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File identification

Archive resolution of the previous information no. IP 280/2020, referring to the Escola l'Univers (Barcelona Education Consortium) of the Department of Education.

Background

1. On 17/09/2020, the Catalan Data Protection Authority received a letter from a person for which he made a complaint against Escola l'Univers of the Department of Education (hereinafter, the 'School'), on the grounds of an alleged breach of the regulations on the protection of personal data. Specifically, the complainant explained that on 11/09/2020 the School had sent him by email a document entitled *"Responsible declaration for the families of primary education students"*, which had to be returned signed at the School by the student's father, mother or guardian. The reporting person complained that in this form he was asked to fill in certain health data of his/her child, when, according to his/her opinion: a) none of the exceptions indicated in article 9.2 of RGPD that legitimizes the collection and processing of this health data; and, b) *"it is not an essential requirement for the educational center to know this information in order to carry out the purpose mentioned in the basic information on personal data protection (managing the educational action)"*. This letter of complaint was supplemented by another subsequent one dated 09/27/2020, in which, among others, the person making the complaint explained that he had given the School a "modified model" of the controversial form in which he had not given an answer to the sections that were the subject of his complaint.

The reporting person provided together with his report, a standardized form (without filling in) entitled *"Responsible declaration for the families of primary education students"*, with the heading of the Department of Education; and which, for the purposes of interest here, has the following characteristics:

a) You are asked to complete, among others, the following personal data: Father's, mother's or guardian's name and surname no. DNI/NIE/Passport, Name of the student, Course and educational center.

b) It is indicated in the document that, by signing it, it is *"responsibly declared"*, among others, that the child of the person signing it has not presented during the previous 14 days any symptoms compatible with covid-19, nor has he been positive for covid-19, nor has he been in close contact with anyone who is positive for covid-19.

c) In section 2 you are asked to select (with a cross) one of the following two options:

- *"That my child does not suffer from any of the following diseases"*.

or,

- *"That my child suffers from one of the following illnesses and that I have assessed with his/her doctor or pediatrician the suitability of resuming school activities"*:

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

Each of the two options is followed by a list of diseases (the same in both options), which cannot be ticked individually.

- *Serious respiratory diseases that require medication or ventilatory support devices.*
- *Serious heart diseases.*
- *Diseases that affect the immune system (for example, those children who need immunosuppressive treatments).*
- *Poorly controlled diabetes.*
- *Moderate or severe neuromuscular diseases or encephalopathies."*

d) In the form, preceding the information on personal data protection, the following wording appears:

"And, so that it is recorded, for the purposes of the incorporation of my son/a educational center _____, in the _____, I sign this declaration of responsibility and I explicitly consent to the processing of the data contained in this declaration". [the emphasis is on the Authority]

e) The following information is provided in relation to the protection of personal data:

*"Basic information on personal data protection:
Students from educational centers owned by the Department of Education
Responsible for the treatment: The management of the educational center.
Purpose: To manage the educational action.
Rights of interested persons: You can request access, rectification, deletion or limitation of the processing of your data. You can find all the information regarding the rights of interested persons and how to exercise them on the website of the Department of Education.*

Additional information on this treatment: <http://ésanceyo.gencat.cat/ca/Detall/alumnes-centres-departament>" (the highlight is from the Authority)

2. The Authority opened a preliminary information phase (no. IP 280/2020), in accordance with the provisions of article 7 of Decree 278/1993, of November 9, on the sanctioning procedure of application to the areas of competence of the Generalitat, and article 55.2 of Law 39/2015, of October 1, on the common administrative procedure of public administrations (henceforth, LPAC), to determine whether the facts were capable of motivating the initiation of a sanctioning procedure.

3. In this information phase, on 10/21/2020 the reported entity was required to report on the legal basis that would enable the processing by the School of the data of

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

health required in the "Responsible declaration" and descriptions of what the purpose of "managing the educational action" linked to the collection of data through the form in question would consist of.

