

FAQS

"SCHOOLS"

apdcat

Autoritat Catalana de Protecció de Dades

FAQS

WHICH PERSONAL DATA BELONGING TO STUDENTS AND PARENTS IS PROCESSED IN SCHOOLS?

That identified by them, directly or indirectly, i.e.: name, surname(s), address telephone, e-mail of the students, parents of students, teachers, staff in the centres, etc.; but also the Spanish ID, the voice, a picture, the current account number, the profession of the parents or the content and the result of the student work and tests.

Data processing can be very diverse. It can cover student academic files to the data on the teaching staff and the administration staff, as well as the data on economic management, medical services, video surveillance, out-of-school activities, etc.

HOW WE PROCESS SPECIAL DATA CATEGORIES (FOOD DIETS, DISCIPLINARY SANCTIONS, RELIGION, FINGERPRINTS, PSYCHOTECHNICAL TESTS ...)

In schools, data are usually processed on: special educational needs; student health data, such as disability, allergies, and intolerances; psychopedagogical data; data on injuries, illnesses, mental disabilities, high abilities and learning disabilities; and biometric data, such as fingerprints, etc.

I. CAN FOLLOWING A SPECIFIC DIET BE CONSIDERED DATA REGARDING A PERSON'S HEALTH OR BELIEFS?

Yes, when diet can be associated with a specific disease or a person's religion. In both cases, we would be faced with special categories of data.

II. CAN A STUDENT CHOOSING THE SUBJECT OF RELIGION BE CONSIDERED PERSONAL DATA REGARDING THEIR RELIGION OR BELIEFS?

No. This data, considered on its own, is not considered special category data.

III. ARE DATA ON DISCIPLINARY SANCTIONS FOR STUDENTS CONSIDERED SPECIAL CATEGORY DATA?

No. The GDPR refers only to criminal sanctions. Nevertheless, and in view of the affect that divulging information associated with disciplinary sanctions can have on the development of minors, and that this is considered a vulnerable group, it is recommended that special care be taken when processing this information.

IV. IS STUDENT CONSENT NEEDED TO RUN PSYCHOTECHNICAL TESTS?

No. Organic Law 2/2006, of 3 May, on education (LOE) excludes the need for consent to process the data needed to exercise teaching or guidance functions.

V. IS CONSENT REQUIRED TO PROCESS THE DATA OF STUDENTS WITH SPECIAL EDUCATIONAL NEEDS?

No. The LOE enables the use of student and family data to give them the attention they need, as long as they are used solely and exclusively for teaching and guidance purposes.

VI. TO COMMUNICATE DATA ON A STUDENT TO A HOSPITAL CENTRE, IF THEY NEED URGENT MEDICAL CARE, IS THEIR CONSENT OR THAT OF THEIR PARENTS REQUIRED?

No. Exceptionally, special categories of data may be processed without consent, when necessary to safeguard the vital interest of the person concerned or of another person, if he is physically or legally incapable of giving his consent.

VII. CAN STUDENT BIOMETRIC DATA BE USED (e.g. FINGERPRINTS) TO CONTROL THEIR TIMING?

No. The centre can use other less invasive mechanisms of the child's personal sphere, such as having teachers do the control.

VIII. CAN THE EDUCATIONAL CENTRE COMMUNICATE TO THE PARENTS OR GUARDIANS THE PSYCHO-PEDAGOGICAL DATA HELD ON THE CHILD'S RECORD?

The communication to parents of academic and psycho-pedagogical data related to the training of non-emancipated minor children is covered by data protection regulations, in accordance with Article 222-37 of Law 25/2010, of 29 July, in the second book of the Civil Code of Catalonia, relating to the person and the family.

SCHOOL SERVICES: DINING ROOM, SCHOOL TRANSPORT, EDUCATIONAL PLATFORMS, CLEANING SERVICES, PAPER DESTRUCTION, MONITORS...

I. IS A COMPANY THAT PROVIDES PSYCHOLOGICAL ASSESSMENT SERVICES ORDERED BY AN EDUCATIONAL CENTRE RESPONSIBLE FOR PROCESSING WHERE THE DATA OF THE ASSESSED STUDENTS IS ENTERED, OR IS IT JUST IN CHARGE OF THE PROCESSING?

If the agreement or contract for the processing provided for in Article 28 of the General Data Protection Regulation (GDPR) is established, then the company is considered to be in charge of the processing. If not, it is responsible for it.

II. WHO IS RESPONSIBLE FOR PROCESSING THAT CONTAINS THE PERSONAL DATA INTEGRATED INTO THE ACADEMIC MANAGEMENT PLATFORM CONTRACTED BY THE EDUCATIONAL CENTRE?

The educational centre is responsible for this processing and the company with which the platform has been contracted is in charge of the processing. It must be regulated by means of an order agreement, in the terms established in Article 28 GDPR.

III. IS THE COMPANY CONTRACTED TO MANAGE THE SCHOOL CANTEEN SERVICE IN CHARGE OF PROCESSING?

Yes, if the company has access to the personal data of students, for example to identify those who must follow a special diet, and the person in charge of processing and the company have signed an agreement pursuant to the provisions established in Article 28 GDPR.

However, if it is not necessary for the company to process personal data, for example because the monitors or other school staff are the ones who verify that the students are enrolled in the service and, if necessary, distribute the special menus, the company is not considered to be in charge of processing.

IV. IF THE PROCESSING ORDER AGREEMENT HAS BEEN ESTABLISHED, WHICH DATA CAN THE STAFF IN CHARGE OF THE SERVICE ACCESS?

The staff in the company in charge of processing can access the data established by the order, which may not be more than what is strictly necessary to provide the service.

