Republic of the Philippines
NATIONAL PRIVACY COMMISSION

PRIVACY POLICY OFFICE
ADVISORY OPINION NO. 2020-027[1]

2 July 2020

[redacted]

Re: ADMISSIBILITY OF PERSONAL DATA SHEET IN AN ADMINISTRATIVE INVESTIGATION

Dear [redacted]

We write in response to your request for an advisory opinion received by the National Privacy Commission (NPC) which sought to clarify matters relating to an official/faculty member's Personal Data Sheet (PDS) to be used as evidence in an administrative investigation vis-à-vis the provisions of the Data Privacy Act of 2012[2] (DPA) and NPC Advisory No. 2017-02.[3]

We understand that a complaint was filed with the Civil Service Commission (CSC) by the Head of Human Resource Management Office (HRMO) of your University against the Vice President of Academic and Student Affairs, for alleged misrepresentation of the contents of and false statement of material facts in the daily time record (DTR). Attached to the complaint was the PDS as evidence that respondent was attending various trainings and seminars contrary to his claims in his DTR that he was in the University's premises.

Given the forgoing, you sought resolution for the following matters:

1) Whether or not the PDS (which was obtained without observing the procedures and protocols prescribed in NPC Advisory No. 2017-02 dated 3 April 2017) can be accepted as an admissible evidence to the administrative investigation to be conducted by the Appointing/Disciplining Authority; and

2) Whether or not the circumstances and issues surrounding the instant case are within or outside the coverage of NPC Advisory No. 2017-02 dated 3 April 2017.

[1] Tags: Personal Data Sheet; NPC Advisory No. 2017-02; administrative investigation; admissibility; evidence
[2] An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, Creating for this Purpose a National Privacy Commission, and for Other Purposes [Data Privacy Act of 2012], Republic Act No. 10173 (2012).
[3] National Privacy Commission, Access to Personal Data Sheets of Government Personnel [NPC Advisory No. 2017-02] (3 April 2017).

Personal Data Sheet; access; NPC Advisory No. 2017-02

A PDS is an official document required of a government employee and official and is the repository of all information regarding his or her personal background, qualification, and eligibility.[4] Because the PDS contains sensitive personal information, its processing, which includes disclosure, may find basis under Section 13 of the DPA, particularly Section 13(b), which recognizes the processing that is provided for by existing laws and regulations, and Section 13(f) when such personal information is provided to government or public authority.

While access to the PDS may be allowed, the same may still be regulated, taking into consideration a government official or employee's right to data privacy. Thus, in NPC Advisory No. 2017-02, the NPC laid down the guidelines in resolving requests for access to a PDS as follows:

1. The information requested falls under matters of public concern;
2. The individual requesting for personal data has declared and specified the purpose of his or her request;
3. The declared and specified purpose is not contrary to law, morals, and public policy; and
4. The personal data requested is necessary to the declared, specified, and legitimate purpose.

However, the above NPC Advisory contemplates the situation where the request for access is coming from a third party or the public.

In this case, the PDS is already under the custody of the Head of the HRMO of the University, presumably since the HRMO maintains these employee files as part of its core function and as required under the applicable CSC rules and regulations. Thus, the NPC Advisory is not squarely applicable to the case at hand.

Instead, what will be controlling in this scenario is the University's own internal policies and procedures on access to employee files in relation to the handling of administrative investigations, as well as any other pertinent CSC rules on the matter.

Admissibility of the PDS; administrative investigation; evidence

We note that in the 2017 Rules on Administrative Cases in the Civil Service[5] (2017 RACCS) it is provided that "administrative investigations shall be conducted without strict recourse to technical rules of procedure and evidence applicable to judicial proceedings."[6]

With this in mind, the determination of admissibility of documentary evidence such as the PDS, should be made by the University's Appointing/Disciplining Authority based on the University's internal rules and regulations governing administrative investigations and the 2017 RACCS of the CSC.

[4] Advincula v. Dicen, G.R. No.162403 (2005).
[5] Civil Service Commission, 2017 Rules on Administrative Cases in the Civil Service (July 3, 2017).
[6] *Id.* § 3.

We reiterate our previous Advisory Opinion that the determination of the admissibility of evidence is not within the purview of NPC's mandate.[7]

This opinion is rendered based on the limited information you have provided. Additional information may change the context of the inquiry and the appreciation of the facts.

For your reference.

Very truly yours,

(Sgd.) RAYMUND ENRIQUEZ LIBORO
Privacy Commissioner

[7] National Privacy Commission, NPC Advisory Opinion No. 2019-023 (June 13, 2019).