

Except Article 6 and Article 54 of the Personal Information Protection Act, the Act becomes effective on October 1, 2012 pursuant to the order made by the Executive Yuan.

I.The Act Protects You and Me; the Concept of Human Rights can be Seen!

- 1.Personal information: the name, date of birth, national ID number, passport number, characteristics, fingerprints, marital status, family, education, occupation, medical record, medical treatment, genetic information, sexual life, health examination, criminal record, contact information, financial conditions, social activities and other information which may be used to identify a natural person, both directly and indirectly (Article 2 of the Act).
- 2.The provisions of this Act are not applicable to the following situations (Article 51 of the Act):
 - a.When an individual who collects, processes or uses personal information in the course of personal activity of a domestic nature; and
 - b.If the audio-visual information is collected, processed or used in public places or public activities and not associated with the other personal information.
- 3.The Party may exercise the right to request to inquire, review, duplicate, correct or delete personal information or discontinue the collection, process or use of personal information (Article 3 of the Act).
- 4.The information collected shall be deleted, discontinued to process or use, ex officio or upon the request of the Party when the specific purpose no longer exists or time period expires. However, the preceding sentence may not be applicable when it is necessary for the performance of an official duty or fulfillment of a legal obligation and has been recorded, or when it is agreed by the Party in writing (Article 11 of the Act).

5.The written agreement mentioned in the Act means a written consent made by the Party after a notification given by the personal information collector based on this Act. An independent written consent shall be made by the Party for interest protection when the personal information is collected and used outside the scope (Article 7 of the Act).

II.Protect and Use Personal Information Properly; Keep and Safeguard Privacy Fully!

- 1.Non-government agency: the nature persons, juridical persons or groups other than a government agency or administrative juridical person at the central or local government level which is empowered to exercise sovereign power (Subparagraph 8 of Article 2 of the Act). Whoever commissioned by a non-government agency to collect, process or use personal information shall be considered the commissioning agency within the scope of this Act (Article 4 of the Act).
- 2.The Collection and Process of Personal Information by Non-government Agencies (Article 19 of the Act). A specific purpose complying with one of the following conditions:
 - a. Where there is a contract or quasi-contract between the Party and the agency;
 - b. Where the Party has disclosed such information by himself or when the information has been publicized legally;
 - c. Where it is necessary for public interests on statistics or the purpose of academic research conducted by a research institution. The information may not lead to the identification of a certain person after the treatment of the provider or the disclosure of the collector;
 - d. Where a written consent has been made by the Party;
 - e. Where the public interest is involved; and

f.Where the personal information is obtained from publicly available resources. However, it is exempted if the information is limited by the Party on the processing or use and the interests of the Party shall be protected.

3.Personal Information Used by Non-government Agencies (Paragraph 1 of Article 20 of the Act)

- a.Use the personal information within the scope of the specific purpose of collection provided.
- b.Use the information outside the scope in conformity with the principle of proportionality upon the occurrence of one of the following conditions:
 - (1)Where in accordance with law;
 - (2)Where it is to promote public interests;
 - (3)Where it is to prevent harm on the life, body, freedom or property of the Party;
 - (4)Where it is to prevent harm on the rights and interests of other people;
 - (5)Where it is necessary for public interests on statistics or the purpose of academic research conducted by a government agency or an academic research institution, respectively. The information may not lead to the identification of a certain person after the treatment of the provider or the disclosure of the collector; and
 - (6)Where a written consent of the Party has been obtained.

4. Right to Refuse Marketing (Paragraph 2 of Article 20 of the Act)
When a non-government agency uses the personal information for the purpose of marketing and has been turned down by the Party, the agency shall stop its action.

5.Obligation of Notification (Article 8 and Article 9 of the Act)

	Collecting Personal Information from the Party (Article 8 of the Act)	Collecting Personal Information from Others
Content of Notification	1.The name of the government agency or the non-government agency; 2.Purpose of collection; 3.Classification of the personal information; 4.Time period, area, target and way of the use of personal information; 5.Rights of the Party and ways to exercise them as prescribed in Article 3; and 6.The influence on his/her rights and interests while the Party chooses not to provide his/her personal information.	The source of information and Items 1 to 5 listed in the left column.
Notification Exemption	1.When in accordance with law; 2.When the collection of personal information is necessary for the government agency to perform its official duties or the non-government agency to fulfill the legal obligation; 3.When the notice will impair the government agency in performing its official duties; 4.When the notice will impair the interests of a third person. 5.When the Party shall have known the content of the notification already.	1.Under one of the situations listed in the left column; 2.When the Party has disclosed such information by him/herself or when the information has been publicized legally; 3. When the notification may not be made to the Party or his/her legal representative; 4. When it is necessary for public interests on statistics or the purpose of academic research. The information may not be used to identify a certain person after a treatment of the provider or the disclosure of the collector; 5. Personal information collected by the mass media for the purpose of news reporting on the basis of public interests
Time of Notification	Upon collection	Upon process or before using (or when the personal information is used against the Party for the first time)