V. IS THE COMPANY CONTRACTED TO MANAGE THE SCHOOL TRANSPORT SERVICE ALSO IN CHARGE OF PROCESSING?

If the centre provides information on the identification of students using the service, shifts, stops they will make, etc., the company providing the transport service is considered to be in charge of processing, if the order agreement referred to in Article 28 GDPR is established.

VI. SHOULD THE SCHOOL CLEANING COMPANY SIGN AN AGREEMENT ABOUT BEING IN CHARGE OF PROCESSING?

In the provision of services provided by third parties that must not involve access to personal data, such as cleaning or general maintenance contracts, there is no order to process data.

In such cases, the contract must expressly include a ban on access to personal data and the obligation to maintain the confidentiality of the data that they may accidentally access.

In addition, it is advisable to give information to the staff involved in providing these services, on the risks that their activity may generate for the information system. Also, on other aspects, such as the physical access control system, the process of removing documents and media or the ventilation and cooling conditions necessary for the equipment to work properly.

On the other hand, it is advisable to include in the service provision contract the obligation of the contracting entity to inform the data controller, immediately, of any incident that occurs during the provision of the service that may affect the integrity or confidentiality of personal data.

VII. ARE THE MONITORS CONTRACTED TO DO THE OUT-OF-SCHOOL ACTIVITIES CONSIDERED TO BE IN CHARGE OF PROCESSING?

In principle, if the monitor has an employment relationship with the school, he / she is not in charge of processing, and is instead part of the same centre, like the other workers.

VIII. EACH YEAR AN UPDATED LIST OF STUDENTS USING THE SWIMMING POOL SERVICE IS GIVEN TO THE COMPANY PROVIDING THIS SERVICE. IS IT NECESSARY TO SIGN AN ORDER CONTRACT OR AGREEMENT EACH YEAR?

It is only necessary to sign an agreement or contract when the service is provided. However, if the terms of the order vary substantially, the contract should be amended.

IX. IF THE SCHOOL HIRE A COMPANY FOR THE SELECTIVE COLLECTION AND DESTRUCTION OF PAPER, DOES THE CONTRACT HAVE TO INCLUDE ANY SPECIFIC PROVISION FROM THE POINT OF VIEW OF DATA PROTECTION REGULATIONS?

The school must sign the processing order agreement or contract with this company, since by exercising the entrusted functions it processes the personal information that the documentation may contain.

X. IF THE SCHOOL USES CLOUD STORAGE SERVICES, DO WE NEED AN AGREEMENT TO ORDER PROCESSING??

Yes, providing the documents stored by the educational centre contain personal data. The use of information storage services in the cloud implies that the provider company processes personal data from the databases or systems for which the school is responsible. This processing is considered a way of accessing personal data on behalf of third parties and, therefore, the processing order agreement is required.

XI. IS THE COMPANY CONTRACTED TO MANAGE AN ACADEMIC PLATFORM WITH DIGITAL CONTENT AND COMMUNICATION WITH FAMILIES IN CHARGE OF PROCESSING?

Yes, to the extent that, in order to provide the services offered, the company processes personal data for which the centre is responsible. The order agreement referred to in Article 28 GDPR must be established. Otherwise, if the company accesses this information, it must have another legal basis that legitimises the processing.

XII. DOES THE USE OF THE SERVICES OFFERED BY COMPANIES OPERATING IN THE CLOUD REQUIRE THAT THE EDUCATIONAL CENTRE MAKES AN INTERNATIONAL TRANSFER OF PERSONAL DATA?

Yes, to the extent that the servers on which the personal data for which the educational centre is responsible are stored are located outside the territory of the European Economic Area. In this case, it is necessary to comply with the international transfer regime regulated in the GDPR and the LOP-DGDD, which can be found on the APDCAT website:

http://apdcat.gencat.cat/ca/documentacio/preguntes-frequents/trans-ferencies_internacionals/

USUAL SCHOOL ACTIVITIES

I. SHOULD THE INFORMATION ABOUT THE STUDENTS AVAILABLE TO THE CENTRE BE AVAILABLE TO ALL TEACHERS AND STAFF AT THE CENTRE, IN SHARED FOLDERS?

Teachers are entitled to access their students' academic records for academic purposes. However, this access cannot be indiscriminate, that is, it cannot be open to all teachers at the centre. Each teacher must have access only to the data of the students in respect of whom he must intervene and access to the data of the other students is not justified.

II. CAN THE CENTRE PROVIDE THE DETAILS OF ITS STAFF TO A FINANCIAL INSTITUTION, FOR PAYROLL PURPOSES?

Yes, since data communication is necessary to develop the employment relationship.

III. CAN STUDENT LISTS BE HUNG ON CLASSROOM DOORS THROUGHOUT THE COURSE?

There is the possibility of hanging the lists on the first days of the course, so that students and parents can locate their class. If they have to remain in view from then on, it is recommended that they be hung only inside the classrooms.

IV. APART FROM THE PARENTS, CAN THE REST OF FAMILY MEMBERS ACCESS THE MINOR'S DATA?

No. In principle, the rest of the relatives can only access it if they hold the status of legal representative of the minor.

V. CAN THE SCHOOL PROVIDE PERSONAL DATA TO ANYONE WHO REQUESTS IT BY PHONE?

The communication of data by telephone does not allow, in principle, to verify the identity of the person requesting it, unless a suitable system is established. Therefore, in cases where it is necessary to provide the data, it is necessary to use a system that allows proof of identity, such as that the caller must provide some information only known to the parties involved.

