

# CLIENT NEWS BRIEF

## United States Supreme Court Addresses Out-of-State Public Records Requests

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In recent years, school districts and local governments have increasingly received California Public Records Act (CPRA) requests from out-of-state entities. This has often raised the question of the extent to which the CPRA applies to out-of-state residents or entities. In a recent decision, the U.S. Supreme Court unanimously held that out-of-state residents do not have a federal constitutional right to obtain public records in the state of Virginia. (*McBurney v. Young* (Apr. 29, 2013) \_\_\_ U.S. \_\_\_ (2013 WL 1788080).) While at first blush this decision appears to allow local public entities to deny requests for documents made by an out-of-state person or entity, it is important for California public agencies to be aware that this case has limited application in California where school districts and local governments generally must continue to respond to out-of-state CPRA requests.

In *McBurney*, two out-of-state residents sought various public records from Virginia under the state's Freedom of Information Act (FOIA). Unlike California, Virginia's public records statute grants the right to obtain public documents only to *citizens* of Virginia. The U.S. Supreme Court, therefore, rejected the out-of-state residents' public document requests because they were not citizens of Virginia. The Supreme Court concluded that federal constitutional law did not compel a different result.

While the CPRA originally had the same reference to "citizens" as Virginia's public records statute, the CPRA was amended in 1970. The CPRA now states that "every *person* in this state" shall have access to certain public documents. California courts have interpreted this phrase to include all persons, regardless of their state of residence. Furthermore, access to public documents in California under the CPRA was elevated to a fundamental right in 1970, and enshrined in the California constitution in 2004 with the passage of Proposition 59. These are important distinctions that were missing in *McBurney*. Therefore, until a California court rules otherwise, both in and out-of-state persons or entities may utilize the CPRA to access public documents in California.

Lozano Smith has extensive experience advising public entities regarding CPRA requests, including out-of-state requests, mass requests sent to agencies statewide in California, and requests for emails and other electronic documents. If you receive a CPRA request and need assistance in responding, please feel free to contact one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#), or download our [Client News Brief App](#).



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