

University of the Philippines Diliman
DATA PROTECTION TEAM

MEMORANDUM

Reference No. DPT 18-09

FOR : ██████████

SUBJECT : **Request to conduct research and gather data from**
██████████ **students**

DATE : 11 May 2018

Dear ██████████:

We provide an advisory opinion on the requirements for ██████████ and ██████████ to gather data from respondents who are “business teachers” of UP Diliman for the graduate research “██████████”.

This advisory opinion does not determine the allowability or propriety of the research based on other factors such as legal, reputational, financial, and feasibility concerns.

The survey questionnaire collects from respondent’s **personal information**¹. As such, there principles of drinciples of Transparency, Legitimate Purpose and Proportionality.²

- (1) **Transparency.** The data subject must be aware of the nature, purpose, and extent of the processing of his or her personal data, including the risks and safeguards involved, the identity of personal information controller, his or her rights as a data subject, and how these can be exercised. Any information and communication relating to the processing of personal data should be easy to access and understand, using clear and plain language.
- (2) **Legitimate purpose.** The processing of information shall be compatible with a declared and specified purpose which must not be contrary to law, morals, or public policy.
- (3) **Proportionality.** The processing of information shall be adequate, relevant, suitable, necessary, and not excessive in relation to a declared and specified purpose.
- (4) Personal data shall be processed only if the purpose of the processing could not reasonably be fulfilled by other means.³

¹Data Privacy Act of 2012, Section 3(i).

²Implementing Rules and Regulations of the Data Privacy Act of 2012, Section 17.

The questionnaire also collects the following **sensitive personal information**:⁴ marital status, educational qualification. As such, the data to be gathered must strictly be used only for the purposes of the aforementioned research and not used for commercial purposes.⁵

Since the study will perform collection, recording, organization and use of personal information and sensitive personal information, the **consent** of the respondents should be obtained.⁶

Consent must be:

- (1) Informed;⁷
- (2) Obtained prior to the processing of personal information;⁸
- (3) Specific to the purpose which must be declared, specified, and legitimate;⁹
- (4) Time-bound;¹⁰
- (5) Evidenced by written, electronic or recorded means.¹¹

There is no mechanism or form that obtains the consent of respondents. The researchers should draft a consent form that complies with the requirements of the Data Privacy Act of 2012 and its Implementing Rules and Regulations.

There is no mechanism or document that informs the respondents of their rights. Under the Data Privacy Act of 2012,¹² the respondents should be informed of the following rights:

“Section 16. Rights of the Data Subject. – The data subject is entitled to:

(a) Be informed whether personal information pertaining to him or her shall be, are being or have been processed;

(b) Be furnished the information indicated hereunder before the entry of his or her personal information into the processing system of the personal information controller, or at the next practical opportunity:

- (1) Description of the personal information to be entered into the system;
- (2) Purposes for which they are being or are to be processed;
- (3) Scope and method of the personal information processing;
- (4) The recipients or classes of recipients to whom they are or may be disclosed;

³ Implementing Rules and Regulations of the Data Privacy Act of 2012, Section 18.

⁴ Data Privacy Act of 2012, Section 3(l).

⁵ *Supra* 2, Section 13(a).

⁶ *Supra* 1, Section 12.

⁷ *Supra* 2, Section 3 (c). ⁸

Idem, Section 19(a)(1). ⁹

Id., Section 19(a).

¹⁰ *Supra* 8.

¹¹ *Supra* 7.

¹² Republic Act No. 10173, August 24, 2016.

- (5) Methods utilized for automated access, if the same is allowed by the data subject, and the extent to which such access is authorized;
- (6) The identity and contact details of the personal information controller or its representative;
- (7) The period for which the information will be stored; and
- (8) The existence of their rights, i.e., to access, correction, as well as the right to lodge a complaint before the [National Privacy] Commission.”

The survey questionnaire gathers data which are excessively disproportionate to the purpose¹³ of the research. The following items should be removed from the questionnaire:

- (1) Marital Status;
- (2) Educational qualification;
- (3) Rank.

It is suggested that the thesis adviser also determine which items in the questionnaire are not necessary or excessive for the purpose of the research.

It is also suggested that the researcher execute the **Non-Disclosure Warranty** attached to this Memorandum.

Yours,

(Sgd.) Elson B. Manahan
Data Protection Officer
University of the Philippines Diliman

¹³ *Id.*, Section 18(c).

UNIVERSITY OF THE PHILIPPINES DILIMAN

NON-DISCLOSURE WARRANTY

The undersigned firmly warrants to not disclose to any party any and all data and information indicated, interpolated, extrapolated, extracted, and processed (the "Information") from the following activity:

Administering a survey to respondents who are "business teachers" of the University of the Philippines Diliman through a written questionnaire

The undersigned firmly warrants to exclusively use the Information for the following purpose (the "Purpose"):

Gather data for the graduate thesis entitled [REDACTED]

The undersigned firmly warrants to strictly protect the privacy of the Information and comply with the Data Privacy Act of 2018, its Implementing Rules and Regulations, and all subsisting and future laws, regulations, and issuances of the National Privacy Commission.

The undersigned firmly warrants to implement necessary security measures to protect the Information, including exercising sufficient organizational, physical and technical security measures. Any unauthorized disclosure, danger, or suspicion thereof shall immediately be reported to the UP Diliman office or unit which provided the Document.

The undersigned firmly warrants to not disclose to any party any generally non-public, confidential information, sensitive information or trade secret directly or indirectly received from the University of the Philippines by virtue of the Purpose.

Printed over Printed Name / Date

**Note: Please attach to this document a copy of the UP ID of the signatory.*