



PRIVACY POLICY OFFICE
ADVISORY OPINION NO. 2023-023¹

21 November 2023

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

**Re: REQUEST BY A THIRD-PARTY FOR ACCESS TO THE
SUPPORTING DOCUMENTS RELATIVE TO HER FATHER'S
APPLICATION FOR A MARRIAGE LICENSE.**

Dear [REDACTED]:

We respond to your request for an Advisory Opinion on the above matter.

You state in your letter that you received a request from a certain [REDACTED] (Requesting Party) for the certified true copies of the supporting documents that were used by her deceased father in his application for a marriage license. Attached to her request are the unregistered death certificate of her father, the Requesting Party's birth certificate, and a special power of attorney executed in her favor by her paternal grandmother. However, the Requesting Party failed to present any authority to obtain such documents from the other party to the marriage license.

You thus ask whether the Requesting Party is qualified to obtain the requested documents.

*PSA Memorandum Circular No. 2019-15;
nature of supporting documents for marriage
license application*

The Philippine Statistics Authority (PSA) issued Memorandum Circular (MC) No. 2019-15 to provide guidelines for requests for the issuance of Certificate of Live Birth, Certificate of Death, Certificate of Marriage, and Certificate of No Marriage/ Advisory on Marriage.

¹ Tags: press freedom; journalistic purpose, special case; freedom of information; security measures.

A cursory reading of MC No. 2019-15 shows that it does not cover requests for supporting documents relative to the foregoing certificates. Be that as it may, the request for copies of the supporting documents may be considered as a data subject request under the Data Privacy Act of 2012 (DPA).

Sensitive personal information

Parties applying for a marriage license are required to submit the following documents to the civil registrar:

1. Sworn application;
2. Original birth certificate or baptismal certificate;
3. Death certificate or decree of absolute divorce or judicial decree of annulment or declaration of nullity of marriage, in case either of the parties has been previously married;
4. Parental consent, in case either or both of the parties are between the ages of eighteen (18) and twenty-one (21);
5. Parental advice, in case either or both of the parties are between the ages of 21 and twenty-five (25);
6. Certificate stating that the parties have undergone marriage counseling, in cases where parental consent or advice is needed; and
7. Certificate of legal capacity to contract marriage, in case either or both of the parties are citizens of a foreign country²

It is readily apparent from the enumerated documents above that they contain sensitive personal information as the term is defined in the DPA.³ As such, its processing is generally prohibited except when it falls under any of the circumstances provided in Section 13 the DPA.

It is worth noting that although the Requesting Party did not specify the reason for her request, it is reasonable to assume that it is intended for the establishment, exercise or defense of a legal claim. In which case, Section 13(f) of the DPA applies:

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 interest 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.⁴

² Philippine Statistics Authority, Registration of Application for Marriage License available at <https://psa.gov.ph/content/registration-application-marriage-license> [last accessed 20 April 2023].

³ An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and Private Sector, Creating for this Purpose a National Privacy Commission, and for Other Purposes, Republic Act No. 10173, [Data Privacy Act of 2012], § 3(l).

⁴ Data Privacy Act of 2012, § 13(f).

The National Privacy Commission (NPC) clarified in *BGM v. IPP*⁵ that the term “processing as necessary for the establishment of legal claims” does not require an existing court proceeding, thus:

In the case of NPC 17-018 dated 15 July 2019, this Commission held that “processing as necessary for the establishment of legal claims” does not require an existing court proceeding. To require a court proceeding for the application of Section 13(f) to this instance would not only be to disregard the distinction provided in the law but the clear letter of the law as well. After all, the very idea of “establishment ... of legal claims” presupposes that there is still no pending case since a case will only be filed once the required legal claims have already been established.”

This Commission in the same case went on further and held that: The DPA should not be seen as curtailing the practice of law in litigation. Considering that it is almost impossible for Congress to determine beforehand what specific data is “necessary” or may or may not be collected by lawyers for purposes of building a case, applying the qualifier “necessary” to the second instance in Section 13(f) therefore, serves to limit the potentially broad concept of “establishment of legal claims” consistent with the general principles of legitimate purpose and proportionality. As regards legitimate purpose, the Implementing Rules and Regulations (IRR) of the Data Privacy Act provides that the processing of information shall be compatible with a declared and specified purpose which must not be contrary to law, morals, or public policy. This means that the processing done for the establishment of a legal claim should not in any manner be outside the limitations provided by law. The DPA is neither a tool to prevent the discovery of a crime nor a means to hinder legitimate proceedings.

(Underscoring supplied)

In the current matter, you may ask the Requesting Party to state the purpose of her request. Once it becomes clear that her purpose falls within the provision above, you may then provide her with the requested documents subject to the data privacy principles as will be discussed further below.

Data subject request; Right to access; transmissibility of rights

Data subjects are entitled to various rights under the DPA and its Implementing Rules and Regulations (IRR). Among such rights is the right to reasonable access to, upon demand, the contents of one’s personal information and sensitive personal information (collectively, personal data) that have been processed, among other information relating to the processing of his or her personal data.⁶

We note that the right to access, along with the other rights of data subjects afforded under the DPA, must be read together with Section 17 of the DPA on transmissibility of rights. The provision states that the lawful heirs and assigns of the data subject may invoke the rights of the data subject for which he or she is an heir or assign at any time after the death of the data subject or when the data subject is incapacitated or incapable of exercising the rights under the DPA.⁷

⁵ National Privacy Commission, *BGM vs. IPP* [NPC 19-653] (Dec. 17, 2020), available at <https://www.privacy.gov.ph/wp-content/uploads/2021/02/NPC-19-653-BGM-vs-IPP-Decision-FINAL-Pseudonymized-21Dec2020.pdf> (last accessed 20 April 2023).

⁶ Data Privacy Act of 2012, § 16 (c).

⁷ Data Privacy Act of 2012, § 17.

The determination as to who are “lawful heirs and assigns of the data subject” may be guided by the provisions of the Civil Code of the Philippines on the laws of succession and the rules on guardianship of incompetent persons under the Rules of Court.

In the instant matter, the Requesting Party was able to provide documents to prove her relationship with her father who is the data subject. Accordingly, under the principle of transmissibility of rights, the Requesting Party may invoke her father’s right to access with regard to the supporting documents used in his application for a marriage license.

*General data privacy principles;
proportionality; reasonable and appropriate
security measures*

While there may be lawful basis for the request for documents, the processing or disclosure of personal data must be done lawfully and fairly, with strict adherence to the data privacy principles of transparency, proportionality and legitimate purpose.

The principle of proportionality is of particular relevance to the present concern. This means that the disclosure must be limited only to personal data which may be relevant to the requestor’s declared purpose. To reiterate, it is imperative for the Requesting Party to define the purpose for which the supporting documents will be used. As such, personal data which are not relevant may be redacted.

Further, the civil registrar must ensure the protection of the personal data. In particular, the personal information controller must be mindful of the manner by which the requested documents will be disclosed to the Requesting Party. Aside from asking her to define the purpose for which the documents will be used, the Requesting Party must also be asked to sign an undertaking that the documents shall be used solely for that stated purpose. This is to ensure accountability on her part.

Please be advised that this Advisory Opinion was rendered based solely on the information you have provided. Any extraneous fact that may be subsequently furnished us may affect our present position. Please note further that our Advisory Opinion is not intended to adjudicate the rights and obligations of the parties involved.

For your reference.

Very truly yours,

(Sgd.)
FRANKLIN ANTHONY M. TABAQUIN, IV
Director IV, Privacy Policy Office