

Opinion: Protect public records requesters

By David Snyder

The First Amendment Coalition supports a bill to be heard next week in the California Senate Judiciary Committee that would help prevent abusive litigation by public agencies against members of the public who request records under the California Public Records Act (CPRA).

SB1244 would amend the CPRA in two important ways. First, it would make clear that a public agency cannot bring a lawsuit against a member of the public in order to force that person to return records the agency inadvertently released. Second, it clarifies that—with one narrow exception—a public agency is not entitled to recover its attorneys fees against a member of the public after CPRA litigation.

Both changes are necessary to protect the public against efforts like that of the Newark Unified School District, which recently sought a court order requiring a member of the public to pay almost a half million dollars in attorneys fees. Fortunately, that effort failed because, as FAC and the American Civil Liberties Union (ACLU) explained to the court, the CPRA explicitly protects the public from efforts by public agencies to seek financial revenge for the act of seeking information about the government.

The CPRA is designed to protect the public from efforts like that of the Newark school district, but unfortunately there is language in the current law that has been exploited in order to attempt to intimidate the public. SB1244 helps clear up this language, and so the Legislature should not hesitate to pass this bill.

Public agencies in recent years have brought lawsuits against

records requesters seeking to “claw back” records the agency inadvertently released, thus exposing those requesters to costly and time-consuming litigation.

FAC strongly believes that members of the public should not have to shoulder the burden of litigation brought on by the mistakes of public agencies and, thus, supports SB1244. If you agree, we urge you to contact your legislator and tell them to support protection for public records requesters.

SB1244 is set to be heard on May 8 at 1:30pm in the Senate Judiciary Committee. Don't know how to contact your legislator? Enter your address to find your representative's contact info [here](#).

See [here](#) for a copy of FAC's letter in support of SB1244.

David Snyder is executive director of the First Amendment Coalition. The First Amendment Coalition is an award-winning, nonprofit public interest organization dedicated to advancing free speech, more open and accountable government, and public participation in civic affairs.