



24 April 2019

ADVISORY OPINION

Reference No. DPO 19-17

FOR : [Redacted]
[Redacted]

SUBJECT : **Access to Case Files of Faculty Member**

Dear [Redacted]:

We respond to your inquiry on whether members of the members of the evaluating committee for a grant allowed to see the documents pertaining to an ongoing case of a faculty member who is applying for the said grant.

Facts

As communicated in your email dated 16 April 2019, the facts are:

- The faculty member has an ongoing case filed against him/her for allegedly falsifying receipts in liquidation of research grants given to him/her by an external institution. A few years ago, the [Redacted] endorsed the case to the UP [Redacted] with recommendation of filing a case against the faculty member. No updates on the case has been received since then.
- Currently, the said faculty member is applying for a research dissemination grant in the [Redacted]. The evaluation committee, composed of department chairs, directors and program coordinators of the [Redacted] and whom most members are having general knowledge of the pending case of the faculty, voted in majority on NOT endorsing or recommending the faculty member for the grant. Those who voted on not endorsing the application argued that the faculty member who has a pending case on alleged dishonesty, which is taken as a serious matter, must be cleared of the case first in order for her to be endorsed for the grant. however, the guidelines on application for the grant, which is in the attached file, does not mention ineligibility of faculty.
- Upon receiving the recommending decision of the evaluation committee, as the chairman of the committee must act on the recommendation you are the leader of the project that awards the grant, and this must under the guidance and concurrence of the Dean of [Redacted] who serves as the leader of the program where the project belongs. By default, the incumbent Assoc. Dean for [Redacted] of [Redacted] becomes the project leader and the incumbent Dean becomes the program leader.

- It is viewed that some details of the case may be important in coming up with the right decision on the application, but it is also understood any action in obtaining information must be in accordance to Data Protection Guidelines of the University. Hence, we are having this inquiry. You will be convening the committee and invite the Dean on 26 April 2019 to deliberate further on the application. If accessing or seeing the case documents by the committee is not allowed, we will have our meeting without those documents.

Issue

Can members of the evaluating committee view the case files of an applicant's alleged falsification of liquidation receipts submitted to an external research grant?

Advisory Opinion

No, the faculty member's case files contain personal information which may not be disclosed by the hearing tribunal to the evaluating committee. When the faculty member submitted to the jurisdiction of the tribunal which handled the case, the faculty member's expectation was that all personal information processed by the tribunal were only for resolving the case – and not for disclosure in future circumstances such as the committee's evaluation.

However, the evaluating committee may request the faculty member to give written consent to allow the committee to view the case files. Depending on the official mandate of the committee, it may even *require* all applicants to give their consent to view files of their previous and current cases. Requesting or requiring all applicants to give their consent will avoid allegations that the committee is unfairly focusing on just one applicant.

Refusal of the faculty to give written consent will force the committee to factor in its evaluation the *uncertainty* that the faculty member may have committed falsification.

Please feel free to reach out for additional concerns.

Yours,

Elson Manahan
Data Protection Officer
University of the Philippines Diliman

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