



PERSONAL DATA  
PROTECTION COMMISSION  
S I N G A P O R E

**ADVISORY GUIDELINES FOR THE EDUCATION SECTOR**

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## PART I: INTRODUCTION AND OVERVIEW

### 1 Introduction

- 1.1 These Guidelines should be read in conjunction with the document titled “Introduction to the Guidelines”<sup>1</sup> and are subject to the disclaimers set out therein.
- 1.2 Developed in consultation with the Ministry of Education (“MOE”) and Council for Private Education (“CPE”), these Guidelines aim to address the unique circumstances faced by the education sector in complying with the PDPA.
- 1.3 Section 4(1)(c) of the PDPA provides that, among others, the Data Protection Provisions shall not impose any obligation on any public agency. Public agencies include the Government and specified statutory bodies, including the CPE. The examples in these Guidelines on the Data Protection Provisions are relevant to education institutions that do not fall within the definition of a public agency, such as government-aided schools, specialised independent schools, specialised schools, independent schools, autonomous universities<sup>2</sup>, SIM University, Nanyang Academy of Fine Arts, LASALLE College of the Arts, and private education institutions (“PEIs”)<sup>3</sup>, e.g., Foreign System Schools.<sup>4</sup>

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<sup>1</sup> Available at <http://www.pdpc.gov.sg/resources/advisory-guidelines>.

<sup>2</sup> As at May 2014, these are: National University of Singapore, Nanyang Technological University, Singapore Management University, Singapore University of Technology and Design and Singapore Institute of Technology.

<sup>3</sup> Private Education Act (Cap 247A) - “private education institution” means — (a) any person that offers to provide or provides private education, whether or not the person offers to provide or provides the private education — (i) for profit; (ii) together with other education; or (iii) by itself or in association or collaboration with or by affiliation with any other person; and (b) such school registered under the Education Act (Cap. 87) which receives a grant-in-aid or subvention extended by the Government to aided schools as is specified by the Minister in a notification published in the Gazette.

<sup>4</sup> As at May 2014.

## PART II: APPLICATION OF THE DATA PROTECTION PROVISIONS TO SCENARIOS FACED IN THE EDUCATION SECTOR

The following sections and examples outline certain concepts and the application of some of the Data Protection Provisions in the PDPA. They address particular aspects of the PDPA, and are not meant to exhaustively address every obligation in the PDPA that would apply in that scenario. In particular, these sections and examples do not illustrate the application of the Do Not Call Provisions, which are addressed later in these Guidelines.

### 2 The Consent, Purpose Limitation and Notification Obligations

- 2.1 The Commission understands that an education institution<sup>5</sup> may collect, use or disclose a student’s personal data for purposes such as to provide the student with education services, to evaluate the student’s suitability for a course, or to administer bursaries, scholarships and relevant financial assistance schemes to eligible students. The Commission recognises that the purposes for the collection, use or disclosure of personal data may differ across education institutions. Organisations should, therefore, notify and specify purposes at an appropriate level of detail that will allow an individual to determine the reasons that the education institution is collecting, using or disclosing his/her personal data. Education institutions are encouraged to consider factors such as the specific facts of the case, business and operational needs, and to refer to the Advisory Guidelines on Key Concepts in the PDPA (“Key Concepts Guidelines”) for more information on providing notification and on stating purposes.
- 2.2 The Data Protection Provisions in Parts III to VI of the PDPA set out the obligations that organisations are required to comply with if they undertake activities relating to the collection, use or disclosure of personal data<sup>6</sup>. Among other things, organisations are required to obtain valid consent from the individual for a limited purpose that has been notified to the individual for the collection, use and disclosure of personal data

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<sup>5</sup> The PDPA defines an “education institution” to mean “any organisation that provides education, including instruction, training or teaching, whether by itself or in association or collaboration with or by affiliation with any other person.”

<sup>6</sup> Personal data is defined in the PDPA as “data, whether true or not, about an individual who can be identified – a) from that data; or b) from that data and other information to which the organisation has or is likely to have access.” While some data may necessarily relate to an individual, other data may not, on its own, relate to an individual. Such data would not constitute personal data unless it is associated with, or made to relate to, a particular individual. Generic information that does not relate to a particular individual may also form part of an individual’s personal data when combined with personal data or other information to enable an individual to be identified. Please refer to the Key Concepts Guidelines for more information about the term “personal data”.

of the individual, unless exceptions apply<sup>7</sup>.