VI. CAN THE SCHOOL PROVIDE A MUSEUM WITH THE DATA OF THE STUDENTS WHO TAKE PART IN A VISIT?

In principle, it is advisable to avoid providing data on students, unless they are strictly necessary for the visit. In this case, you can use the form asking for permission from parents or guardians to participate in the outing to also ask for their consent to communicate the student data to the museum.

VII. CAN A SCHOOL CENTRE COMMUNICATE STUDENT DETAILS TO THE INSURANCE COMPANY WITH WHICH THE SCHOOL INSURANCE IS CONTRACTED?

Yes. If the school has taken out group insurance of this type, the incorporation of the student into the school means that he or she will become insured. This is without prejudice to the fact that the school must inform the students or their representatives about this communication.

VIII. CAN THE SCHOOL COLLECT ANY KIND OF INFORMATION ON STUDENTS WITHOUT CONSENT?

The school may only collect and process data that is appropriate, relevant and necessary for the educational and guidance purpose for which it is collected.

IX. ARE THE MATERIALS CREATED BY THE STUDENTS (DRAWINGS, WRITINGS, ETC.) WITHIN THE FRAMEWORK OF THE SCHOOL'S TEACHING ACTIVITY PERSONAL DATA?

Yes, to the extent that they allow the student's academic or learning activity to be assessed, and even certain aspects of their personality and / or behaviour.

X. CAN THE EDUCATIONAL CENTRE PROCESS THIS TYPE OF DATA? (DRAWINGS, WRITINGS, ETC. THAT THE STUDENTS DEVELOP WITHIN THE FRAMEWORK OF THE SCHOOL'S TEACHING ACTIVITY)

Yes, because the LOE enables the processing of necessary personal data providing it is used solely and exclusively to achieve the teaching and guidance purpose.

XI. CAN A SCHOOL USE PARENTS EMAIL ADDRESS TO SEND INFORMATION ABOUT EXTRACURRICULAR ACTIVITIES ORGANIZED BY THE CENTRE OR BY THE PTA?

Yes, because this is a purpose compatible with the processing of student data.

XII. CAN THE TEACHING STAFF AT AN EDUCATIONAL CENTRE DEMAND THAT A 14-YEAR-OLD MINOR GIVES THEM THE ACCESS CODE TO THEIR SOCIAL MEDIA ACCOUNT AND CONSULT THE CONTENT, WITHOUT THE CONSENT OF THEIR PARENTS OR GUARDIANS?

No. Accessing and consulting the content of a social media account of a student under the age of 14 is, in principle, not part of the centre's educational or guidance role, unless it is an account provided by the centre itself for academic purposes. If the severity of the circumstances requires it, parental or guardian consent is needed.

XIII. DO YOU NEED CONSENT TO CREATE EMAIL ADDRESSES FOR MINORS, AS PART OF A PROGRAM THAT PROMOTES THE USE OF NEW TECHNOLOGIES?

Yes, if this account can be used for purposes that go beyond academic activity. In this case, consent from the data owner, or their parents or guardians if under the age of 14, is required in order to process the data of students who are associated with the creation of an e-mail account, without prejudice to the conditions of use established by the service provider.

However, if it is an email account granted by the centre itself, within the framework of its teaching activity and with a use limited to this purpose, consent is not required.

XIV. CAN THE E-MAIL ADDRESS OF TEACHING STAFF BE USED TO SEND INFORMATION ABOUT TEACHER TRAINING CALLS?

Yes. Processing focused on staff management also include staff training as a purpose.

XV. CAN PRACTICE TEACHERS USE PERSONAL DATA THEY OBTAIN IN THEIR PRACTICE TASK TO DO UNIVERSITY WORK?

No. They need the consent of the data holders or their representatives. If they do not have it, they can use the data if it is anonymized and does not allow identifying the data holders.

XVI. CAN STUDENT DATA BE USED TO MAKE A STUDY ON SCHOOL FAILURE?

Yes, as long as the study is done with anonymized data.

XVII. WHEN THE STUDENT FINISHES HIS STUDIES, FOR EXAMPLE BECAUSE THE SCHOOL ONLY OFFERS PRIMARY OR SECONDARY EDUCATION, CAN THE SCHOOL PROVIDE STUDENT DATA TO OTHER CENTRES SO THAT THEY CAN SEND THEM PUBLICITY?

No, because this is a different form of processing, and therefore a new legal basis needs to be sought, such as consent.

XVIII. CAN THE SCHOOL GIVE PARENT DATA TO A CHILDREN'S MAGAZINE, TO OFFER THEM SUBSCRIPTIONS WITH ADVANTAGEOUS CONDITIONS?

No. This purpose is incompatible with that for which the data were collected and, therefore, parent or guardian consent must be obtained.

XIX. SHOULD PARENTS COMMUNICATE TO THE EDUCATIONAL CENTRE ANY CHANGES AFFECTING THE EXERCISE OF PARENTAL POWER REGARDING CHILDREN IN SCHOOL?

Yes. Failure to have this up-to-date information may affect the centre's proper management and the student's personal information.

XX. WHEN CONSENT IS NECESSARY TO PROCESS THE DATA, SHOULD THE EDUCATIONAL CENTRE ALWAYS HAVE THE AUTHORISATION OF BOTH PARENTS?

Processing the data of a child under the age of 14 can be authorised by either of the parents, as long as they have parental authority. If the child is over the age of 14, their consent is sufficient to process their data, unless a law requires the assistance of the parents or guardians.

