



23 March 2019

ADVISORY OPINION

Reference No. DPO 19-09

FOR : **[Redacted]**
[Redacted]

SUBJECT : **Consent forms for administrative processes**

Dear [Redacted]:

Thank you for your kind support to our data protection initiatives. We appreciate your good suggestion to implement consent slips – appropriately scoped or limited – for everyday administrative processing.

Consent Forms

We are one with you that there should be a method to allow our University to handle and process documents containing personal information. This is the reason why we at UP Diliman anchor our right to process documents containing personal information on three (3) foundations:

First, under the Data Privacy Act of 2012,¹ UP Diliman's official acts of processing documents justifies the attendant processing of personal information. We kindly note that under the law, obtaining consent is only one of six permitted instances to process personal information. Under the Data Privacy Act, a Personal Information Controller such as UP Diliman may validly process personal information if "the processing is necessary for the purposes of the legitimate interests pursued by the personal information controller".² Even without consent, we are authorized to process documents because of our legitimate interest to perform the University's obligations to staff, faculty, students and others linked to UP Diliman.

In the case of disbursement vouchers, we do not need consent to conduct necessary acts of processing (such as creation and transmission of vouchers) because UP Diliman is pursuing its legitimate interest paying due amounts to obligees. Hence, we do not need consent to perform official and regular acts related to the processing of disbursement vouchers.

Second, under the Implementing Rules and Regulations of the Data Privacy Act, UP's fulfillment of its functions under its statutory mandate is exempt from the data privacy

¹ Republic Act No. 10173.

² *Idem*, Section 12(f).

prohibitions.³ Under Act No. 1870 and Republic Act No. 9500, UP is mandated to exercise the powers and functions to be a “university for the Philippine Islands” and to be the country’s “national university”⁴. To this end, UP is granted by law its own corporate powers,⁵ including management of corporate funds. Acts of UP in pursuance of its mandate to act as a university and as a corporation are exempt from the Data Privacy Act.

In the case of fulfilling its financial obligations as a corporation such as processing disbursement vouchers, UP is exempted from data privacy prohibitions because it is merely fulfilling its statutory mandate.

Third, as staff, faculty, students and others linked to UP Diliman are obligated to comply with administrative issuances, all are required to comply with the UP Diliman Privacy Policy promulgated under Office of the Chancellor Memorandum No. 19-061. The UP Diliman Privacy Policy defines the personal data that may be processed by UP Diliman, laying out the justifications and indicating the manner of processing.

In the case of staff and faculty, their disbursement vouchers may be processed as it is in line with UP Diliman’s management of its internal and external affairs as a juridical entity and as an instrumentality of the government. Since staff and faculty are bound by Office of the Chancellor Memorandum No. 19-061, then there is no need to obtain their individual consents for each act of processing disbursement vouchers.

With the above three (3) reasons, UP Diliman may validly process (create, transmit, etc.) disbursement vouchers even without the consent of the payee.

Return of disbursement voucher

We acknowledge that we are not aware of the full context of the situation but please allow us to assist by rendering advice based on our limited knowledge of facts.

If the staff who prepared the disbursement voucher asking for its return (to make copies) was acting in the regular performance of official duty, then the staff may validly request for the return of the disbursement voucher. There is no “disclosure” to speak of because UP Diliman is a single juridical entity and passing of information from one member of the [Redacted] to another is not “disclosure” to an external party.

If the processing of the disbursement voucher is now in the stage where the staff who previously handled it no longer has a hand with the current stage of the processing, then the staff cannot break protocol by asking for its return. Although it may seem harmless because the staff already saw the contents of the voucher, data privacy requires that there should be “organizational security measures”⁶ by following a “procedure that limit the processing of data”⁷ such that there is a strict series of steps in processing. Each step is a separate act of processing and if a staff is already done with a step, there can be no “excessive”⁸ processing from that staff. The rationale of the law is that it is not for each and every staff to determine

³ Implementing Rules and Regulations of the Data Privacy Act of 2012, Section 21 (f).

⁴ Republic Act. No. 9500, Section 2.

⁵ Act No. 1870, Section 6.

⁶ Implementing Rules and Regulations of the Data Privacy Act of 2012, Section 26.

⁷ *Idem*, Section 26(e)(2).

⁸ *Id.*, Section 18(c).

which acts are harmless – all have to abide by a procedure. This is to ensure that there is a stable and traceable “data life cycle”⁹ of all information flowing in an organization.

If the staff was acting beyond procedure, then the request for the disbursement voucher can be only done through the consent of the payee. There can be no pre-signed consent form for this because it does not name the specific person authorized by the payee to receive the disbursement voucher.

It is not our intent to pre-judge or oversimplify issues as we are sure there is a deeper context to the situation which we may not be aware of. In any case, we hope that our explanation sheds light into the matter.

We again thank you for your initiative to properly administer data privacy in our processes. For your kind information, this year’s UP Diliman Data Privacy Symposium¹⁰ has the theme Rooting Privacy in Organic Foundations. We identify these “foundations” to be our people and processes. Hence, we laud your advice as it is on point with our thrust that privacy should be rooted in everyday administrative processing.

Please feel free to reach out for additional concerns.

Yours,

Elson Manahan
Data Protection Officer
University of the Philippines Diliman

⁹ National Privacy Commission, Data Privacy Toolkit, 3rd ed. (2018).

¹⁰ To be held on 10 April 2019 at 3/F Melchor Hall, UP Diliman Campus.