 Cal.5th at 507.) According to Respondent, section 7928.410 should be interpreted to exempt from disclosure all public records created in the “the life cycle of public employment labor relations.” (Oppo. 9:16.) Respondent proposes an interpretation of the statute that would not allow *any* public access to its interactions with labor unions. That interpretation conflicts with the plain language of the statute, which shows intent to create only a narrow exemption for public records used in the collective bargaining process or that otherwise “reveal a local agency’s deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy.” (§ 7928.410(a).)

The court need not reach the legislative history. Regardless, the legislative history also does not support Respondent’s position. Specifically, according to its author, “the purpose of [the statutory] exemptions is to allow public employee unions and public agencies to engage in candid and fully-informed *collective bargaining negotiations* without the potentially disruptive effects of public disclosure of ongoing negotiations.” (RJN Exh. A at 2 [emphasis added]; see also RJN Exh. B at 2-3.) This legislative history does not suggest that the Legislature sought to exempt from disclosure all records related to labor relations.

Based on the foregoing, Respondent does not show that the accounting data that Petitioner seeks is exempt from disclosure under *Freedom Foundation* or section 7928.410. Accordingly, since the accounting data is held in electronic form, Respondent must either produce the accounting records themselves (with appropriate redactions), or extract the responsive data and produce a copy of the extracted data to Petitioner. (See *NLG, supra*, 9 Cal.5th at 503, discussing Gov. Code § 7922.575(b).)

CONCLUSION AND ORDER

Based upon the foregoing, the court orders as follows:

1. The petition for writ of mandate is granted in part. The Los Angeles Unified School District shall either: (a) Produce the accounting records reflecting whether each employee is paying union dues and the amounts paid (with any appropriate redactions); or (b) Identify and produce records and/or information that is responsive to the purpose of Petitioner’s request, *e.g.*, extract the responsive data and produce a copy to Petitioner.
2. The petition for writ of mandate is otherwise denied.
3. Respondent shall comply with the writ and file a return within 90 days of service of the writ. Neither party has requested that the court conduct an *in camera* review of responsive documents.
4. The court declines to issue a declaratory judgment because Petitioner has an adequate remedy with respect to the petition for writ of mandate.

5. The court declines to issue injunctive relief because Petitioner has an adequate remedy with respect to the petition for writ of mandate.

6. Petitioner shall pay the costs of extraction, if any, per Government Code section 7922.575(b). The parties shall meet-and-confer on this issue and, if necessary, file a noticed motion to resolve any disputes concerning the cost.

7. Petitioner may be entitled to attorney's fees or costs if the court determines that Petitioner prevailed in this action. (Gov. Code § 7923.115(a); *Fontana Police Dept. v. Villegas-Banuelos* (1999) 74 Cal.App.4th 1249, 1252.) The court orders the parties to meet-and-confer and, if necessary, Petitioner may file a noticed motion.

8. The court orders the parties to meet-and-confer and to lodge a proposed judgment.

9. The court's clerk shall provide notice.

IT IS SO ORDERED

Dated: January 15, 2025



Stephen I. Goorvitch
Superior Court Judge

2025 JAN 15 10 10 AM

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Stanley Mosk Courthouse 111 North Hill Street, Los Angeles, CA 90012	FILED Superior Court of California County of Los Angeles 01/15/2025
PLAINTIFF/PETITIONER: California Policy Center, Inc., a California corporation	David W. Slayton, Executive Officer / Clerk of Court By: <u> R. Mendoza </u> Deputy
DEFENDANT/RESPONDENT: Los Angeles Unified School District	
CERTIFICATE OF MAILING	CASE NUMBER: 23STCP04182

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Minute Order (Hearing on Petition for Writ of Mandate) of 01/15/2025 upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Manuel Francisco Martinez
Lozano Smith
2001 N Main St Ste 500
Walnut Creek, CA 94596

Craig Alexander
Law Offices of Craig P. Alexander
24681 La Plaza
Suite 250
Dana Point, CA 92629

David W. Slayton, Executive Officer / Clerk of Court

Dated: 01/15/2025

By: R. Mendoza
Deputy Clerk

CERTIFICATE OF MAILING