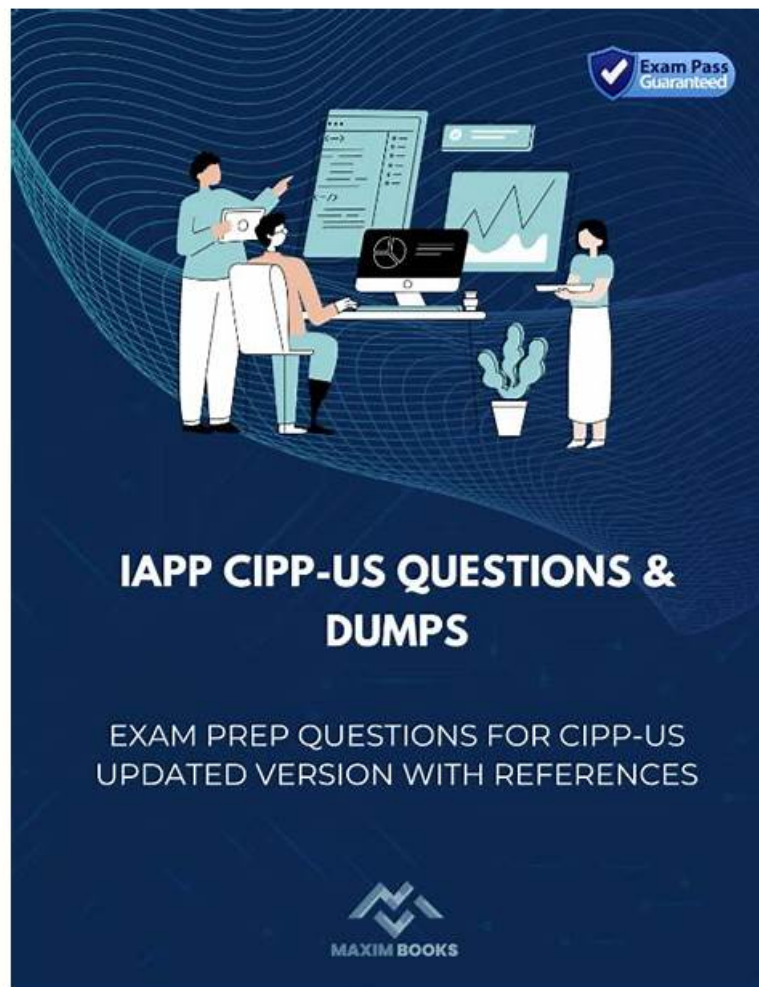


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## IAPP Certified Information Privacy Professional/United States (CIPP/US)

## Sample Questions (Q149-Q154):

### NEW QUESTION # 149

#### SCENARIO

Please use the following to answer the next question:

Larry has become increasingly dissatisfied with his telemarketing position at SunriseLynx, and particularly with his supervisor, Evan. Just last week, he overheard Evan mocking the state's Do Not Call list, as well as the people on it. "If they were really serious about not being bothered," Evan said, "They'd be on the national DNC list. That's the only one we're required to follow. At SunriseLynx, we call until they ask us not to." Bizarrely, Evan requires telemarketers to keep records of recipients who ask them to call "another time." This, to Larry, is a clear indication that they don't want to be called at all. Evan doesn't see it that way.

Larry believes that Evan's arrogance also affects the way he treats employees. The U.S.

Constitution protects American workers, and Larry believes that the rights of those at SunriseLynx are violated regularly. At first Evan seemed friendly, even connecting with employees on social media. However, following Evan's political posts, it became clear to Larry that employees with similar affiliations were the only ones offered promotions.

Further, Larry occasionally has packages containing personal-use items mailed to work. Several times, these have come to him already opened, even though this name was clearly marked. Larry thinks the opening of personal mail is common at SunriseLynx, and that Fourth Amendment rights are being trampled under Evan's leadership.

Larry has also been dismayed to overhear discussions about his coworker, Sadie. Telemarketing calls are regularly recorded for quality assurance, and although Sadie is always professional during business, her personal conversations sometimes contain sexual comments. This too is something Larry has heard Evan laughing about. When he mentioned this to a coworker, his concern was met with a shrug. It was the coworker's belief that employees agreed to be monitored when they signed on. Although personal devices are left alone, phone calls, emails and browsing histories are all subject to surveillance. In fact, Larry knows of one case in which an employee was fired after an undercover investigation by an outside firm turned up evidence of misconduct. Although the employee may have stolen from the company, Evan could have simply contacted the authorities when he first suspected something amiss.

Larry wants to take action, but is uncertain how to proceed.

Which act would authorize Evan's undercover investigation?

- A. The Fair and Accurate Credit Transactions Act (FACTA)
- B. The National Labor Relations Act (NLRA)
- **C. The Stored Communications Act (SCA)**
- D. The Whistleblower Protection Act

**Answer: C**

Explanation:

The Stored Communications Act (SCA) is a federal law that regulates the privacy of electronic communications that are stored by third-party service providers, such as email providers, cloud storage providers, or social media platforms. The SCA prohibits unauthorized access to or disclosure of such communications, unless authorized by law or by the consent of the user or the service provider. The SCA also provides exceptions for certain types of access or disclosure, such as those made for law enforcement purposes, for the protection of the service provider's rights or property, or for the consent of the subscriber or customer.