#### Considerations in obtaining consent

- 2.3 The PDPC does not prescribe the manner in which consent should be obtained by an organisation under the Data Protection Provisions. An education institution may decide on the most suitable way to obtain consent in accordance with the PDPA, and may refer to the Key Concepts Guidelines for more information on considerations and good practices when obtaining consent from an individual.
- 2.4 In relation to the Consent Obligation, prior to collecting, using or disclosing personal data about an individual, an education institution should consider:
- a) Whether the individual (or a person who has the legal authority to validly<sup>8</sup> act on behalf of the individual) had been notified of the purposes for the collection, use or disclosure of his personal data and had given consent to such collection, use or disclosure;
  - b) If consent had not actually been given, whether consent can be deemed to have been given by the individual (or a person who has the legal authority to validly act on behalf of the individual) for the collection, use or disclosure of his personal data for the purpose; and
  - c) Whether the collection, use or disclosure without the consent of the individual is required or authorised under the PDPA or any other written law, and assess whether the circumstances fall within any of the exceptions from the Consent Obligation in the Second, Third or Fourth Schedules to the PDPA.
- 2.5 The Commission is aware that, depending on the nature of their education product or service and demographics of their students, some education institutions may collect, use and disclose the personal data of minors and would accordingly have to obtain consent under the PDPA. Please refer to the Advisory Guidelines on Selected Topics (“Selected Topics Guidelines”) for more information relating to considerations when

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<sup>7</sup> Please refer to the Second (collection of personal data without consent), Third (use of personal data without consent) and Fourth (disclosure of personal data without consent) Schedules under the PDPA for exceptions which may apply.

<sup>8</sup> When a person may validly act on behalf of an individual in certain circumstances is set out in existing law (e.g. common law). Apart from certain Regulations in relation to the rights or powers of deceased individuals, the PDPA generally does not affect such existing treatment. Instead, the PDPA merely provides that in the PDPA, references to consent given, or deemed to have been given, by an individual for the collection, use or disclosure of personal data about the individual shall include consent given, or deemed to have been given, by any person validly acting on behalf of that individual for the collection, use or disclosure of such personal data.

obtaining consent from minors.

<p>2.6</p>	<p><b>Example: Disclosure of personal data for school buddy orientation programmes</b></p> <p>Ella is a student currently pursuing a course at School ABC. School ABC intends to pair Ella with an incoming international student under an orientation programme which matches existing students with incoming students and their families, and wishes to disclose Ella’s personal data (such as name, age, interests and contact details) to Ella’s potential buddy.</p> <p>School ABC should obtain Ella’s consent before disclosing her personal data for such a purpose.</p> <p>For avoidance of doubt, School ABC may notify Ella and seek her consent using various avenues and platforms. For example, when collecting Ella’s personal data during the enrolment process, School ABC could include a notification in the enrolment forms that the personal data of enrolled students may be used and disclosed to third parties for school-related activities or programmes, such as “buddy systems” for new students, and consent can be obtained via the same forms.</p>
<p>2.7</p>	<p><b>Example: Disclosure of personal data of minors for school field trip</b></p> <p>A pre-school, ABC, is organising a field trip to the zoo for its students. Pre-school ABC needs to disclose the participants’ personal data to the zoo for the purpose of arranging the field trip programme.</p> <p>Generally, Pre-school ABC should obtain consent from the parent or other legal guardians of each student, as a pre-school student would not have legal capacity to give consent.</p>
<p>2.8</p>	<p><b>Example: Disclosure of personal data to another parent</b></p> <p>Sue and John are friends whose daughters attend School ABC. One day, Sue is required to attend a meeting at the last minute and she is unable to pick up her daughter, Vera, at school. Sue calls John to pick Vera up on her behalf and send her home. John arrives at the school, informs School ABC that he is picking up Vera as well, and asks School ABC for Vera’s home address. In this situation, in the absence of other forms of verification, School ABC should ensure that consent is obtained for</p>