4. On 04/11/2020, the Department of Education responded to the aforementioned request through a letter in which it stated the following:

- That *"the legal basis that protects the processing of data indicated in the aforementioned responsible declaration is based on Organic Law 8/2013, of December 9, for the improvement of educational quality; Law 12/2009, of July 10, on education (LEC), and Organic Law 2/2006, of May 3, on education, in order to manage educational and guidance action, and specifically, by regarding the treatment of health data referred to, and taking into account the current pandemic context in which we find ourselves, in article 21.1.n) of the LEC"*.
- That *"the purpose of managing the educational action in relation to the collection of data referred to is based on the need to provide adequate attention to students in terms of healthy conditions in the educational field that they must be guaranteed to the students, which must be put in relation to the current pandemic situation.
In this sense, it should be emphasized that the LEC itself, in article 21.1.n), establishes as a right of the student "Enjoy healthy conditions and accessibility in the educational field" which implies the correlative duty of the educational centers to guarantee these conditions. With more reason, in the current pandemic situation, it becomes necessary to treat the aforementioned health data in order to fulfill this duty(...). Therefore, in order to be able to fulfill the purpose of the educational action, to educate and guide the students, it becomes necessary to guarantee the students adequate health conditions, which, in the context of the current pandemic situation, requires the treatment of the aforementioned health data"*.
- That *"with regard to point 2 of the responsible statement relating to indicating whether you have suffered from any of the diseases indicated there (without specifying which one) and if, in the event that suffer any, the suitability of the student to resume educational activity has been assessed with the student's doctor or pediatrician, it is clear that the objective is none other than to guarantee that the student who has suffered any, and that for thus, it would be considered a risk group in the face of COVID, it is in the ideal conditions to resume educational activity, and all this without detriment to the right to health of the rest of the educational community. It should be taken into consideration that if the student's doctor or pediatrician assesses that his patient is not in the ideal conditions to resume educational activity, the Department of Education should offer him distance education until was in the right health conditions to resume the "*.

5. On 21/06/2021 the Inspection Area made a series of checks via the internet.

Thus it was found that on the web page of the Department of Education, specifically, at the address that was provided in the "responsible declaration" form to obtain additional information on the processing of the data, the following information was included (transcribed an extract, for the purposes that are of interest here):

"

Who is responsible for data processing

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

The director of the educational center. Consult the postal and electronic address of the educational center on the website of the Department of Education.

The contact address of the data protection delegate is: dpd.educacio@gencat.cat,

For what purpose we process the data

For the following purposes:

- To manage educational action, academic and professional guidance; the participation of students in the curricular activities of Community Service; tutorial action and communication with families; the objective assessment of school performance; the commitment of students and families in the educational process, and access to the digital and telematic services provided by the Department.*
- To manage student participation in programs and actions financed by the Ministry of Education and co-financed by the European Social Fund.*
- To manage the dissemination of images, voice and material produced by the students in the center's communication and dissemination spaces, in relation to the curricular, complementary and extracurricular school activities that they carry out.*
- To manage credentials and access to services and digital resources on the Internet for work in the classroom*
- To manage the financial contributions of families or students for services school students provided by the centers.*
- To manage actions to preserve or disseminate works and materials that are considered original works.*

The use of the services provided by the centers is subject to the principles of voluntariness, non-discrimination and payment of the cost (with some exceptions of free of charge and limitation of amounts), as well as not having a profit-making nature.

What is the legitimation for the processing of the data

The authorization to process the data is as follows:

- To manage the educational and guidance action, the data are treated in the public interest mission, in accordance with Organic Law 8/2013, of December 9, for the improvement of educational quality; Law 12/2009, of July 10, on education, and Organic Law 2/2006, of May 3, on education.*
- To manage actions co-financed by the European Social Fund, the data is processed in accordance with Regulation (EU) 1304/2013 of the European Parliament and of the Council, of 17 December 2013, relating to the European Social Fund.*
- For other purposes (diffusion of images and voice, publication of personal data and prepared material, use of Internet services and resources to work in the classroom, financial contributions of school services provided by the center and actions of preservation and dissemination of works and materials considered original works) the treatment is done with the consent of the person concerned or his legal representative.*

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

You can withdraw your consent at any time and the revocation has no retroactive effect."

