



02 July 2019

ADVISORY OPINION

Reference No. DPO 19-30

FOR : [REDACTED]

SUBJECT : **Data Privacy Compliance of [REDACTED]**

Dear [REDACTED]:

We address your concern on ensuring that the prospective the UP Diliman [REDACTED] [REDACTED] (UP [REDACTED]) is compliant with data privacy regulations.

Copied herein are [REDACTED], the [REDACTED], and [REDACTED], [REDACTED] of the [REDACTED]. They have joint jurisdiction over data privacy matters regarding UP [REDACTED].

Facts

- Your Team was commissioned by the [REDACTED] for the development of a proof-of-concept the UP Diliman [REDACTED] (UP [REDACTED]).
- UP [REDACTED] aims to integrate available pertinent data from disparate information systems in UP Diliman ([REDACTED], [REDACTED], [REDACTED]) to fulfill various **report and data requests** from different UP Diliman offices.
- Specifically, a faculty member can log-in to the system and will see his/her faculty profile containing but not limited to the following information:
 - a) Basic Information (e.g., name, employee number, birthdate, address, contact information, unit/department)
 - b) Appointment History (e.g., designation, start date, end date, salary)
 - c) Student Profile of Faculty (e.g., student id, last student term, start date)
 - d) Student Evaluation of Teaching (e.g., student term, class, SET score)
 - e) Publications (e.g., title of publication, date of publication, publisher)
 - f) Projects (e.g., project title, project leader, grant name, amount, duration)

Inquiries

- “we would like to ensure further that our team and the processes that we do for the success of the project are following the Data Privacy rules of the University”
- “we also ask if your office has standard consent forms or other relevant forms that we can use for the system”

Advisory Opinion

The UP ██████ team should comply with data privacy principles, conduct all actions in line with relevant UP Diliman Privacy Policies, respect the rights of data subjects, observe the UP Diliman Data Protection Guidelines for Work Processes, and coordinate with relevant Privacy Focal Persons.

A consent form is not required as long as an official formal written declared purpose for UP ██████ – *strictly in line with UP Diliman’s legitimate interests* – is transparently communicated to data subjects.

Discussion

Data Privacy Regulations that should be complied with

Data Privacy Principles

On the onset, your team should comply with the fundamental privacy principles of transparency, legitimate purpose, and proportionality:¹

- **Transparency** – All data subjects² should be fully informed of the nature, purpose, and extent of the processing of their personal data.
- **Legitimate Purpose** – It is strongly suggested that you formulate an official formal written declared *purpose* for your project. Your purpose must be in pursuance of the legitimate interests of UP Diliman.³ Your data subjects must also be informed of this purpose for processing their personal data.

¹ Implementing Rules and Regulations of the Data Privacy Act, Section 18.

² “Data Subjects” refer to students, parents, guardians, faculty, visiting faculty, staff, Research, Extension and Professional Staff (REPS), UP contractual personnel, Non-UP contractual personnel, retirees, applicant students, applicant faculty, applicant staff, researchers, research subjects, patients, clients, customers, alumni, donors, donees, contract counterparties, partners, subcontractors, outsourcees, licensors, licensees and other persons with a juridical link with UP Diliman. *Please see the [UP Diliman Data Subject Rights and Responsibilities](#).*

³ UP Diliman Privacy Policy, Section II.

- **Proportionality** – The personal data that you collect, store, use, retain, disclose, dispose or otherwise process should be proportionate to your *purpose*. That is, you should only process data to the *minimum* extent necessary to achieve your purpose.⁴

UP Diliman Privacy Policies

All decisions, actions and omissions of your team should be in compliance with the following privacy policies:

- **UP Diliman Policy for faculty, including visiting faculty** at <https://upd.edu.ph/wp-content/uploads/2019/03/Privacy-Policy-for-Faculty.pdf>
- **UP Diliman Policy for staff, REPS and contractors** at <https://upd.edu.ph/wp-content/uploads/2019/03/Privacy-Policy-for-Staff.pdf>

Respect for the rights of data subjects

We cannot emphasize enough the need to exercise genuine *respect* for the rights of data subjects. Please strictly observe the rights of data subjects in the **UP Diliman Data Subject Rights and Responsibilities** at <https://upd.edu.ph/wp-content/uploads/2019/02/UP-Diliman-Data-Subject-Rights-and-Responsibilities.pdf>.

For legal guidance on the rights of data subjects, you may refer to Rule VIII of the Implementing Rules and Regulations of the Data Privacy Act of 2012.⁵

Work Guidelines

In your team's conduct in your day-to-day work, please ensure that your people and your practices adhere to the UP Diliman Data Protection Guidelines for Work Processes at <https://upd.edu.ph/wp-content/uploads/2019/04/Data-Protection-Guidelines-for-Work-Processes.pdf>. Generally, the guidelines to be observed are the following:

- (1) Be prudent and discreet;
- (2) Do not disclose to non-UP parties;
- (3) Organize your files;
- (4) Use official communication channels; and
- (5) Trust and follow the process.

Coordinate with your Privacy Focal Persons

Under Office of the Chancellor Memorandum No. 18-022, Privacy Focal Persons have jurisdiction over privacy matters of their respective UP Diliman units and offices. The UP [REDACTED] team is fortunate because in your case, [REDACTED] and [REDACTED] are competent Privacy Focal Persons who can address your privacy concerns.

⁴ Implementing Rules and Regulations of the Data Privacy Act of 2012, Section 37.

⁵ National Privacy Commission, August 24, 2016.

Standard consent forms

If the UP [REDACTED] team can formulate an official formal written declared *purpose* for your project and if all acts of the team are strictly in line with this purpose, then consent is not required because your processing is justified by UP Diliman's legitimate interest.

For personal information that you will process, the Data Privacy Act of 2012⁶ provides:

"SEC. 12. Criteria for Lawful Processing of Personal Information. – The processing of personal information shall be permitted only if not otherwise prohibited by law, and when at least one of the following conditions exists:

x x x

*(f) The processing is necessary **for the purposes of the legitimate interests pursued by the personal information controller** or by a third party or parties to whom the data is disclosed, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution."*

[Emphasis supplied]

For sensitive personal information that you will process, the Act states:

SEC. 13. Sensitive Personal Information and Privileged Information. – The processing of sensitive personal information and privileged information shall be prohibited, except in the following cases:

x x x

*(f) The processing concerns such personal information as is necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings, or the establishment, exercise or defense of legal claims, or **when provided to government or public authority.***

[Emphasis supplied]

However, please ensure that personal data is only transmitted from one UP Diliman unit to another, that is, no personal data is transmitted outside of UP Diliman. As a single juridical entity, UP Diliman is a single Personal Information Controller.⁷ Any transmission of personal

⁶ Republic Act No. 10173.

⁷ Data Privacy Act of 2012, Section 3(h).

data from one UP Diliman unit to another is not disclosure to a third party as long as the disclosure is the minimum extent necessary for to achieve the purpose of your project.⁸

Instead of consent forms, your team should exercise *transparency* with your data subjects as discussed above. Your data subjects must be aware of the nature, purpose, and extent of the processing of their personal data, including the risks and safeguards involved, their rights as a data subjects, 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.⁹

You may refer to the UP Diliman General Privacy Notice at <https://upd.edu.ph/privacy/notice/>. as a guide on making your data subjects aware of the nature, purpose, and extent of the processing of their personal data.

We trust that we have addressed your inquiries. For further concerns, you may reach out to your Privacy Focal Persons.

Yours,

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

⁸ *Supra*, 4.

⁹ Implementing Rules and Regulations of the Data Privacy Act of 2012, Section 18(a).