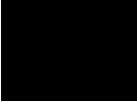




27 July 2020

ADVISORY OPINION

Reference No. DPO 20-15

FOR : 

SUBJECT : **Announcement on Graduates**

Dear :

Thank you for keeping a watchful eye on data protection as the  of .

General Rule: Names and photos may not be posted

Unless there is consent from the concerned students, it is unlawful to post the names and photos of graduating students in Facebook or similar platforms for the following reasons:

First, disclosing that an individual will graduate is disclosing the educational information of that individual. Educational information is classified by Section 13 of the Data Privacy Act of 2012 as *Sensitive Personal Information*. The general rule is that save for limited exceptions in the law, Sensitive Personal Information may not be processed or disclosed.

Second, photos of individuals allow their identities to be reasonably ascertained by those who will see the photos. Any information that may be used to reasonably ascertain identities - such as photos - are *Personal Information*. The processing and disclosure of Personal Information is permitted only when one of the conditions under Section 12 of the Data Privacy Act exists.

Third, under the privacy principle of *proportionality*, personal information shall be processed only if the purpose of the processing could not reasonably be fulfilled by other means. The "purpose" of announcing the identities of graduates may be achieved by other means less intrusive to the privacy of those concerned. A practical yardstick is to put ourselves into the position of the most reserved of the students: would that student feel that his/her privacy is violated if he/she sees her name or photo in a Facebook post?

Consent

We hence suggest that prior to any posting of names and photos in Facebook or other similar platforms, the consent of the concerned students be obtained. For consent to be valid, the following requisites should all be present:

1. Freely given - the students must have a real choice and not feel pressured;
2. Specific - the definite purpose of processing must be clearly explained in the consent form or consent statement;
3. Informed - the nature, purpose, and extent of the processing should be communicated to the student;
4. Indication of will - there should be an affirmative act from the student to signify consent; implied consent is invalid; and
5. Evidenced - there must be written, electronic, or other recorded means that consent was expressed and obtained.

Please feel free to reach out for clarifications or further concerns.

Thank you.

(Sgd.) Elson B. Manahan
Data Protection Officer
University of the Philippines Diliman
privacy.upd.edu.ph
upd.edu.ph/privacy