This page was updated on 04/06/2021.

6. On 06/22/2021, also during this preliminary information phase, a new request was made to the reported entity in order to obtain additional information, specifically:

- Provide a copy of three copies of the *"Responsible declaration for the families of primary education students"*, 2020-2021 academic year, completed by the affected persons (and anonymized), in which the box of section 2 relating to *"my child suffering from the following diseases (...)"*.
- Inform if you don't hand it over to the educational center of the *"responsible declaration"* mentioned, it would have some consequence for the minors or their families.
- Provide the expanded data protection information (second layer) that was provided on the website of the Department of Education (<http://educacio.gencat.cat/ca/Detall/alumnes-centers-departament>) in the months of September - October 2020.

7. On 02/07/2021 the reported entity responded to the request for information, setting out the following:

- That none of the families had marked on the form the box in section 2 relating to *"my child suffers from the following diseases (...)"*. Copies of three *"responsible declaration"* forms chosen at random were provided, - That *"the non-delivery of the aforementioned "responsible declaration" would neither have nor did it have any consequences for the minors or their families. Some family from the school has not brought this Declaration and has not suffered any kind of consequence or recrimination"*.

Together with his letter, the information relating to the protection of personal data that was on the website of the Department of Education, between the months of September and December 2020, was provided; and which contained the following text (an extract is transcribed for the purposes that are of interest here, and which, except for some small variation, is almost identical to the one transcribed in the 5th antecedent):

"

Who is responsible for data processing

The direction of the educational center. Consult the postal and electronic address of the educational center on the web

of the Department of Education.

The contact address of the data protection delegate is: dpd.educacio@gencat.cat,

For what purpose we process the data

For the following purposes:

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

- *To manage educational action, academic and professional guidance; the participation of students in the curricular activities of Community Service; tutorial action and communication with families; the objective assessment of school performance; the commitment of students and families in the educational process, and access to the digital and telematic services provided by the Department.*
- *To manage student participation in programs and actions financed by the Ministry of Education and co-financed by the European Social Fund.*
- *To manage the dissemination of images, voice and material produced by the students in the center's communication and dissemination spaces, in relation to the curricular, complementary and extracurricular school activities that they carry out.*
- *To manage credentials and access to services and digital resources on the Internet for work in the classroom*
- *To manage the financial contributions of families or students for services school students provided by the centers.*

What is the legitimation for the processing of the data

The authorization to process the data is as follows:

- *To manage the educational and guidance action, the data are treated in the public interest mission, in accordance with Organic Law 8/2013, of December 9, for the improvement of educational quality; Law 12/2009, of July 10, on education, and Organic Law 2/2006, of May 3, on education.*
- *To manage actions co-financed by the European Social Fund, the data is processed in accordance with Regulation (EU) 1304/2013 of the European Parliament and of the Council, of 17 December 2013, relating to the European Social Fund.*
- *For other purposes (diffusion of images and voice, publication of personal data and prepared material, use of Internet services and resources to work in the classroom and financial contributions of school services provided by the center) the treatment is done with the consent of the person concerned or their legal representative.*

You can withdraw your consent at any time and the revocation has no retroactive effect."

Fundamentals of law

1. In accordance with the provisions of articles 90.1 of the LPAC and 2 of Decree 278/1993, in relation to article 5 of Law 32/2010, of October 1, of the Authority Catalan Data Protection Agency, and article 15 of Decree 48/2003, of February 20, which approves the Statute of the Catalan Data Protection Agency, the director of the Catalan Data Protection Authority.

2. Based on the background story that has been presented, it is necessary to analyze the facts reported.

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

The complainant complained, on the one hand, that the collection of minors' health data through the standardized form provided by the School could not fit into any of the exceptions provided for in Article 9.2 of the RGPD, and that therefore, its treatment was unlawful. And, secondly, that the processing of said data could not fit into the purpose declared in the information clause on the processing of personal data that was included in the same form ("*to manage the educational action*").