	<p>the disclosure of Vera’s personal data (e.g. home address) for such a purpose. For example,</p> <p>School ABC could make a call to Sue to confirm her agreement to disclose Vera’s address to John.</p>
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<p>2.9</p>	<p><b>Example: Disclosure of students’ personal data for marketing purposes</b></p> <p>School ABC would like to publish the names and photographs of its top students and renowned alumni in its marketing collateral.</p> <p>As the names and photographs of these individuals are considered personal data relating to them, School ABC should obtain consent from these individuals to use and disclose their personal data for the marketing purposes.</p>
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<p>2.10</p>	<p><b>Example: Disclosure of starting salaries of alumni</b></p> <p>School ABC conducts a survey on the employability of its alumni. The survey is conducted primarily via email, and personal data of School ABC’s alumni are obtained through the survey such as their full names, student registration numbers, field(s) of study, the sector they are currently employed in, and their starting salaries. In the survey, School ABC states that the purpose of the survey is for School ABC to manage career services for its existing students.</p> <p>Organisation DEF, targeting high net worth individuals for their investment services, asks School ABC for a list of alumni who earn more than \$X a month, their contact details and salary range in order to contact them to offer investment services. As this would be a different purpose from which the personal data was collected for, School ABC is required to obtain fresh consent from its alumni to disclose their personal data to Organisation DEF for their purposes.</p> <p>Organisation GHI produces a report each year on the starting salaries of fresh graduates in each industry sector and asks School ABC for the salary details of its recently-graduated alumni. As this would be a different purpose for which the personal data was collected, School ABC is required to obtain fresh consent from the alumni to disclose their personal data to Organisation GHI for their purposes. School ABC may also consider whether the data required could be anonymised, for example by removing personal identifiers, and aggregating data points so that unique individuals cannot be identified from the data. School ABC should also consider factors which may pose a challenge in keeping data anonymised. Please refer to the</p>
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	chapter in the Selected Topics Guidelines relating to Anonymisation for more information.
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When consent may be deemed

- 2.11 An individual is deemed to consent to the collection, use and disclosure of his personal data for a purpose if the individual voluntarily provides the personal data to the organisation for that purpose and it is reasonable that the individual would do so.
- 2.12 In a situation where an individual gives, or is deemed to have given, consent to the disclosure of personal data about the individual by one organisation to another organisation for a particular purpose, the individual is deemed to consent to the collection, use or disclosure of the personal data for that particular purpose by that other organisation.
- 2.13 Although organisations may rely on deemed consent instead of obtaining actual consent from the individual, it is good practice for an organisation to review its business processes to determine the situations where it should obtain actual consent instead of relying on deemed consent.
- 2.14 When it is unclear whether consent may be deemed, organisations should obtain consent from the individual to collect, use or disclose his personal data (as the case may be) for the relevant purposes in order to avoid any dispute over whether consent was given.
- 2.15 The following examples illustrate situations where the Consent Obligation applies. Please also refer to the Key Concepts Guidelines for more information on the Consent Obligation.
- 2.16 The following examples illustrate situations where consent may be deemed to have been given.

2.17	<p><b>Example: Personal data collected for security purposes</b></p> <p>As part of its security measures, School ABC requires visitors to the school to sign up for a visitor pass at the security guard house. Visitors are requested to provide their full name, NRIC/passport number, contact number and state the purpose for their visit.</p> <p>School ABC is required to comply with the Data Protection Provisions when collecting, using and disclosing personal data. An individual is deemed to have given consent to School ABC's collection of his/her personal data for security purposes if</p>
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	<p>the individual provides his/her personal data voluntarily for the purpose. As good practice, to ensure that the individual is aware of the purpose, School ABC may place a prominent sign at the reception desk indicating that visitors' details will be collected for security purposes.</p>
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<p>2.18</p>	<p><b>Example: Personal data provided as administrative contact</b></p> <p>Jack signs up his son, Mack, for a one-day swimming camp organised by School ABC. In the registration form, Jack writes down his own name and mobile phone number for School ABC to contact him for the purpose of his son's participation in the camp. As Jack had voluntarily provided his name and contact details, he is deemed to have consented to School ABC's collection, use or disclosure of his personal data for such purposes.</p> <p>Should School ABC wish to use or disclose Jack's personal data for another purpose (for which consent had not been given or deemed to have been given), the school will need to separately obtain consent from Jack for that other purpose, unless an exception applies.</p>
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Exceptions to the Consent Obligation