XXI. DOES THE SCHOOL NEED ITS EMPLOYEES' CONSENT TO PROCESS THEIR DATA?

No. The centre is legally entitled to collect and process the data of its employees, which is necessary and appropriate for complying with the employment, administrative or civil service relationship established with these employees.

XXII. CAN THE SCHOOL IMPLEMENT A VIDEO SURVEILLANCE SYSTEM TO SAFEGUARD THE SECURITY OF THE PEOPLE, GOODS AND FACILITIES IN THE SAME CENTRE?

Yes, but this data processing must comply with the provisions of the data protection regulations. Among other things, it is necessary to inform about the existence of the recording, before starting to capture images, by means of informative posters, and to provide additional information that must be available to citizens.

ACADEMIC INFORMATION

I. CAN STUDENT QUALIFICATIONS BE DIVULGED THROUGH THE INTRANET?

Grades may be disseminated through the intranet, provided that it is guaranteed that only the parents of the student in question have access to them.

II. AND ON THE SCHOOL NOTICE BOARDS?

No. In this case, it is not possible to enable it without a legal basis, because anybody in the educational community can access these boards.

STUDENT PRE-REGISTRATION AND ENROLMENT

I. CAN THE LISTS OF STUDENTS ADMITTED IN THE PRE-REGISTRATION PROCESS BE PUT ON THE SCHOOL NOTICE BOARD? WHICH DATA CAN IT CONTAIN?

As this is a competitive bidding procedure, Article 45 of Law 39/2015 regulates the publication thereof and provides that the means of communication where successive publications are to be made must be established when the procedure is called.

In accordance with the provisions of the call, it could include the name and surname of the students applying and those admitted to the centre, as well as the graded score they have obtained.

II. CAN THE PARENTS OF A CHILD WHO HAS NOT BEEN ADMITTED IN THE PRE-REGISTRATION PROCESS IN A CENTRE ACCESS THE INFORMATION ALLEGED BY THOSE ADMITTED?

A citizen who has participated in a competitive selection procedure, in this case through the pre-registration of their child in a school, is considered to be a person interested in that administrative procedure and, as such, can have access to the data on the people admitted.

If the purpose of the access is to know the address indicated by other candidates, in order to check whether there has been fraud in the score obtained due to the census, this access is necessary so that citizens can exercise their right to defence.

The data contained in the school pre-registration files, relating to the name, surnames and registration of students who have entered a school centre, cannot be considered intimate data, although the same

file may contain data relating to the privacy of individuals, such as personal or family circumstances. In this case, the body responsible for this data may grant access to the data relating to the address, without the need to disclose the other data that make up the administrative file and which may be considered intimate data.

III. CAN THE DEPARTMENT OF EDUCATION REQUEST INFORMATION FROM A CITY COUNCIL ON THE REGISTRATION IN THE MUNICIPAL REGISTER OF PEOPLE WHO HAVE PARTICIPATED IN THE PRE-REGISTRATION PROCESS, FOR THE PURPOSES OF CHECKING THE TRUTHFULNESS OF THE DATA PROVIDED?

Yes. Article 50.4 of Law 12/2009, of 10 July, on education, establishes that the Education Administration may require the collaboration of other administrations to verify the veracity of the data provided in the education admission processes.

IV. WHAT ARE THE NECESSARY, ADEQUATE AND RELEVANT DATA TO BE PROCESSED IN A STUDENT ADMISSION PROCEDURE?

Apart from the identifying data, especially the address, only the data necessary to determine whether the requirements for allocating the place and making the scale of requests according to the regulations must be processed.

OUT-OF-SCHOOL ACTIVITIES AND PARTICIPATORY ACTIVITIES WITH FAMILIES

I. CAN THE SCHOOL PROVIDE PARENTS WITH THE DATES OF BIRTH OF ALL THE CHILDREN IN THEIR CLASS, TO ORGANISE BIRTHDAYS?

No. Parental or guardian consent is required.

II. CAN THE SCHOOL PROVIDE PARENTS WITH THE CONTACT DETAILS OF THE REST OF THE PARENTS IN THE CLASS, SO THAT THEY CAN COMMUNICATE TO ORGANISE OUT-OF-SCHOOL ACADEMIC ACTIVITIES OR OTHER INITIATIVES TO PARTICIPATE IN SCHOOL LIFE?

No. You need a legal basis to enable it.

III. CAN A SCHOOL PROVIDE THE PTA WITH A LIST OF THE E-MAIL ADDRESSES OF THE STUDENTS' PARENTS TO ORGANISE OUT-OF-SCHOOL ACTIVITIES?

No. There is no legal rule that enables this communication and, therefore, parental consent is required for the school to transfer the data.

IV. CAN THE EDUCATIONAL CENTRE GIVE THE MOBILE PHONE NUMBER OF THE PARENTS OF THE STUDENTS IN A CLASS TO THE CLASS PARENT DELEGATE SO THAT THEY CAN CREATE A WHATSAPP GROUP WITH ALL THE PARENTS OF THE STUDENTS IN THE CLASS IN ORDER TO INFORM THEM ABOUT MEETINGS WITH THE SCHOOL?

No, unless you have the consent of the people affected (parents owning each of the mobile phone numbers).