Source: Program of Improving Campus Information Security Service of Ministry of Education in 2012 and 2013

Case 1

Q How can schools use the personal information of enrolled students? For example, can schools send emails about campus activities (including club activities) to all students? And who is qualified to send emails or use students' personal information?

A Schools and clubs may send notifications to students via email. School units and clubs may use students' personal information and send emails to them as long as the activities meet the goal of education or the purpose of clubs. However, it is disputable when activities are held for the marketing by specific business entities. Schools should not provide students' personal information to business entities jointly holding activities. Schools need to evaluate at their discretion whether the purpose of using students' personal information complies with their educational goals.

Case 2

Q Is the orientation for new students a good occasion to inform them that the school may use their personal information and to try to obtain their authorization on the orientation or upon enrollment?

A Schools do not need to obtain authorization from students for using their personal information unless they use it for other purposes rather than educational administration. However, the obligation of notification has been added to the Act; therefore, schools have to inform students of the purpose and the scope of using their personal information as soon as they enroll. If schools use the personal information beyond the specific purposes or scope, they should inform students as early as possible and obtain their consent in writing.

Case 3

Q Is the information related to students revealed on the senior yearbook part of personal information? So far we have not seen it as part of personal information, and will it become a potential risk? How can we fix the problem? And should we carefully manage all senior yearbooks displayed in the library?

A Students' information revealed on the senior yearbook is personal information. In the past, it was legal to collect and disclose the information on senior yearbooks; however, now there are people selling personal information or getting personal information by fraud. Schools, therefore, should renew the way of safekeeping personal information and manage it with control. For example, only personnel with approval granted by schools can view senior yearbooks.

Case 4

Q The Office of Student Affairs (the Office of Academic Affairs) allows parents to inquire about their children's test scores and learning records by logging in to the system with the student's national ID number. Is it legal for the Office of Student Affairs (the Office of Academic Affairs) to provide the service to parents? If the answer is YES, how far can the Office of Student Affairs (the Office of Academic Affairs) go? Should we have different measures for adult students and minor students?

A Adult students and minor students should be treated differently. For adult students, parents are not allowed to inquire about test scores and learning records unless they are authorized by their children. As to minor students, their parents are allowed to inquire for being legal representatives.

Case 5

Q Can schools collect students' medical records, health status, identity (e.g. low-income households) or other specific personal information to protect students?

A As to medical records and health status, it depends on the laws and decrees promulgated by the Ministry of Education. The identity as a student from a low-income household is not part of specific personal information.

Case 6

Q Is it legal for an advisor to know advisees' course scores to have a better understanding of their learning performance?

A The answer is YES, because knowing advisees' scores to have a better understanding of their learning performance is within the scope of job functions provided by laws and regulations (public schools) or under the contractual relationship between schools and students (private schools) to meet the specific purpose (educational or training administration).



III.Responsibilities of Government Authorities in Charge of Subject Industry at the Central Government, Municipalities Directly under the Central Government, County and City Governments

Competent Authorities		
Responsibility	Competent Authorities	Legal Basis
1.Promulgating or making orders or administrative disposition for the limitation of international transmission	central authorities in charge of subject industry	Article 21 of the Act
2.Exercising the right of administrative supervision, and commissioning subordinate agencies, other agencies or public interest groups to handle	central authorities in charge of subject industry and county and city governments	Articles 22 (Articles 29 and 30 of the Enforcement Rules of the Act), 23, 24, 25, 26 and 52 of the Act
3.Supervising the security measures of a non-government agency (1)A non-government agency may be designated for setting up the plan of security measures for the personal information files or the disposal measures for the personal information after termination of business. (2)Setting up the plan of security measures and processing methods	central authorities in charge of subject industry	Paragraphs 2 and 3 of Article 27 of the Act
4.Meting out punishment when a non-government agency violates regulations related to the Act	central authorities in charge of subject industry and county and city governments	Articles 47, 48, 49 and 50 of the Act