2.19 The PDPA permits the collection, use and disclosure of personal data without consent (and in the case of collection, from a source other than the individual) in circumstances provided in the Second (collection of personal data without consent), Third (use of personal data without consent) and Fourth Schedules (disclosure of personal data without consent) to the PDPA respectively. Such exceptions include where the collection, use or disclosure of personal data is necessary for evaluative purposes<sup>9</sup>.

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<sup>9</sup> "Evaluative purpose" is defined under the PDPA to mean –

- (a) for the purpose of determining the suitability, eligibility or qualifications of the individual to whom the data relates – (i) for employment or for appointment to office; (ii) for promotion in employment or office or for continuance in employment or office; (iii) for removal from employment or office; (iv) for admission to an education institution; (v) for the awarding of contracts, awards, bursaries, scholarships, honours or other similar benefits; (vi) for selection for an athletic or artistic purposes; or (vii) for grant of financial or social assistance, or the delivery of appropriate health services, under any scheme administered by a public agency;
  - (b) for the purpose of determining whether any contract, award, bursary, scholarship, honour or other similar benefit should be continued, modified or cancelled;
  - (c) for the purpose of deciding whether to insure any individual or property or to continue or renew the insurance of any individual or property; or
  - (d) for such other similar purposes as may be prescribed by the Minister.
- No other such purposes have been prescribed to date.

However, these exceptions to the Consent Obligation do not affect rights or obligations by or under other law. For example, even if an exception applies under the PDPA, organisations are required to comply with legal obligations of confidentiality that they may have.

2.20	<p><b>Examples: Exceptions to the Consent Obligation for evaluative purposes</b></p> <p>David applies for admission to School ABC, an educational institution. He lists School XYZ as the current educational institution he is enrolled in. School ABC requires David’s performance records in School XYZ to evaluate his suitability of admission into School ABC and requests for a copy of such records from School XYZ. In this case, consent is not required for School ABC to collect and use such personal data necessary to evaluate David’s eligibility for admission to School ABC. Similarly, consent is not required for School XYZ to disclose such personal data to School ABC for the evaluative purpose.</p>
2.21	<p>Peggy is one of School ABC’s scholarship recipients. The scholarship is only available for students with excellent conduct, class participation and examination results. School ABC uses the teachers’ assessment of Peggy’s conduct in class to determine whether the scholarship should be continued in its annual review of scholarship holders. In this scenario, School ABC is not required to obtain consent from Peggy to use her personal data as this falls within the exception in the Third Schedule to the PDPA for evaluative purposes.</p>
2.22	<p><b>Example: Disclosure of personal data to a public agency for policy formulation or review</b></p> <p>At the end of each academic year, School ABC compiles and submits a list of names, ages, addresses and examination grades for each subject of the students enrolled with the school to a public agency. The public agency uses the data to understand the performance trends of the categories of students enrolled in schools like ABC for its annual policy review.</p> <p>In this case, School ABC is not required to obtain the consent of the students to disclose their personal data to the public agency as there is an exception in the Fourth Schedule to the PDPA for disclosure of personal data of current or former students of an education institution to a public agency for the purposes of policy formulation or review.</p>

2.23	<p><b>Example: Disclosure of personal data without consent in an emergency situation</b></p> <p>Following a physical education class, Alan suddenly develops dizzy spells and faints. Alan is admitted into a hospital nearby, and Alan’s teacher, Sue, provides the medical staff with Alan’s personal data such as his full name, blood type and allergies. Sue may disclose Alan’s personal data without consent, as there is an applicable exception under the Fourth Schedule to the PDPA for the disclosure of Alan’s personal data that is necessary to respond to an emergency that threatened his health.</p>
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### 3 The Access and Correction Obligation