THE PROCESSING OF PERSONAL DATA BY PFA / PTA

I. SHOULD PFA / PTA REGISTER THEIR FILES BEFORE THE AUTHORITY?

No. The GDPR has removed the obligation to notify the data protection supervisory authority about files in order to register them. On the contrary, new obligations are foreseen, such as running a register on processing activities (RAT). APDCAT has developed a simple application to maintain the RAT:

https://apdc.cat/gencat.cat/ca/documentacio/RGPD/altres_documents_dinteres/Aplicacio-per-gestionar-el-registre-de-les-activitats-de-tractament

II. IS IT COMPULSORY FOR PFA/PTA TO HAVE A DATA PROTECTION DELEGATE?

In principle, it is not necessary (except in the cases of Art. 37.1 of the GDPR), but nothing prevents the PFA / AMPA from designating one voluntarily.

III. DOES PFA / PTA HAVE TO DO AN IMPACT ASSESSMENT (AIPD)?

In principle, it is not necessary to carry out any AIPD if the processing they do does not pose a high risk to the rights and freedoms of individuals, especially when new technologies are used.

IV. AND A RISK ASSESSMENT?

Yes, to determine the security measures to be implemented.

V. CAN PFA / PTA ORDER A THIRD PARTY (ENTITY / COMPANY) TO ORGANISE OUT-OF-SCHOOL ACTIVITIES, THE MANAGEMENT OF ITS WEBSITE OR ADMINISTRATION ACTIVITY?

Yes, but if the provision of this service involves the processing of personal data, the PFA / PTA must sign the corresponding contract, regulated in Article 28 of the GDPR and Article 33 of the LOPDGDD.

COMMUNICATING DETAILS TO PUBLIC ADMINISTRATIONS

I. CAN A SCHOOL CENTRE COMMUNICATE STUDENT HEALTH DATA TO A PUBLIC ADMINISTRATION FOR A STATISTICAL STUDY?

If an educational centre has health data on of its students and a public administration requires them to make a statistical study, the school can communicate this data after anonymization, i.e., avoiding the communication of data to identify those affected, or complying with the requirements of Article 9.2.j) of the GDPR.

II. CAN THE SITUATIONS OF RISK OR PROTECTION OF MINORS DETECTED AT THE SCHOOL BE COMMUNICATED TO THE DEPARTMENT OF LABOUR, SOCIAL AFFAIRS AND FAMILIES?

Yes. Article 100 of Law 14/2010, of 27 May, on the rights and opportunities of children and adolescents, establishes that citizens who are aware of the situation of risk or helplessness in which a child or adolescent finds themselves have the duty to communicate this to the basic or specialised social services or to the department responsible for the protection of children and adolescents, as soon as possible. This same article provides that the confidentiality of the identity of the person making the communication must be guaranteed.

III. DOES THE SCHOOL HAVE TO DEAL WITH THE INFORMATION REQUIREMENTS REGARDING THE STUDENTS MADE BY THE POLICE?

The education centre, as the party responsible for the processing of student data, must respond to the request for information from the police, provided that it is done in a concrete and specific way to prevent a real danger to public safety, or to suppress criminal offenses.

If information on special categories of data is requested, it should only be provided if required within the context of a specific investigation and this information is absolutely necessary to achieve the said purpose.

IV. SHOULD THE SCHOOL PROVIDE DATA ON STUDENTS TO CATSALUT STAFF WHO TRAVEL TO THE SCHOOL TO VACCINATE STUDENTS?

Since it is a compulsory vaccination, parental or guardian consent is required.

V. IN THIS CASE, HOW SHOULD THE PARENTS GIVE CONSENT? IS IT ENOUGH IF THE STUDENT BRINGS THE VACCINATION BOOK TO SCHOOL?

No, in the case of health data, consent must be explicit.

VI. CAN A CITY COUNCIL GIVE DATA FROM THE MUNICIPAL REGISTER OF RESIDENTS TO THE EDUCATIONAL ADMINISTRATION, SO THAT IT CAN REMIND PARENTS WITH MINORS OF A CERTAIN AGE OF THE SCHOOL PRE-REGISTRATION PERIODS?

Yes. Article 16.3 of the LRBRL enables the transfer of census data to other public administrations if the data relating to domicile or residence is relevant.

VII. CAN A COMPANY PROVIDING THE MUNICIPAL DANCE SERVICE COMMUNICATE THE DATA COLLECTED ON STUDENTS TO THE CITY COUNCIL OWNING THE SERVICE?

Yes, if the people from whom the data are collected were duly informed about the municipal ownership of the service at the time of collecting said data, insofar as it is information that must be communicated to the municipal entity in order to perform control functions over the service assigned to it.

MAINTAINING STUDENT DATA

I. TO DETERMINE THE DOCUMENT RETENTION PERIOD IN SCHOOLS, SHOULD THE FORECASTS ON DOCUMENTARY ASSESSMENT IN THE ARCHIVES REGULATIONS BE TAKEN INTO ACCOUNT?

Yes, the National Commission for Accessing, Assessing and Selecting Documents has approved several document assessment tables in the field of education.

II. SHOULD A STUDENT'S DATA BE DELETED WHEN THEY STOP STUDYING IN AN EDUCATIONAL CENTRE?

It is justified to keep the data relating to the academic record permanently. As for the rest of the information, when the centre no longer needs it, it must be blocked and, once the deadlines time barring any responsibilities have passed, it must be deleted.

III. IS IT NECESSARY TO KEEP THE DATA ON PEOPLE WHO HAVE PRE-ENROLLED IN A SCHOOL AND WHO HAVE NOT BEEN ADMITTED?

The document assessment table with Code 133 (DOGC 2279) states that they can be destroyed after five years.

IV. IS IT NECESSARY TO KEEP THE STUDENT DATA COLLECTED WHEN PROCESSING A SCHOLARSHIP?

The document assessment table with Code 93 (DOGC 2117) states that they can be destroyed after three years unless an appeal is lodged. In this case, they must be kept until the resolution is firm.