2.1.- With regard to the treatment of the minors' health data by marking the box relating to the fact that they present any pathology of those related to the 2nd section of the "responsible declaration" (section c/ of the antecedent 1st).

As a preliminary matter, it should be noted that, according to the School, no family would have delivered a form in which the disputed box had been checked. As things stand, the School, as responsible for the treatment, would not have materialized the collection and treatment of health data through said form. Having said that, and considering that the aforementioned form was prepared by the Department of Education and provided to the schools that depend on it for distribution to families, it is more than likely that some other school center has collected through this "responsible declaration" health data of minors, so it is necessary to analyze whether this collection and treatment would have been lawful.

Article 5.1.a) of Regulation (EU) 2016/679, of the Parliament and of the European Council, of April 27 of 2016, General Data Protection Regulation (RGPD), establishes that all data processing personal must be legal, loyal and transparent in relation to the interested party (principle of legality, loyalty and transparency).

Article 6.1 of the RGPD regulates the legal bases on which the treatment can be based of personal data, either the consent of the affected person (letter a), or any of the other bases provided for in the same precept, such as when the treatment "*is necessary for the fulfillment of a mission carried out in public interest or in the exercise of public powers conferred on the person responsible for the treatment*" (letter e).

As can be seen from article 6.3 of the RGPD, the legal basis of the treatment indicated in the article 6.1.e) must be established by the Law of the European Union or by the law of the Member States that apply to the data controller. The referral to the legitimate basis established in accordance with internal law of the member states requires, in the case of the Spanish State, in accordance with article 53 of the Spanish Constitution, than the development rule, because it is a right fundamental, have the status of law.

In this sense, article 8 of Organic Law 3/2018, of December 5, on Data Protection

Personal and guarantee of digital rights (hereinafter, LOPDGDD) establishes the legal range of the enabling rule

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

The twenty-third additional provision of Organic Law 2/2006, of May 3, on Education (LOE), established the following (in its current wording until 01/19/2021):

"1. Teaching centers may collect the personal data of their students that are necessary for the exercise of their educational function. Said data may refer to the origin and family and social environment, to personal characteristics or conditions, to the development and results of their schooling, as well as to those other circumstances whose knowledge is necessary for the education and orientation of the students.

2. The parents or guardians and the students themselves must collaborate in obtaining the information to which this article refers. The incorporation of a student in a teaching center will assume the consent for the treatment of his data and, in his case, the transfer of data from the center in which he had previously attended school, in the terms established in the legislation on the protection of data. In any case, the information referred to in this section will be strictly necessary for the teaching and guidance function, and cannot be used for purposes other than education without express consent. (...)."

Section 2 of this precept has been modified by Organic Law 3/2020, of 29 December, which modifies Organic Law 2/2006, of May 3, on Education, in the following terms:

2. The parents or guardians and the students themselves must collaborate in obtaining the information to which this article refers. The incorporation of a student in a teaching center will involve the treatment of his data and, in his case, the transfer of data from the center in which he had previously studied, in the terms established in the legislation on data protection. In any case, the information referred to in this section will be strictly necessary for the teaching and guidance function, and cannot be used for purposes other than educational without express consent."

Therefore, this additional provision 23a of the LOE establishes - both in its current wording until 19/01/2021 (and therefore applicable when the data would have been collected in September/October 2020), as in the current -, a legal qualification for the processing of the data necessary for the exercise of the teaching and guidance function of the educational centers (6.1.e/ RGPD); which excludes the need for the affected person or their legal representative to give their consent for said treatment (6.1.a/ RGPD).

This without prejudice to the fact that, exceptionally (and a pandemic situation can be considered an exceptional situation for these purposes), another legal basis may apply, such as that established in article 6.1.d) of the RGPD ("*the treatment is necessary to protect the vital interests of the interested party or another natural person*"), which legitimizes the processing of personal data.

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

Nevertheless, for the processing of health data (art. 4.15 RGPD) to be lawful, it is not enough that there is a legal basis in article 6 of the RGPD, but that in accordance with art. 9.1 and 9.2 of this rule must meet a circumstance that lifts the prohibition of treatment of this special category of data.