One of the exceptions to the SCA is where the service provider gives consent to the access or disclosure of the stored communications. This means that if a third-party service provider agrees to cooperate with an investigation or a request for information, the access or disclosure is lawful under the SCA. Consent can be express or implied, depending on the circumstances and the terms of service of the provider. For example, if a service provider has a policy that allows it to disclose user information to third parties for legitimate purposes, the provider has impliedly consented to the access or disclosure of the stored communications. However, if a service provider has a policy that prohibits such disclosure, the provider has not consented to the access or disclosure of the stored communications.

In the scenario, Evan's undercover investigation may have been authorized by the SCA if he obtained the consent of the third-party service provider that stored the electronic communications of the employee who was suspected of misconduct. For instance, if the employee used a company email account or a cloud storage service that had a policy that allowed the service provider to disclose user information to the employer or to law enforcement, Evan may have been able to access or disclose the stored communications with the consent of the service provider.

However, if the employee used a personal email account or a cloud storage service that had a policy that protected user privacy and prohibited such disclosure, Evan may have violated the SCA by accessing or disclosing the stored communications without the consent of the service provider.

### NEW QUESTION # 150

SuperMart is a large Nevada-based business that has recently determined it sells what constitutes "covered information" under Nevada's privacy law, Senate Bill 260. Which of the following privacy compliance steps would best help SuperMart comply with

the law?

- A. Preparing a notice of financial incentive for any loyalty programs offered to its customers.
- B. Reviewing its vendor contracts to ensure that the vendors are subject to service provider restrictions.
- C. Implementing internal protocols for handling access and deletion requests.
- **D. Providing a mechanism for consumers to opt out of sales.**

**Answer: D**

Explanation:

Nevada's privacy law, Senate Bill 260 (SB 260), is an amendment to the existing Nevada Revised Statutes (NRS) Chapter 603A that was enacted in June 2021 and will take effect on October 1,

20. SB 260 expands the scope and definition of "covered information" under NRS 603A to include any information that identifies, relates to, describes, or is capable of being associated with a consumer, such as name, address, email, phone number, social security number, biometric data, geolocation data, and online identifiers. SB 260 also grants Nevada consumers the right to opt out of the sale of their covered information by an operator of a website or online service that collects and maintains such information.

Under SB 260, an operator is defined as a person who owns or operates a website or online service for commercial purposes, collects and maintains covered information from consumers who reside in Nevada and use or visit the website or online service, and purposefully directs its activities toward Nevada. A sale is defined as the exchange of covered information for monetary consideration by the operator to a person for the person to license or sell the covered information to additional persons. However, there are some exceptions to the definition of a sale, such as:

If the consumer has consented to the sale after being provided with clear and conspicuous notice of the sale and the opportunity to opt out.

If the sale is to a person who processes the covered information on behalf of the operator. If the sale is to a person with whom the consumer has a direct relationship for the purposes of providing a product or service requested by the consumer. If the sale is to a person for purposes that are consistent with the reasonable expectations of the consumer considering the context in which the consumer provided the covered information to the operator.

If the sale is to a person who is an affiliate of the operator. If the sale is to a person as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the person assumes control of all or part of the operator's assets. To comply with SB 260, an operator that sells covered information must provide a designated request address through which a consumer may submit a verified request to opt out of the sale. The designated request address may be an email address, a toll-free telephone number, or an Internet website. The operator must respond to the verified request within 60 days, and may extend the response period for an additional 30 days if reasonably necessary. The operator must also provide a notice to the consumer that identifies the categories of covered information that the operator collects and the categories of third parties to whom the operator may disclose the covered information.

Therefore, the best privacy compliance step for SuperMart to comply with SB 260 is to provide a mechanism for consumers to opt out of sales, as this is the core requirement of the law.

#### **NEW QUESTION # 151**

Even when dealing with an organization subject to the CCPA, California residents are NOT legally entitled to request that the organization do what?

- **A. Disclose their personal information to them.**
- B. Correct their personal information.
- C. Delete their personal information.
- D. Refrain from selling their personal information to third parties.

**Answer: A**

Explanation:

<https://oag.ca.gov/privacy/ccpa>

#### **NEW QUESTION # 152**

Which venture would be subject to the requirements of Section 5 of the Federal Trade Commission Act?

- A. A city bus system's frequent rider program
- B. A local nonprofit charity's fundraiser
- C. A national bank's no-fee checking promotion
- **D. An online merchant's free shipping offer**

**Answer: D**

#### **NEW QUESTION # 153**

Which of the following is commonly required for an entity to be subject to breach notification requirements under most state laws?

- A. The entity must have employees in the state
- **B. The entity must conduct business in the state**
- C. The entity must be an information broker
- D. The entity must be registered in the state

**Answer: B**

Explanation:

Most state laws require that a person or business that conducts business in the state and owns or licenses personal information of residents of that state must notify those residents of any breach of the security of the system involving their personal information. This means that the entity does not have to be physically located in the state, have employees in the state, or be registered in the state to be subject to the breach notification requirements, as long as it conducts business in the state and holds personal information of state residents.

Conducting business in the state can be interpreted broadly to include any transaction or activity that involves the state or its residents, such as selling goods or services, collecting payments, or maintaining a website accessible by state residents. The other options (B, C, and D) are not commonly required by most state laws, although some states may have additional or specific requirements for certain types of entities, such as information brokers, health care providers, or financial institutions. References:

\* Security Breach Notification Chart | Perkins Coie

\* Security Breach Notification Laws - National Conference of State Legislatures

\* IAPP CIPP/US Certified Information Privacy Professional Study Guide, Chapter 4: State Privacy Laws and Regulations, Section 4.2: State Security Breach Notification Laws.

#### **NEW QUESTION # 154**

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