V. CAN THE EDUCATIONAL CENTRE MEDICAL SERVICE KEEP THE MINOR'S HEALTH DATA COLLECTED BY THE CENTRE'S HEALTH SERVICES, ONCE THEIR SCHOOLING PERIOD AT THE CENTRE HAS FINISHED?

No. The centre should no longer process this data. Therefore, this information must be made available to the student's parents or guardians or, as the case may be, to the student himself. If they do not retrieve it, the information must be deleted.

WHEN IS IT NECESSARY TO REPORT?

I. WHEN CONSENT IS NOT NECESSARY, SHOULD IT ALSO BE INFORMED?

Yes. The duty to provide information must be complied with in all cases, except some of the exceptions provided for in the GDPR.

II. SHOULD THE INFORMATIVE CLAUSE BE INCLUDED IN ALL EMAILS SENT BY THE SCHOOL TO STUDENTS OR THEIR PARENTS OR GUARDIANS?

No. It is not mandatory, if you have already informed them at the time of collecting the data. However, it may be advisable to include it in the e-mails in which the data is requested to be updated or supplemented. It may also be advisable to have it available to those interested, via the website. In this way, people who interact with the school know how data is processed, who is responsible for it and how they can exercise their rights.

III. IF A PRIVATE EDUCATIONAL CENTRE CONTRACTS A COMPANY TO CARRY OUT PSYCHO-PEDAGOGICAL STUDIES, WHO MUST COMPLY WITH THE DUTY OF INFORMATION?

The obligation to inform the people affected corresponds to the person controlling processing, unless the contract contains the instruction that it is the person in charge of processing who does this.

IV. SHOULD PARENTS OF A MINOR BE INFORMED IF SOCIAL SERVICES ARE NOTIFIED ABOUT A RISK SITUATION?

No. Law 14/2010, of 27 May, on the rights and opportunities in children and adolescents, provides for the obligation to make this communication (Art. 100) and, therefore, it is not necessary for the centre to inform the child's parents.

PUBLISHING OR DISSEMINATING STUDENT IMAGES ON THE INTERNET

I. CAN IMAGES OF STUDENTS DOING DIFFERENT ACTIVITIES IN THE CENTRE BE PUBLISHED OR DISSEMINATED ON THE SCHOOL WEBSITE?

The open publication of images of students on the school website is not considered part of the school's teaching and guidance function. Therefore, if you want to publish images of students, you must have the prior consent of parents or guardians, or the students themselves if they are over 14 years old.

However, exceptionally, images may be disseminated without the consent of the persons affected, as in the case of images taken at a public act or event, if the purpose of the dissemination is informative and divulging the celebration of this event, and the image of the students appears as a mere accessory and does not affect their privacy. In any case, it is necessary to inform the interested parties of this dissemination in advance so that they can exercise their right to oppose, if necessary.

However, in the case of minors, it is advisable to always ask for consent.

II. IF THE EDUCATIONAL CENTRE IS AUTHORISED TO USE IMAGES OF A STUDENT FOR THE PURPOSE OF REPORTING SCHOOL ACTIVITIES, CAN THE IMAGES BE USED WITHOUT CONSENT TO PARTICIPATE IN AN ADVERTISING CAMPAIGN?

No. The request for consent must always refer to a specific and explicit purpose or purposes. The request may refer to more than one processing at a time, but all processing must be perfectly determined. If requested at the same time for different purposes, it must be possible to have an independent consent for each purpose. Thus, parents must be able to consent to the centre disseminating the image so as to report on school activities and, at the same time, they must have the possibility of not consenting to other uses of the child's image that go beyond this processing.

III. IS IT ENOUGH TO OBTAIN THE CONSENT OF STUDENTS OR PARENTS OR TUTORS ONCE, OR IS IT NECESSARY TO OBTAIN IT EACH TIME THAT A PHOTOGRAPH IS TO BE PUBLISHED?

Once the consent has been obtained, it is not necessary to revalidate it every time you want to publish an image of the students. The current regulations do not establish any specific period of validity of the consent; in any case, it is good practice for the centre to establish a period of validity for this authorisation and, of course, to obtain the right to revoke it at any time when obtaining consent.

IV. IS IT NECESSARY TO HAVE THE CONSENT TO DISSEMINATE IMAGES OF STUDENTS ON THE CENTRE'S WEBSITE IF THE IMAGES ARE BLURRED OR IT IS A COLLECTIVE PHOTOGRAPH WHERE STUDENTS CANNOT BE IDENTIFIED?

No. If the person affected cannot be identified without disproportionate effort, the image is not considered personal data. Therefore, data protection regulations do not apply.

V. CAN A LIST OF THE STUDENTS IN A CLASS BE DISSEMINATED ON THE INTERNET WHERE EACH STUDENT APPEARS WITH A PHOTOGRAPH?

The incorporation of a student into a class means that the other members can be aware of both their image and their identity. However, access should be limited to students and parents who are part of the group and parents should be informed in advance of this dissemination so that they can exercise the right to oppose.

THE EXERCISING OF STUDENT RIGHTS OVER THEIR DATA

I. CAN A MINOR EXERCISE THE RIGHTS OF INFORMATIVE SELF-DETERMINATION?

Minors over the age of 14 may exercise their rights to access, rectify, delete, limit processing, data portability and oppose or the right to not be subject to automated individual decisions without the permission of their parents or guardians, unless specifically required by applicable law.

