



19 July 2019

ADVISORY OPINION

Reference No. DPO 19-32

FOR : [REDACTED]
[REDACTED]

CC : [REDACTED]

SUBJECT : **Data Privacy Implications of Proposed
Parent/Guardian Grade Notification System**

Dear [REDACTED]:

We address your request to the [REDACTED] for guidance on the proposed system to inform parents and guardians of grades of students.

Copied herein is [REDACTED], the Privacy Focal Person our home college having primary privacy jurisdiction of the matter.

Facts

- The [REDACTED] is proposing to implement a system of sending grades of students to their parents or guardians at the end of each semester through email.
- The system is voluntary and the written consent will be requested from students at the beginning of each semester through registration advisers.
- [REDACTED] requested for guidance from the [REDACTED] which in turn referred the matter to the UP Diliman Data Protection Officer.

Concern

- What are the measures to be taken to ensure that the implementation of the system is compliant with data privacy laws and regulations?

Advisory Opinion

██████████ is correct to obtain the consent of students. For minor students, the consent of the parent or guardian should be obtained as well.

It is also an option indicate in the consent form that the student consents to the sending of grades starting from the incoming semester and until the student graduates.

The faculty and staff who will process the grades of the students 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 the ██████████'s Privacy Focal Person.

Discussion

Consent Forms

Grades of students are educational information which are classified as *sensitive* personal information.¹ Sensitive personal information have stricter requirements before they can be processed. ██████████'s decision to obtain the consent of students is good as it will do away with the ██████████ justifying why sending of grades is justifiable given the stringent requirements of the Data Privacy Act of 2012.

However, students below the age of 18 have limited capacity to act for themselves.² Hence, it is suggested that the consent form also indicate that for students who are minors, the consent of their parent or guardian is also obtained by signing the same form.

In drafting the consent form and providing copies to students, please comply with the following requirements:³

1. **Consent must be freely given.** The consent of the student (or the parent or guardian) should not be a requisite to enrollment or any other right or privilege the student should reasonably be afforded to.
2. **Consent must be specific.** The consent form should be specific on what will be disclosed (i.e. all final grades for each semester), to whom it will be disclosed (i.e. to the parent or guardian), and the manner of disclosure (i.e. email).
3. **Consent must be informed.** The student must be informed of ██████████'s project. It is suggested that registration personnel be trained to inform students why a consent form is being handed to them.

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

² Civil Code of the Philippines, Sections 38-39.

³ *Idem*, Section 3(b).

4. **There must be an indication of will.** This is achieved by obtaining the signature of the student (or for minor students, the signature of the parent or guardian as well).
5. **There must be evidence of consent.** Please ensure that the accomplished consent forms are properly stored as these are our evidences that [REDACTED] complied with legal requirements.

It is also an option indicate in the consent form that the student consents to the sending of grades starting from the incoming semester and until the student graduates. This way, we can minimize the repetitive task of having students sign forms at the start of each semester.

Please note that students, parents and guardians have the right to “withdraw consent”⁴. Hence, the system should have a mechanism to cease sending grades if consent is withdrawn. For minor students, the signature of a parent or guardian is necessary to withdraw consent.

Security Measures

The data processing system/s to receive, store and transmit the grades should have physical, organizational, and technical security measures⁵ to protect data from an event or occurrence that affects or tends to affect data protection, or may compromise the availability, integrity and confidentiality of personal data, including incidents that would result to a personal data breach⁶.

Since [REDACTED] will use a technology-dependent system, the following technical security measures are recommended:⁷

- a) A security policy with respect to the processing of personal data;
- b) Safeguards to protect their computer network against accidental, unlawful or unauthorized usage, any interference which will affect data integrity or hinder the functioning or availability of the system, and unauthorized access through an electronic network;
- c) The ability to ensure and maintain the confidentiality, integrity, availability, and resilience of their processing systems and services;
- d) Regular monitoring for security breaches, and a process both for identifying and accessing reasonably foreseeable vulnerabilities in their computer networks, and for taking preventive, corrective, and mitigating action against security incidents that can lead to a personal data breach;
- e) The ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
- f) A process for regularly testing, assessing, and evaluating the effectiveness of security measures;

⁴ Implementing Rules and Regulations of the Data Privacy Act, Section 19(b)(1).

⁵ *Idem*, Section 25.

⁶ *Id.*, Section 3(s).

⁷ *Id.*, Section 28(g).

- g) Encryption of personal data during storage and while in transit, authentication process, and other technical security measures that control and limit access.

Guidelines for concerned faculty, staff and registration assistants

The faculty, staff and registration assistants involved in developing and implementing the system should comply with the fundamental privacy principles of transparency, legitimate purpose, and proportionality:⁸

- **Transparency** – Students, parents and guardians should be fully informed of the nature, purpose, and extent of the processing of grades (i.e. they will be sent via email).
- **Legitimate Purpose** – It is strongly suggested that ██████████ formulates an official formal written declared *purpose* of ██████████'s initiative. It is suggested that this purpose be written in the consent form.
- **Proportionality** – ██████████ should only process data to the *minimum* extent necessary to achieve your purpose.⁹ To this end, the consent form should only ask for information necessary to send grades to parents (e.g. name of student, student number, name of parent, email address of parent).

UP Diliman Privacy Policies

All decisions, actions and omissions of the faculty, staff and registration assistants involved in ██████████'s initiative should be in compliance with the following privacy policies:

- **UP Diliman Policy for Student, Parents and Guardians** at <https://upd.edu.ph/wp-content/uploads/2019/03/Privacy-Policy-for-Students-Parents-and-Guardians.pdf>
- **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>.

Work Guidelines

Please ensure that the faculty, staff and registration assistants involved in the development and implementation of the system 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.

⁸ Implementing Rules and Regulations of the Data Privacy Act, Section 18.

⁹ *Idem*, Section 37.

Coordination with Privacy Focal Person

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 College of ██████████ is fortunate because in your case, ██████████ is a vigilant and competent Privacy Focal Person to assist ██████████ in privacy concerns.

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.¹⁰ Any transmission of personal 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 ██████████'s initiative.¹¹

Yours,

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

¹⁰ Data Privacy Act of 2012, Section 3(h).

¹¹ Implementing Rules and Regulations of the Data Privacy Act of 2012, Section 37.