Thus, article 9 of the RGPD provides that:

"1. The processing of personal data that reveal ethnic or racial origin, political opinions, religious or philosophical convictions, or trade union affiliation is prohibited, and the processing of genetic data, biometric data aimed at uniquely identifying a natural person, data relating to the health or data relating to the sexual life or sexual orientation of a natural person.

2. Section 1 will not apply when one of the following circumstances occurs:

(...)

g) the treatment is necessary for reasons of an essential public interest, on the basis of the Law of the Union or of the Member States, which must be proportional to the objective pursued, essentially respect the right to data protection and establish measures adequate and specific to protect the fundamental interests and rights of the interested party;

(...)

i) the treatment is necessary for reasons of public interest in the field of public health, such as protection against serious cross-border threats to health, or to guarantee high levels of quality and safety of health care and medicines or sanitary products, on the basis of the Law of the Union or Member States that establishes appropriate and specific measures to protect the rights and freedoms of the interested party, in particular professional secrecy.

(...)."

First of all, it must be said that the same additional provision 23a of the LOE could enable the processing of health data to the extent that its processing was necessary to adequately carry out the educational and guidance action, and in this sense this Authority pronounced in its opinion CNS 4/2017 (available on the Authority's website, www.apdcat.cat).

In this same line, it is necessary to cite article 21.n) of Law 12/2009, of July 10, on education (LEC), which expressly provides for the right of students to *"enjoy healthy conditions and accessibility in the educational field"*. In this case it is even more evident that it is essential that the centers have the necessary data to be able to guarantee the right of their students to healthy conditions in the educational environment.

But beyond what is foreseen in the rules transcribed above that would enable, in general, the collection and processing of health data by the centers, provided that their collection is necessary to comply with the educational and guidance function and/or to guarantee students' rights; one cannot fail to notice the absolutely exceptional moment (months of September-October 2020, in the midst of a pandemic) in which families were asked

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

the completion and delivery of the "responsible declaration" through which it was possible to centers for the collection of minors' health data.

In this context, it is appropriate to mention Organic Law 3/1986, of April 14, on special measures in the field of public health, which determines in its article 1 that: *"the health authorities of the different Public Administrations may, within the scope of their competences, adopt the measures provided for in this Law when so required by health reasons of urgency or necessity"*.

And article 3 of this same rule explains that: *"In order to control communicable diseases, the health authority, in addition to carrying out general preventive actions, may adopt the appropriate measures for the control of the sick, of people who are or have been in contact with them and the immediate environment, as well as those who are considered necessary in case of risk of a transmissible nature"*.

In similar terms, Law 18/2009, on public health, in its article 55.1.j), provides that:

1. The health authority, through the competent bodies, can intervene in public and private activities to protect the health of the population and prevent disease.

To this end, you can:

- a) Establish surveillance systems, communications networks and data analysis that allow detecting and knowing, as quickly as possible, the proximity or presence of situations that may have a negative impact on individual or collective health.*
- b) Establish the requirement for registrations, authorizations, prior communications or responsible declarations for facilities, establishments, services and industries, products and activities, subject to the conditions established by article 61 and, in any case, in accordance with the sector regulations . (...)*

2. The measures referred to in section 1 must be adopted respecting the rights that the Constitution recognizes to citizens, especially the right to personal privacy, in accordance with what is established by the regulations for the protection of personal data and with the procedures that this regulation and the other applicable regulations have established, and having the mandatory authorizations."

Therefore, in matters of risk of transmission of diseases, epidemics, health crises, etc., the applicable regulations have granted *"the health authorities of the different Public Administrations"* the powers to adopt the necessary measures to safeguard the essential public interests in public health emergency situations.

It will therefore be these competent health authorities who must adopt the necessary decisions, and the various persons responsible for the treatment of personal data who will have to follow these instructions, even when this involves the treatment of health data.