That said, there is nothing to prevent the parents or legal representatives of minors over the age of 14 from also exercising these rights without the authorisation of these minors. This is without prejudice to the fact that, in certain cases, the best interests of the child may be justified by limiting the exercise of the rights to informative self-determination by the holders of parental authority.

Children under the age of 14 must exercise their rights to informative self-determination through the representation of their parents or guardians.

RIGHT TO ACCESS

I. HOW CAN A STUDENT KNOW THE INFORMATION THE SCHOOL HOLDS ABOUT HIM/HER PERSONALLY?

Exercising the right to access provided for in the GDPR, by means of a request addressed to the data controller.

If you are under 14, your parents or guardians must exercise the right.

II. CAN PARENTS REQUEST ACCESS TO THE DOCUMENTATION OF THEIR CHILD UNDER THE AGE OF 14, WHICH IS HELD IN AN EDUCATIONAL CENTRE?

Yes, if they have the status of legal representative of the minor.

III. CAN PARENTS REQUEST INFORMATION REGARDING ABSENCES OR DELAYS AND THEIR JUSTIFICATIONS?

Yes. It is part of the information relating to the minor. However, without prejudice to the obligation to respond to the request in all cases, the obligation to communicate is subject to the centre having collected this data and still retains it.

IV. CAN EITHER OF THE PARENTS BE GIVEN ACCESS TO THE CHILDREN'S PEDAGOGICAL ASSESSMENT REPORTS, IF THE PARENTS ARE SEPARATED?

Access can be given to either of the parents, if they have the parental authority of the minor, regardless of who has custody of the child.

If one of the parents is judicially deprived of parental authority so that he or she can access the child's information, the educational centre must seek the consent of the parent to whom parental authority has been assigned.

V. CAN ACCESS TO PRE-REGISTRATION INFORMATION BE REFUSED BECAUSE THE ORIGINAL PRE-REGISTRATION DOCUMENTS ARE NOT AVAILABLE?

No. The medium on which the information is contained, or the fact that the document is not original, does not justify the denial of this right.

VI. IS IT POSSIBLE TO DENY THE EXERCISE OF THE RIGHT TO ACCESS, DUE TO THE DIFFICULTY OR HIGH COST THAT THIS MAY MEAN FOR THE CENTRE?

The difficulty would justify the person in control asking the applicant to specify the data or processing activities to which he or she refers. With regard to the high cost, this would justify the person in charge offering the person a different means of access; if they reject it, this will allow the applicant to charge the extra cost.

In the case of manifestly unfounded or excessive requests for access, for example repetitive ones, these must be answered and the answer must indicate that a fee may be charged.

RIGHT TO RECTIFY

I. CAN STUDENTS REQUEST THE CORRECTION OF ERRONEOUS OR INACCURATE DATA HELD IN THE SCHOOL ARCHIVES?

Yes. Students over 14, or their parents or guardians if under 14, can request it. They must indicate the erroneous or inaccurate data that must be corrected and provide the documentation that proves it.

RIGHT TO DELETE

I. CAN A SEPARATED FATHER OR MOTHER EXERCISE THE RIGHT TO DELETE ON BEHALF OF THE STUDENT? IS IT NECESSARY TO HAVE THE CONSENT OF THE OTHER PARENT?

Either parent may exercise the right to delete without the consent of the other, provided that parental authority is conferred.

II. CAN AN EDUCATIONAL CENTRE DELETE ALL THE INFORMATION HELD IN A FORMER STUDENT'S ACADEMIC RECORD, IF SAID STUDENT REQUESTS IT?

No. With regard to the preservation of the information held in academic files, the documentation generated by the educational centres, specifically that referring to exercising the educational function, has documentary value. Therefore, it is necessary to take into account the archives regulation (Law 10/2001).

In order to determine which information in the academic files must be kept, how it must be kept and what can be deleted, the provisions of the Public Education Administration and, where applicable, the document assessment tables must be taken into account, which are prepared in accordance with archive regulations.

RIGHT TO OPPOSE

I. CAN A STUDENT OPPOSE THE PUBLICATION OF HIS ADMISSION IN AN EDUCATIONAL CENTRE?

The student may object to this processing, in accordance with Article 21 of the GDPR, if he alleges reasons related to his specific personal situation, such as for security reasons if he is a victim of gender violence, if he is under any kind of threat, etc. In this case, the centre must exclude them from the list of admitted students that is published, unless a compelling legitimate reason is confirmed. If you are under 14, your parents or guardians must exercise the right.

HOW ARE RIGHTS EXERCISED?

I. CAN THE PERSON RESPONSIBLE FOR PROCESSING REQUIRE THE INTERESTED PARTY TO EXERCISE THE RIGHTS TO INFORMATIVE SELF-DETERMINATION BY EMAIL?

No. The interested party may use any means to prove their identity and the way the request is sent and received.

II. SHOULD THE REQUEST BE ANSWERED, WHEN THE DATA IS NOT AVAILABLE OR IT HAS ALREADY BEEN DELETED?

Yes. Requests for the exercise of rights must always be answered expressly and within the established deadline, even if no data on the requesting party has ever been available.

III. CAN THE PROCESSING MANAGER DISMISS A REQUEST DUE TO THE NON-OBSERVANCE OF SOME FORMAL REQUIREMENTS?

No. If any of the formal requirements are missing, the person responsible must request the amendment within the response deadline and as quickly as possible.

WHEN IS IT NECESSARY TO KEEP A DUTY OF SECRECY?

