

January 15, 2026

WEBSTER, CHAMBERLAIN & BEAN, LLP – NONPROFIT ALERT

CIPA Lawsuits Target Website Tracking Practices

In 2025, there was a dramatic increase of claims alleging violations of the California Invasion of Privacy Act (“CIPA”). The CIPA was enacted to protect private communications from unauthorized interception, wiretapping, and recording.

Courts have extended CIPA’s reach to cover website tracking technologies such as session-replay tools, third-party chat widgets, pixels, and analytics. An organization does not need to be located in California; it is sufficient that its website is available to users in California. CIPA liability extends to nonprofit organizations. Penalties under CIPA can include up to \$5,000 per violation or three times the amount of actual damages, plus attorney’s fees.

The best way to mitigate litigation risk is to proactively review and update your Association’s privacy practices.

1. Review the Association’s practices and policies with staff.

A range of Association teams might manage or use website tools - not only IT. Marketing, development, and fundraising components of Associations often use tracking or analytics technologies to support their work.

Conduct a comprehensive inventory of the technologies installed on the Association’s website. Identify all pixels, tags, SDKs, replay tools, chat widgets, customer data platforms, tag managers, and server-side integrations across web and mobile properties. Make sure everyone understands what these tools can do and how they are configured on the Association’s website.

Determine what data is collected, when collection begins, what is sent to each vendor and when, and how the data is used by the Association and/or the vendor.

2. Put compliance policies into practice.

Implement affirmative, prior consent by using a consent banner or gate that blocks non-essential scripts until the user affirmatively opts in. Be sure to record consent logs.

Provide a clear, conspicuous notice to users, and an unavoidable link to the Association’s privacy policy.

Review settings to ensure no tracking occurs before the user consents. Delay loading of non-essential scripts until after consent and test to validate that “reject” prevents data collection.

Update the Association's privacy notices, cookie policies, and retention schedules to reflect the Association's actual practices.

Train Association staff on consent gating, tag management, and change control procedures.

Takeaways

Nonprofit associations face the same CIPA exposure as commercial entities. By taking targeted compliance steps, organizations can materially reduce litigation risk while preserving essential analytics, marketing, development, and/or fundraising functions. For tailored advice, including a review of your current practices, contact legal counsel.

* * * *

Crystal D. Ostrum | costrum@wc-b.com | (202) 785-9500

Notice: This article is for informational purposes only and does not provide legal advice, nor does it create an attorney-client relationship with you or any other reader.