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

Resolution SLT/1429/2020, of June 18, by which basic protection and organizational measures are adopted to prevent the risk of transmission and promote the containment of SARS-CoV-2 infection (in force on the date that the data subject to the complaint would have been collected in September-October 2020) determined the basic prevention measures, which had to be completed with sectoral action plans drawn up and approved within the framework of the Action Plan of PROCICAT for emergencies associated with emerging communicable diseases with high risk potential. In this sense, the following was established:

"1.2. Specific sectoral plans and organizational protocols

1. The measures provided for in this Resolution must be completed with the sectoral activity plans that must be drawn up and approved in accordance with the provisions of the Confinement Transition Plan ratified by the Government on April 25 2020

2. In any case, sectoral plans must be drawn up in relation to the following areas of activity:

(...)

c) Teaching centers.

(...)

4. The persons holding the different activities are responsible for adapting the conditions of exercise to the measures and forecasts contained in the corresponding sectoral plan".

1.3. Protection of the vulnerable population

In general, without prejudice to the protection and security measures established in this Resolution and in the sectoral plans referred to in section 1.2, the persons in charge of the various activities are responsible for establishing organizational measures that guarantee preferential attention that minimizes the time spent inside the premises or establishments and that facilitate their mobility inside these, for vulnerable people in accordance with the criteria of the health authorities, or when due to their personal characteristics cannot wear a mask in accordance with the established in the section. 2.2.2 of this Resolution.

At this point it is not superfluous to point out that section 14 of Resolution SLT/2875/2020, of November 12, which extends and modifies the measures in the field of public health for the containment of the epidemic outbreak of pandemic of COVID-19 in the territory of Catalonia, and which annulled Resolution SLT/1429/2020 mentioned above in that it opposed it, maintained the obligation to carry out certain activities, among others the teachers, in accordance with the corresponding sectoral plans approved by the Steering Committee of the PROCICAT Action Plan and related regulations.

The "Action plan for the 20202021 academic year for schools in the context of the pandemic", of the Department of Education, approved by the Technical Committee of the PROCICAT Plan for emergencies associated with emerging communicable diseases with high risk potential on July 3, 2020, determined the following:

"Requirements for access to educational centers

(...)

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

In the event that the student has a chronic illness of high complexity that may increase the risk of severity in the event of contracting the SARS-CoV2 infection, it will be assessed jointly - with the family or guardians and their medical team reference – the implications when resuming the educational activity face-to-face at the educational center. Although evidence is scarce, diseases considered at risk for complications of COVID-19 are:

- Severe respiratory illnesses that require medication or respiratory support devices.*
- Serious heart diseases.*
- Diseases that affect the immune system (for example those children who require immunosuppressive treatments).*
- Poorly controlled diabetes.*
- Moderate or severe neuromuscular diseases or encephalopathies.*

Control of symptoms

Families, or directly the student if he is over 18, must take responsibility for the state of health of his sons and daughters. At the beginning of the course, they will sign a declaration of responsibility through which:

‣ They will state that they are aware of the current pandemic situation with the risk that this entails and that, therefore, they will adhere to the measures that may be necessary at any given time.

‣ They undertake not to take the child or adolescent to the educational center in the event that he or she presents symptoms compatible with COVID-19 or has presented it in the last 14 days and to immediately notify the school officials in order to be able to take the appropriate measures.

Families will be provided with a symptom checklist (see Appendix 1). The family and/or the student must notify the center if they have a fever or any other symptoms. If the epidemiological situation required it, the implementation of other additional measures could be considered, such as taking the temperature on arrival at school".

With regard to the specific provision of this Plan regarding the joint assessment between the center and the family of the desirability of a minor who has any pathology that makes him vulnerable to covid-19 resuming educational activity in person, it is clear that in order to comply, each center in question must know this information, which has to be provided by the family itself.

Finally, it is not superfluous to demonstrate that through the "responsible declaration" only the data relating to whether the minor presented any of the diseases that are related in said declaration would have been collected, without the possibility of marking them individualized, thus complying with the principle of data minimization, provided for in article 5.1.d) of the RGPD.