- 3.1 Section 21(1) of the PDPA provides that, upon request by an individual, an organisation shall provide the individual with the following as soon as reasonably possible:
- a) personal data about the individual that is in their possession or under the control of the organisation; and
  - b) information about the ways in which that personal data has been or may have been used or disclosed by the organisation within a year before the date of the individual's request.
- 3.2 The Fifth Schedule to the PDPA contains exceptions to this obligation such as where the data is opinion data kept solely for an evaluative purpose; or the information is in respect of any examination conducted by an education institution, examination scripts and prior to the release of examination results, examination results.
- 3.3 Section 22(1) of the PDPA provides that an individual may submit a request for an organisation to correct an error or omission in the individual's personal data that is in the possession or under the control of the organisation ("a correction request"). Upon receipt of a correction request, the organisation is generally required to make the correction, subject to applicable exceptions<sup>10</sup>.
- 3.4 In particular, section 22(2) goes on to provide that unless the organisation is satisfied on reasonable grounds that the correction should not be made, it should:
- a) correct the personal data as soon as practicable; and
  - b) send the corrected personal data to every other organisation to which the personal data was disclosed by the organisation within the year before the date the correction request was made, unless that other organisation does not need the corrected personal data for any legal or business purpose.
- 3.5 If an organisation is satisfied upon reasonable grounds that a correction should not be made (whether the organisation is responding to a correction request made directly by the individual or has been notified of a correction made by such an organisation), section 22(5) requires the organisation to annotate (that is, make a note to) the personal data in its possession or under its control indicating the correction that was requested but not made. As a good practice, the organisation may also wish to

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<sup>10</sup> Please refer to the Sixth Schedule of the PDPA.

annotate the reasons why it has decided that the correction should not be made.

- 3.6 The obligation to correct personal data is subject to a number of exceptions in Section 22 and the Sixth Schedule of the PDPA. One such exception relates to personal data which is opinion data kept solely for an evaluative purpose<sup>11</sup>.
- 3.7 The following examples illustrate the application of the Access and Correction Obligation.

3.8	<p><b>Example: Access to student’s records</b></p> <p>Jack intends to apply for a job with Company ABC after graduating from School DEF. To provide information to support his application, Jack makes an access request to School DEF for records of his co-curricular activities and a transcript of his examination results. School DEF is required to provide access to the information in accordance with section 21(1) of the PDPA, unless there is an applicable exception.</p>
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3.9	<p><b>Example: Accessing results of language competency test</b></p> <p>Prior to enrolment into School ABC, all students are required to undergo a language competency test. Grace makes an access request after taking the test (but before the release of results) to School ABC to find out her test grade. In this case, School ABC is not required to accede to Grace’s access request as there is an exception under the Fifth Schedule to the PDPA in relation to information that is in respect of any examination conducted by an education institution, examination scripts and prior to the release of examination results, examination results.</p>
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3.10	<p><b>Example: Correction of residential address</b></p> <p>Peter finds out that a cheque refund mailed out by School ABC to him was mistakenly sent to his neighbour residing two storeys above him. Peter makes a correction request for School ABC to amend the residential address recorded in School ABC’s system from 123, DEF Road, #04-02 to 123, DEF Road, #02-04. As there are no reasonable grounds for the correction not to be made, School ABC corrects the listing of Peter’s residential address so as to be able to communicate with him by</p>
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<sup>11</sup> Please refer to the PDPA for the full set of exceptions.

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3.11	<p><b>Example: Correction of a teacher’s opinion</b></p> <p>Karen’s mother, Mary, notices a teacher’s remarks in Karen’s annual assessment report that Karen tends to lose attention during certain classes, and that Karen needs to improve her handwriting. Mary makes a correction request to the school to omit these remarks from Karen’s report. In this case, the school is not required to make corrections to the teacher’s remarks to the extent that the remarks are regarded as an opinion.</p>
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#### 4 The Transfer Limitation Obligation

