



Republic of the Philippines  
NATIONAL PRIVACY COMMISSION

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**PRIVACY POLICY OFFICE  
ADVISORY OPINION NO. 2022-008<sup>1</sup>**

2 March 2022

[REDACTED]

**Re: OBTAINING EMPLOYMENT RECORD OR CERTIFICATION  
FROM THE SOCIAL SECURITY SYSTEM**

Dear [REDACTED],

We write in response to your inquiry received by the National Privacy Commission (NPC or the Commission) to provide clarity on the permissibility of obtaining service records of individuals from the Social Security System (SSS) considering the provisions of the Data Privacy Act of 2012<sup>2</sup> (DPA).

From your email, we understand that VeritasPay Philippines, Inc. (VeritasPay) is a party to an ongoing labor case filed by its previous employees with the National Labor Relations Commission (NLRC) 1<sup>st</sup> Division. VeritasPay seeks to request a copy of records or certifications from the SSS indicating that the previous employees are now employed with another employer.

You now seek guidance from the Commission on the following queries:

1. Is it possible to request a copy of the record or certification from the SSS indicating that a previous employee is currently employed with another employer; and
2. Is the record or proof of employment classified as public record pursuant to Executive Order No. 2, Series of 2016 or Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies of Full Public Disclosure and

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<sup>1</sup> Tags: employee service record; protection of lawful rights and interest; court proceedings; legitimate interest.

<sup>2</sup> An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, Creating for this Purpose a National Privacy Commission, and for Other Purposes [Data Privacy Act of 2012], Republic Act No. 10173 (2012).

Transparency in the Public Service and Providing Guidelines Thereof (E.O. No. 2, s. 2016 on Freedom of Information in the Executive Branch).

We further understand that the purpose for obtaining the record or proof of employment is for the company to properly pray in its next pleading for the NLRC 1<sup>st</sup> Division to provide a correct computation of monetary award and delete the period where the terminated employees are already employed with another employer, alleging it would be tantamount to double compensation and unjust enrichment enshrined in the New Civil Code.

*Lawful processing; protection of lawful rights and interest in court proceedings*

Any record of employment or service record may contain personal information and sensitive personal information of the employee concerned. The disclosure of such records must have legal basis under the DPA and existing laws.

In the present situation where there is a pending labor case with the NLRC, and the request for the employment records or certification is necessary for proper litigation of VeritasPay's defense, the disclosure of such records may find ground under Sections 12 and 13 of the DPA, viz:

SEC. 12. Criteria for Lawful Processing of Personal Information. The processing of personal information shall be permitted only if not otherwise prohibited by law, and when at least one of the following conditions exists: x x x

(f) The processing is **necessary for the purposes of the legitimate interests pursued by the personal information controller or by a third party or parties** to whom the data is disclosed, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution.

...

SEC. 13. Sensitive Personal Information and Privileged Information. - The processing of sensitive personal information and privileged information shall be prohibited, except in the following cases: x x x

(f) The processing concerns such personal information as is **necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings, or the establishment, exercise or defense of legal claims**, or when provided to government or public authority.<sup>3</sup> (emphasis supplied)

However, while it appears there exists justification for the disclosure of personal data, the DPA mandates that the principle of proportionality should still be adhered to. Proportionality requires that the processing of information shall be adequate, relevant, suitable, necessary, and not excessive in relation to a declared and specified purpose.<sup>4</sup>

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<sup>3</sup> Data Privacy Act of 2012, §§ 12 (f) & 13 (f).

<sup>4</sup> Rules and Regulations Implementing the Data Privacy Act of 2012, Republic Act No. 10173, § 18 (c) (2016).

Given the foregoing, while there may be lawful basis for obtaining the employment records, based on the purposes stated in your inquiry, it appears that only specific facts of employment are necessary for VeritasPay's defense in the NLRC case, such as the fact of employment, name of employer and period of employment. These pieces of information may be given by the SSS through a certification. It need not provide a copy of the entire record of employment of the concerned employees.

*Record or proof of employment; processing of public record under the scope of the DPA*

On the question of whether the employment record is considered as public record under E.O. No. 2, s. 2016 on Freedom of Information in the Executive Branch, the NPC may not be the proper agency to determine its status as a public record since this is dependent on the law of SSS, rules and regulations, as well as E.O. No. 2. However, even if such records were classified as public records, the processing of the same is still within the scope of the DPA and its related issuances.

Likewise, the Inventory of Exceptions to EO No. 2 (S. 2016)<sup>5</sup> includes information deemed confidential for the protection of the privacy of persons as an exception to the general rule of disclosure in the right of access to information. The employment records contain personal data and the disclosure of the same must be in accordance with the DPA and other existing laws and regulations.

This opinion is based solely on the limited information you have provided. Additional information may change the context of the inquiry and the appreciation of facts. This opinion does not adjudicate issues between parties nor impose any sanctions or award damages.

For your reference.

Very truly yours,

**(Sgd.) IVY GRACE T. VILLASOTO**  
OIC-Director IV, Privacy Policy Office

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<sup>5</sup> Office of the President, Inventory of Exceptions to Executive Order No. 2 (S. 2016), Memorandum from the Executive Secretary (Nov. 24, 2016).