I. WHICH OBLIGATIONS DO TEACHERS HAVE WITH RESPECT TO STUDENT DATA?

The LOE establishes that teachers and other staff who, in the exercise of their functions, access personal and family data, or that affect the honour and privacy of minors or their families, are subject to the duty of secrecy.

II. IS IT NECESSARY TO ESTABLISH ANY SPECIFIC FORECASTS REGARDING UNIVERSITY STUDENTS IN INTERNSHIPS AT THE EDUCATIONAL CENTRE?

It is recommended that a confidentiality agreement be signed between the intern and the educational centre, with regards to third-party information to which he or she may have access during the internship.

III. IS IT NECESSARY TO INCLUDE ANY SPECIFIC CLAUSE IN THE CONTRACTS WITH THE COMPANY THAT DOES THE CLEANING OR MAINTENANCE IN THE SCHOOL?

Yes, the contract must expressly include a ban on access to personal data and an obligation to maintain the confidentiality of the data that is accidentally accessed.

IV. WHAT CAN FAILURE TO COMPLY WITH THE DUTY OF SECRECY IMPLY?

The Penal Code criminalises the discovery and disclosure of secrets as a crime against privacy. These include, among others, the power of attorney, use or modification, as well as the dissemination or transfer, without the consent and to the detriment of third parties, of confidential data of a personal or family nature, which are in computer, electronic or telematic files or media, or in files or registers, both public and private.

THE DATA PROTECTION DELEGATE IN SCHOOLS

I. DO EDUCATIONAL CENTRES HAVE TO HAVE A DATA PROTECTION DELEGATE?

Yes. In schools that offer education at any of the levels established in the legislation regulating the right to education, the data controller is obliged to appoint a data protection delegate.

II. SHOULD THE DATA PROTECTION DELEGATE OF A SCHOOL BE HIRED AS SCHOOL STAFF?

Not necessarily. The data protection officer may be part of the staff or act within the framework of a contract, providing an external service. Schools can also be organised to hire a data protection delegate for a group of schools.

III. WHERE SHOULD THE APPOINTMENT OF THE DATA PROTECTION DELEGATE BE COMMUNICATED?

The schools included in the area of competence of the Catalan Data Protection Authority must communicate to the Authority both the appointments and the terminations, through the procedure available at:

https://apdc.cat/gencat.cat/ca/seu_electronica/tramits/comunicacio/

PERSONAL DATA SECURITY BREACHES

I. IF A LAPTOP BELONGING TO A TEACHER AT THE EDUCATIONAL CENTRE CONTAINING PERSONAL INFORMATION ON STUDENTS WITHOUT ENCRYPTION, IS STOLEN, ARE WE FACING A BREACH OF DATA SECURITY?

Yes, we are facing a data security breach, in particular a breach of data confidentiality, as it involves unauthorised access to personal data.

I. A) SHOULD THIS SECURITY BREACH BE COMMUNICATED TO THE CONTROLLING AUTHORITY?

Yes. The school, as the party responsible for processing student data, has the obligation to notify the Authorities of the breach without undue delay and within 72 hours of becoming aware of it, since it may be data relating to a considerable number of students, which in some cases may be sensitive data, especially when referring to minors.

This breach should be reported preferably through the data protection officer, following the instructions of the APD-CAT electronic office.

https://apdc.cat/gencat.cat/ca/seu_electronica/tramits/notificacio/ and

at any event using the APDCAT form.

I. B) DOES THIS BREACH HAVE TO BE COMMUNICATED TO THE PEOPLE AFFECTED?

Yes. Data protection regulations require that the data breach be communicated to those affected without delay if there is a high risk of harm. Concurrent circumstances have been taken into account here, such as that there is sensitive data and that the affected group is especially vulnerable, as they are minors.

II. IF AN EDUCATIONAL CENTRE IS ATTACKED WITH A SECURITY SOFTWARE (RANSOMWARE) THAT ENCRYPTS ALL THE DATA, BUT THERE ARE BACKUPS AND THE DATA CAN BE RESTORED, IS THIS A DATA SECURITY BREACH?

Yes. It is a data security breach, specifically a breach of data availability, since while the data cannot be restored, there is a temporary loss of data access.

II.A) IN THE INVESTIGATION IT IS CLEAR THAT THE ONLY FUNCTIONALITY OF THE HOLDER WAS TO ENCRYPT THE DATA AND THAT THERE IS NO OTHER MALWARE IN THE SYSTEM; THEREFORE, THERE IS NO BREACH OF DATA CONFIDENTIALITY. I. A) DOES THIS SECURITY BREACH HAVE TO BE COMMUNICATED TO THE CONTROLLING AUTHORITY?

No. It is not necessary to notify the Authority or communicate the incident to those affected if the encrypted data can be restored quickly and the lack of temporary data availability does not pose any risk to the people affected.

II .B) IF IT IS NOT NECESSARY TO NOTIFY THE BREACH TO THE AUTHORITIES, SHOULD THE SCHOOL TAKE ANY ACTION?

Yes. Regardless of whether or not a breach should be reported to the Authorities, the school should document it internally. In particular, it must include all the information relating to the facts, effects and corrective measures taken. This documentation must be available to the Authorities.

III. IF THE MANAGER OF THE SCHOOL PROCESSING, SUCH AS THE COMPANY CONTRACTED TO MANAGE AN ACADEMIC DIGITAL CONTENT PLATFORM, BREACHES SECURITY, SHOULD HE NOTIFY THE SCHOOL?

Yes. He must notify it without undue delay so that the school can determine whether or not to notify the Authorities, and if so, the persons affected, in accordance with the above.



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