In view of all the above, from the point of view of data protection, the collection and processing of the minor's health data through the "responsible declaration" was lawful

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

on the basis of articles 6.1.e) and 9.2.g) ii) of the RGPD, in view of the public health and sectoral regulations examined.

Therefore, it must be agreed that it would not be necessary to resort to another legal basis to legitimize this treatment, such as the explicit consent of the affected person or their legal representative. And that is why, in the event that for the 2021-2022 academic year the Department of Education distributes the same "responsible declaration" form, it must delete of this the mention of the explicit consent for the processing of the data (letter d/ antecedent 1r), since it would imply that said treatment would be enabled by consent when the truth is that it would be for other legal bases, as s 'has exposed; and this regardless of whether the delivery of the form is voluntary on the part of the families. The deletion of this reference to consent would, moreover, be consistent with what the Department of Education itself reported - both in September 2020 (7th precedent) and in June 2021 (5th precedent) - on its website about the legitimation of the processing of the data collected for the purpose of managing the educational action ("*mission of public interest*").

2.1.- Regarding the purpose of processing health data.

As explained in the background, the complainant complained that the processing of the health data requested through the "responsible declaration" could not be included in the purpose of "*management of the educational action*", which it was the one that was explained in the aforementioned form in the section on basic data protection information. In other words, the content of the information clause was questioned.

The definition of what must be understood by "educational action" is not included, neither in the LOE, nor in the LEC; but this last rule alludes to the preamble in the following terms:

"Among the priority objectives of the Law, the objective that stands out is that the centers that provide the Catalan Education Service adapt their educational action to attend to diversity and specific educational needs, promote the inclusion of students and better adapt to their socio-economic environment".

Regarding this, the entity denounced in the response to this Authority's request stated that "*in order to be able to fulfill the purpose of the educational action, to educate and guide the students, it is necessary to guarantee the students conditions of appropriate health, which, in the context of the current pandemic situation, requires the treatment of the aforementioned health data*", reasoning that is in line with that set out in the preamble of the LEC transcribed above, and that shares this authority

In short, this Authority believes that the information provided on the purpose of the treatment - both that provided on the form itself, and that provided on the web page of the Department of Education in September/October 2020, and also, that is, the one given in June 2021 - is correct and conforms to the reality of the treatment, and, moreover, as has been argued in

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

in section 2.1 above, the purpose of managing the educational action could include the collection and processing of health data.

Having said that, the Department of Education is recommended that, taking into account the specificity of the data that is collected through this "responsible declaration", define in more detail in the form that in this 2021-2022 school year, the purpose of its collection and treatment.

3. In accordance with everything that has been set out in the 2nd legal basis, and given that during the actions carried out in the framework of the previous information it has not been accredited, in relation to the facts that have been addressed in this resolution, no fact that could be constitutive of any of the violations provided for in the legislation on data protection, should be archived.

Article 89 of Law 39/2015, in accordance with articles 10.2 and 20.1 of Decree 278/1993, provides that the filing of the proceedings shall proceed when the following is made clear in the instruction of the procedure "a) *The non-existence of the facts that may constitute the infringement*".

Therefore, I resolve:

1. File the previous information actions number IP 280/2020, relating to the Univers School of the Department of Education (Barcelona Education Consortium).
2. Notify this resolution to the Escola Univers of the Department of Education and communicate it to the person making the complaint.
3. Order the publication of the resolution on the Authority's website (apdcat.gencat.cat), in accordance with article 17 of Law 32/2010, of October 1.

Against this resolution, which puts an end to the administrative process in accordance with article 14.3 of Decree 48/2003, of 20 February, which approves the Statute of the Catalan Data Protection Agency, the denounced entity can file, with discretion, an appeal for reinstatement before the director of the Catalan Data Protection Authority, within one month from the day after its notification, in accordance with the which provides for article 123 et seq. of Law 39/2015. An administrative contentious appeal can also be filed directly before the administrative contentious courts, within two months from the day after its notification, in accordance with articles 8, 14 and 46 of Law 29/1998 , of July 13, governing the contentious administrative jurisdiction.

Likewise, the reported entity can file any other appeal it deems appropriate to defend its interests.

The director,