



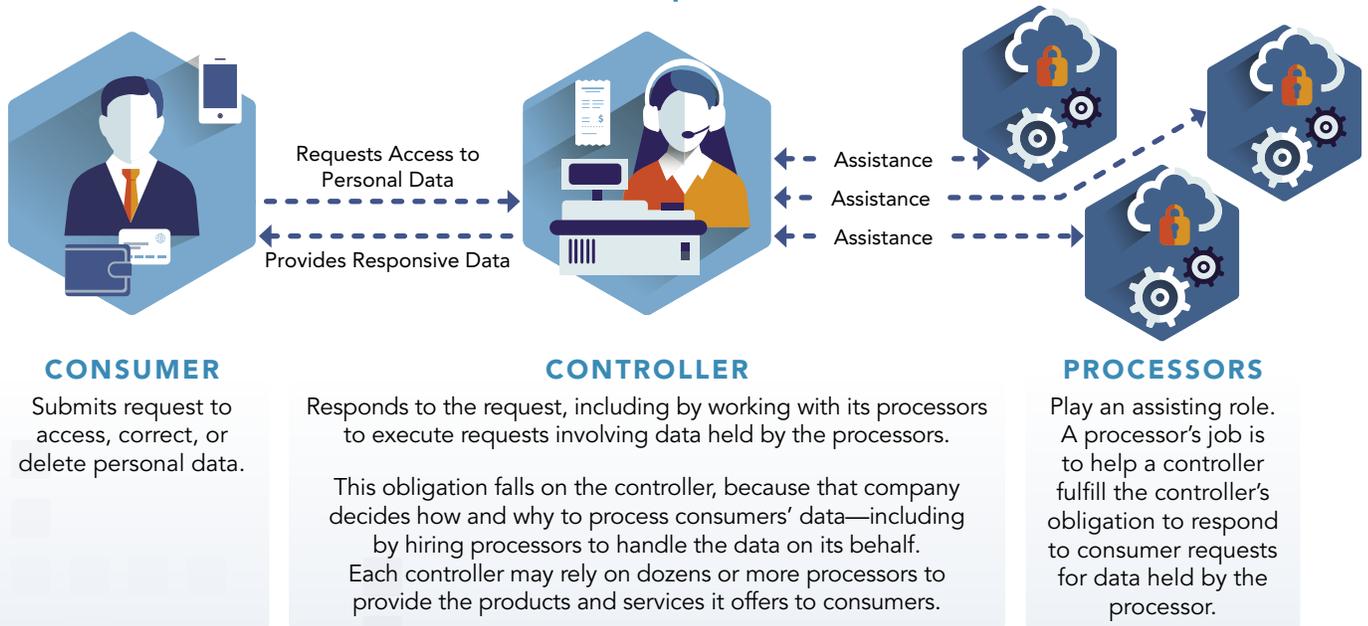
Consumer Rights to Access, Correct and Delete Data: A Processor's Role

Privacy laws create important new rights for consumers, including the rights to access, correct, and delete their personal data. These rights must function in practice—including when companies rely on processors to help them provide products and services to consumers.

All 13 state consumer privacy laws in the US and leading privacy laws worldwide adopt the same structure:

requiring consumers to submit requests to the company that decides how and why to process the consumers' data (i.e., the company acting as the controller of the data) and then requiring that company to work with processors that handle data on its behalf (e.g., service providers) to fulfill requests for data held by those processors. This structure is critical to ensuring that consumer rights work in practice.

How it Works: A Consumer's Request to Access Personal Data



Different Responsibilities for Controllers and Processors Reflect Their Different Roles

Privacy laws worldwide distinguish between two types of companies: (1) businesses that decide how and why to collect consumers' data, which act as controllers of that data, and (2) businesses that process the data on behalf of a controller and pursuant to its instructions, which act as processors of that data.

In California, the state privacy law refers to these companies as businesses and service providers, while all other states use the terms controller and processor. Privacy laws should impose strong obligations on both controllers and processors to safeguard consumers' personal data—but those obligations must reflect the different roles these companies have in processing consumers' information. Consumer-facing obligations, like responding to consumer rights requests, are appropriately placed on controllers, which decide how and why to process consumers' personal data.



WHY PLACE THIS OBLIGATION ON CONTROLLERS?

All 13 state privacy laws recognize that controllers—which decide how and why to process a consumer's data—should have the obligation to respond to consumer rights requests. This is because a controller:

- ✓ Decides how and why to collect consumers' data
- ✓ Typically interacts with consumers
- ✓ Makes important decisions required to fulfill a rights request, including:
 - » what data sets to provide to its consumers in response to an access request;
 - » whether data sought to be corrected is actually inaccurate; and
 - » if other statutory exceptions apply—like whether data should not be deleted because it is subject to a legal hold.



WHY NOT REQUIRE PROCESSORS TO RESPOND TO CONSUMERS?

All 13 state privacy laws require processors to assist a controller in responding to rights requests. They do not require processors to respond directly to consumers, because a processor:

- ✗ Does not typically interact with consumers—and may be unable to confirm the identity of a person submitting a rights request.
- ✗ Does not make the decisions required to respond to a rights request. For example, a processor that stores data for other companies (like a cloud service provider) would generally not know:
 - » what data sets each business customer provides to its consumers in response to an access request;
 - » whether data sought to be corrected is actually inaccurate; or
 - » if other statutory exceptions apply—like whether data should not be deleted because it is subject to a legal hold.

How to Assist? State Laws Recognize Two Options for Processors

Under all 13 state privacy laws, processors can fulfill their obligation to assist a controller in responding to consumer rights requests in either of two ways:

- » **First, a processor can respond one-by-one to requests from the controller to provide information in response to each request the controller receives.** This option requires the companies to communicate about each request—and ensure that the controller has determined that no exception to the request applies and that the controller has specified what information should be provided, corrected, or deleted in response to the request. As a result, this one-by-one approach becomes more difficult with higher volumes of consumer rights requests.
- » **Second, a processor can create a scalable tool that the controller can use to respond to requests.** This allows the companies to create an efficient approach to fulfilling large volumes of consumer rights requests seeking data held by processors. For example, a cloud service provider may create a dashboard that its business customers can use to pull information sought by consumer access requests, or to execute requests to correct or delete personal data held by the processor. This creates a streamlined approach to fulfilling to large amounts of consumer rights requests, without the need for back-and-forth communication about each individual request.