- 4.1 Section 26 of the PDPA limits the ability of an organisation to transfer personal data outside Singapore unless in accordance with prescribed requirements (“the Transfer Limitation Obligation”). The conditions under which an organisation may transfer personal data overseas are specified in the Personal Data Protection Regulations 2014.
- 4.2 An organisation may transfer personal data overseas if it has taken appropriate steps to ensure that it will comply with the Data Protection Provisions in respect of the transferred personal data while such personal data remains in its possession or under its control; and if the personal data is transferred to a recipient in a country or territory outside Singapore, that the recipient is bound by legally enforceable obligations to provide to the personal data transferred a standard of protection that is at least comparable to that under the PDPA (such as obligations imposed under law or contract).
- 4.3 Organisations may be taken to have satisfied the requirement to take appropriate steps to ensure that the recipient is bound by legally enforceable obligations to provide to the personal data transferred a standard of protection that is at least comparable to that under the PDPA under certain circumstances, such as:
- a) when the transfer is necessary for the performance of a contract between the transferring organisation and the individual, or to do anything at the individual’s request with a view to his entering a contract with the transferring organisation; or
  - b) when the personal data is publicly available in Singapore.
- 4.4 Please refer to Chapter 19 of the Key Concepts Guidelines and the aforementioned Regulations for more information on the Transfer Limitation Obligation.
- 4.5 The following examples illustrate the application of the Transfer Limitation Obligation. While each example illustrates reliance on particular avenues to transfer personal data overseas, an education institution is not precluded from relying on other avenues to transfer personal data in compliance with the Transfer Limitation Obligation in the respective scenarios.

4.6	<p><b>Example: Transferring personal data of research participant to overseas research partners</b></p> <p>School ABC is conducting a research study in collaboration with School XYZ, an education institution located in Country X. As part of their collaboration, School ABC will transfer the personal data of individual research participants to School XYZ for</p>
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	<p>the latter’s analysis.</p> <p>School ABC provides each potential research participant with a written summary of the extent to which his personal data will be protected to a standard comparable to that under the PDPA in Country X and asks each potential research participant whether he consents to the transfer of his personal data to School XYZ in Country X. In such circumstances, School ABC may transfer a participant’s personal data to School XYZ in compliance with the Transfer Limitation Obligation should the participant provide his consent.</p>
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<p>4.7</p>	<p><b>Example: Transferring student data overseas for an exchange programme</b></p> <p>School DEF intends to send its students’ personal data to School MNO in Country Y for the administration of an exchange programme between the two schools. School DEF reviews the obligations under Country Y’s data protection law that School MNO is subject to, and determines that School MNO would be bound by legally enforceable obligations to provide a standard of protection to its students’ personal data that is comparable to the PDPA. School DEF may transfer the personal data to School MNO in compliance with the Transfer Limitation Obligation in such circumstances.</p> <p>Alternatively, School DEF may also be taken to have transferred a student’s personal data to School MNO in compliance with the Transfer Limitation Obligation, if it provides the student with a written summary of the extent to which his personal data will be protected to a standard comparable to that under the PDPA in Country Y, and obtains consent from the student.</p>
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<p>4.8</p>	<p><b>Example: Transferring teaching staff’s research history to reviewers overseas</b></p> <p>School GHI wishes to transfer a document describing the research achievements of Ben, a member of its teaching staff, to reviewers overseas, to assess if he should be promoted in accordance with the terms of his employment contract. To the extent that the transfer is necessary for the performance of the employment contract between School GHI and Ben, School GHI may transfer the personal data to School MNO in compliance with the Transfer Limitation Obligation.</p>
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**5 Organisations and Data Intermediaries**

- 5.1 In some situations, education institutions may engage data intermediaries to process personal data. The PDPA provides that a data intermediary<sup>12</sup> that processes personal data on behalf of and for the purposes of another organisation pursuant to a contract which is evidenced or made in writing will only be subject to the Protection Obligation and Retention Limitation Obligation and not any of the other Data Protection Provisions.
- 5.2 A data intermediary remains responsible for complying with all Data Protection Provisions in respect of other activities that do not constitute processing of personal data on behalf of and for the purposes of another organisation that is pursuant to a contract evidenced or made in writing.
- 5.3 In any case, under section 4(3) of the PDPA, the organisation that engages the data intermediary would still have the same obligations under the PDPA in respect of personal data processed on its behalf as if the personal data were processed by the organisation itself.
- 5.4 Please refer to the Key Concepts Guidelines which provide further elaboration on when an organisation is considered a data intermediary and the obligations applicable to data intermediaries under the PDPA.