IV.Overall Planning

- 1.Setting up procedures for handling the Party's exercising the right:
 - a.Maintaining the right to inquire and review: please pay attention to the period of granting or rejection and the notification in writing (Article 10 and Paragraph 1 of Article 13 of the Act).
 - b.Ensuring the accuracy of personal information and the right to correct, supplement, and discontinue processing or using personal information: please pay attention to the period of granting or rejection as well as the notification in writing (Article 11 and Paragraph 2 of Article 13 of the Act).
 - c.Ensuring the right to delete and discontinue collecting, processing or using personal information (Paragraphs 3 and 4 of Article 11 of the Act).
- 2.Adopting proper security protection measures: the government authorities in charge of subject industry at the central government level may designate a non-government agency for setting up the plan of security measures for the personal information files or the disposal measures for the personal information after termination of business. The rules of the fore-mentioned plan and processing methods shall be set up by the government authorities in charge of subject industry at the central government level (Article 27 of the Act).

- 3.Obligation of notification for the non-government agency: when the personal information is stolen, disclosed, altered or infringed in other ways due to the violation of this Act, the government agency or non-government agency shall notify the Party after an inspection (Article 12 of the Act).

- 4.Others: establishing the mechanism of responding to accidents, improving the knowledge of the involved personnel towards the Act, commissioning the supervision of relevant business, and record management (refer to Paragraph 2 of Article 12 of the Enforcement Rules of the Personal Information Protection Act).

V.Civil Liabilities, Criminal Liabilities, and Administrative Liabilities for Violating the Act

- 1.Civil Compensation: the damage compensation is no less than NT\$500 but no more than NT\$20,000 for each case per person; for damages caused by the same cause and fact, the total amount of compensation shall not exceed NT\$200 million (Articles 28~31 of the Act).
- 2.Class Litigation: a business juridical person or a charitable juridical person that complies with regulations of the Act may file a class-action lawsuit to assist the Party whose rights infringed in litigation (Articles 32~40 of the Act).
- 3.Criminal Liabilities: the fine is up to NT\$1 million, and the sentence is no more than 5 years; a person who commit the crime with intent will be increasingly punished (Articles 41~46 of the Act).
- 4.Administrative Liabilities: the range of fine is from NT\$20,000 to NT\$500,000, and both the non-government agency and the person-in-charge are subject to the punishment imposed.



Case 7

Q Teachers may ask school staff members to provide a student's information (personal information and academic transcripts) before writing a letter of recommendation for him/her. What should the school do? And should the staff member obtain the student's approval before providing such information?

A Writing letters of recommendation has become an obligation for teachers or professors no matter in the United States or in Taiwan. Schools can provide relevant information to them without obtaining students' approval.
What matters is that professors or teachers should prove that they ask schools to provide students' personal information only for writing letters of recommendation. Schools may ask professors or teachers to show students' application forms. Alternatively, professors or teachers can ask students to apply to schools for relevant information and request schools to hand the information to professors or teachers.

Case 8

Q Is it necessary to conceal students' names when schools put up a roll of honor after the Personal Information Protection Act came into effect?

A To fulfill the purpose of educational or training administration, schools do not have to overly conceal students' names when putting up a roll of honor as long as it is to reward students and Articles 16 and 20 of the Act are complied with. Otherwise, it goes against the aim of facilitating the proper use of personal information mentioned in Article 1 of the Act.

Case 9

Q What can the Curriculum Section do if the administrative head of a department or institute wants to know the teaching status of each faculty members as a reference to teaching surveys, faculty evaluations or other performance evaluations?

A The Curriculum Section is allowed to provide the information about teaching status of faculty members to the administrative head of a department or institute as a reference to teaching surveys, faculty evaluations or other performance evaluations since the processing and use of faculty members' personal information is within the scope of the specific purpose (educational or training administration).

Case 10

Q Is it legal for the Extension Education Center to send admission marketing materials to examinees who fail to pass an entrance exam with personal information collected when they sign up for the exam?

A The personal information of those who sign up for an entrance exam is not collected for the purpose of marketing courses offered by the Extension Education Center. Sending admission marketing materials to examinees is an act of taking advantage of their personal information, which goes beyond the specific purpose. Therefore, it is illegal for the Center to do so unless a written consent is obtained in advance.



Please visit the following website for more details:
<http://pipa.moj.gov.tw>

How to Apply the Personal Information Protection Act
-A Pamphlet for Non-government Agencies

