



18 May 2021

Advisory Opinion

Reference No. DPO 21-04

FOR : ██████████
RE : Basic Information Sheet Review

Dear ██████████:

Our sincere apologies for the late revert.

We write in relation to your request for a review of the ██████████'s (██████████) Basic Information Sheet (BIS), a form that will be filled up by the students who intend to seek the counselling services from your unit, which will be created in a digital format using Google Forms.

We understand that the shift to Google Forms will benefit both the student and assigned ██████████ (██████████). For the former, it will be easier to accomplish, rather than filling up an actual form. For the latter, it will be easier to manage, access, and refer to, especially during emergency situations.

Processing of personal information and the data privacy principles

Republic Act No. 10173 or the Data Privacy Act of 2012 sets two major requirements for the processing of personal information: First, it must be in compliance with the provisions of the said law and other laws allowing the disclosure of personal information; and Second, it must adhere to the data privacy principles of **transparency, legitimate purpose, and proportionality**.¹ Briefly, these principles are discussed as follows:

- a. ***Transparency*** requires that the data subject must be aware of the nature, purpose, and extent of the processing of his or her personal data.² Any information related to the processing of the same should be in a format that is easy to read and understand.³

This means that the students must be informed of the type(s) of personal information that will be collected from them and processed by the ██████████, the reason why the ██████████ will process such information, who will have access to such information, and until when will the ██████████ retain it.

¹ Section 11

² The term "personal data" covers both personal and sensitive personal information

³ Section 18 (a), Rule IV, Data Privacy Act of 2012 Implementing Rules and Regulations (IRR)

- b. Legitimate purpose dictates that the processing of information should be compatible with the specified purpose. Moreover, it should not be contrary to law, morals, or public policy.⁴

This means that the processing of the students' personal data through the BIS should not be contrary to law, morals, and public policy. Moreover, it must be in line with the existing University of the Philippines Diliman policies and [REDACTED] mandate.

- c. Proportionality mandates that the processing of personal data should be adequate, relevant, suitable, necessary, and not excessive in relation to the declared purpose. It should be processed only if the purpose of the processing could not be reasonably fulfilled by other means.⁵

This means that the [REDACTED] should collect and process personal data that are relevant, suitable, and necessary to achieve the purpose that was declared to its data subjects. Moreover, if there are less invasive means of processing personal data to achieve the declared purpose, then such means should be adopted instead.

The BIS collects personal and sensitive personal information from the data subject. Thus, the Office highly encourages that the collection and subsequent processing be in line with the aforementioned data privacy principles.

Privacy Notice

UP Diliman Data Protection Office Advisory No. 20-03 lays down the distinctions among data privacy issuances such as a privacy notice and a consent form. The former is described as:

*“A privacy notice refers to the “statement made to a data subject that describes how the organization collects, uses, retains and discloses personal information.” A privacy notice is also often referred to as a privacy statement or fair processing statement. **It is specific to each particular endeavor, project, document, activity or event of an organization.** For example, a privacy notice at the footer of an email is a specific notice for that email notifying the reader that such particular email is private.”⁶ (emphasis supplied)*

A privacy notice is a form of adherence to the data privacy principle of transparency. It aims to explain to the data subject what the organization, or in this case, the [REDACTED], does with the information it collects and processes.

We strongly suggest the placement of a privacy notice *at the beginning* of the Google Form. This will properly apprise the students on the nature, purpose, and extent of the collection and processing of their personal information and allow them to make an informed decision on whether to proceed with the form.

We submit that the current notice placed at the beginning may be improved through the following:

- a. Identifying the nature of information that will be collected;

E.g.: Contact Information such as your name, email address, mobile number;

⁴ Section 18 (b)

⁵ Section 18 (c)

⁶ Citing National Privacy Commission's *NPC Privacy Tool Kit: A Guide for Management & Data Protection Officers*, 3rd ed., 2018

Educational Information such as where you studied in elementary, high school, Whether you've earned units in schools other than UP Diliman;

- b. The reason why these information are being collected. For this aspect, we suggest that the wording with respect to the use of the personal data collected be more particular and reflective the objectives of the BIS;
- c. Until when the [REDACTED] will hold on to the information provided; and
- d. Security measures that will be undertaken by the [REDACTED] and [REDACTED] to ensure the security and privacy of the information provided;

E.g.: Only your unit's designated [REDACTED] shall have access to the information you have provided.

Consent Statement

Consent, under the DPA of 2012 is defined as any freely given, specific, and informed indication of will whereby the data subject agrees to the collection and processing of personal information pertaining or relating to him or her. It may be evidenced by written, electronic, or recorded means.⁷

A consent statement is a section forming part of a broader document to obtain informed consent related to process personal information. It provides the necessary details in relation to the processing of one's personal information, such as, but not limited to, what personal information is needed by the organization, why it is being collected, and how it will be used.⁸

We humbly submit that the clause found at the beginning of the Google Form and which was previously placed at the end of the BIS in PDF form be revised to be more in line with the Data Privacy Act.

Consent to the processing of personal data must be unbundled. This means that the unit concerned must not obtain consent for matters related to data privacy as part of the same notice as the consent for other matters not related to data privacy.⁹ The use of an unbundled consent form or granular consent statements is strongly encouraged.

The National Privacy Commission dictates that "granularity of consent requires that in the event of multiple purposes, **different purposes must be unbundled**, and separate consent statements must be obtained for each purpose".¹⁰

However, this does not mean that for every particular purpose, there should be a separate consent statement. The [REDACTED] may identify which purposes may be grouped together or separated, based on what is reasonably necessary to achieve the declared purpose of processing.¹¹ This gives the consent form a simplified format where in the specific use or purpose of the data collected and processed is shown. This will allow the data subject to carefully go through the items requiring his consent and in turn, provide an informed choice. It

⁷ See Note 6

⁸ Ibid.

⁹ Ibid.

¹⁰ NPC Advisory Opinion No. 2019-034

¹¹ Ibid.

is suggested that a check box be placed to ensure that the data subject explicitly consented to the processing of his personal data for each particular purpose.¹²

Lastly, we strongly suggest the placement of the privacy notice and consent form at the beginning of the consent form before any personal information (i.e., email) be collected. This is to ensure that the data subject has fully understood and consented to the terms of the processing before he or she proceeds with the BIS.

Compliance with pertinent University Policies

We understand that one of the key considerations in having the BIS in Google Forms is to make it easier for the students to accomplish it. In turn, it would also be easier for the unit's designated [REDACTED] to access the form, especially in emergency cases.

In order to ensure the security and privacy of personal information, we kindly suggest the following:

- a. Ensure that the Google Form can be accomplished by the students through their UP Mail accounts only;¹³
- b. The Google Form should be made using the [REDACTED]'s official UP Mail account;¹⁴
- c. Ensure that only the authorized [REDACTED] personal shall have access to the forms;
- d. Observance of the [UP Diliman Information Security Policy](#) and [UP Diliman Organizational and Physical Security Policy](#) to prevent any unauthorized access, disclosure, or processing of personal data.

We hope to have enlightened you on the matter. Please feel free to reach out for clarifications or further concerns.

Sincerely,

(Sgd.) Atty. Regine Estillo
Legal Officer/Data Protection Officer
Data Protection Office
University of the Philippines Diliman

¹² National Privacy Commission Advisory Opinion No. 2018-72

¹³ University of the Philippines Office of the President Memorandum No. TJH-2019-07A requires the mandatory use of UP Mail by the entire UP Community in accessing data processing systems

¹⁴ Ibid