5.5	<p><b>Example: Provision of transport services</b></p> <p>School ABC has a written contract with an external Vendor JKL for the provision of transport services to School ABC’s students. Among other things, the contract between School ABC and Vendor JKL specifies that Vendor JKL will use personal data of School ABC’s students provided by School ABC for the sole purpose of providing transport services on behalf of ABC to these students.</p> <p>Tina is a student currently pursuing a course with ABC. Tina wishes to sign up for transport services provided by School ABC through Vendor JKL.</p> <p>Tina provides her personal data by completing the form prepared by School ABC, and ticks the box on the form to give School ABC consent to disclose her personal data to the Vendor JKL for the purpose of arranging the transport services.</p> <p>Vendor JKL will be considered a data intermediary processing Tina’s personal data</p>
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<sup>12</sup> PDPA defines data intermediary as “an organisation which processes personal data on behalf of another organisation but does not include an employee of that other organisation.”

	<p>on behalf of and for the purposes of School ABC pursuant to a written contract in relation to the provision of transport services to Tina.</p> <p>In this instance, Vendor JKL will be subject only to the Protection Obligation and the Retention Limitation Obligation, while School ABC will have the same obligations under the PDPA in respect of Tina’s personal data processed on its behalf by Vendor JKL, as if the personal data were processed by School ABC itself.</p>
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<p>5.6</p>	<p><b>Example: Engaging a consultancy firm to conduct a survey</b></p> <p>School ABC has engaged the services of consultancy Firm DEF via a contractual agreement to conduct an email survey among its upcoming cohort of graduates. The purpose of the survey is to study student perceptions on job placement quality, and quality of training. School ABC will use the survey findings to refine its existing policies on job placement and training.</p> <p>According to the terms of the agreement with School ABC, School ABC will provide Firm DEF with a list of graduate students containing their full names, student matriculation numbers, and field(s) of study. Firm DEF will categorise the graduates according to their fields of study and then contact them by email to conduct the survey. Following the completion of the email survey, Firm DEF is required to return the list containing the graduate students’ personal data and all survey results to School ABC.</p> <p>In this case, Firm DEF will be considered a data intermediary of School ABC when processing students’ personal data for the purpose of the email survey. Firm DEF will be subject only to the Protection Obligation and the Retention Limitation Obligation in relation to such processing, while School ABC will have the same obligations under the PDPA in respect of personal data processed on its behalf by Firm DEF, as if the personal data were processed by School ABC itself.</p>
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5.7 There are several obligations within the Data Protection Provisions which require organisations to develop and implement policies and practices that are necessary for the organisation to meet its obligations under the PDPA. Organisations are required to make the information about their data protection policies available. For more information, please refer to the Key Concepts Guidelines and the Selected Topics Guidelines.

## 6 Rights and obligations, etc under other laws

- 6.1 Section 4(6) of the PDPA states that unless otherwise provided in the PDPA, nothing in Parts III to VI of the PDPA shall affect any authority, right, privilege or immunity conferred, or obligation or limitation imposed, by or under the law, including legal privilege, except that the performance of a contractual obligation shall not be an excuse for contravening the PDPA, and the provisions of other written law shall prevail to the extent that any provision of Parts III to VI is inconsistent with the provisions of that other written law.
- 6.2 Section 13(b) of the PDPA provides that an organisation shall not, on or after the appointed day, collect, use or disclose personal data about an individual without the consent of the individual unless the collection, use or disclosure, as the case may be, without the consent of the individual is required or authorised under the PDPA or any other written law.
- 6.3 There are several provisions under the Private Education Act and Regulations that empower the CPE to obtain information (including personal data) from registered PEIs. These provisions include, but are not limited to, the following:
- a) Section 57 of the Private Education Act provides that an inspector of the CPE may during an inspection of a registered PEI require any person to, amongst others, furnish any information which is within the power of the person to furnish relating to such matters as the inspector may specify.
  - b) Section 62 of the Private Education Act provides that the CPE may issue a requisition to any person to furnish such particulars or supply such information relating to any matter to which the Act applies as may be specified in the requisition.
  - c) Regulation 22 of the Private Education Regulations provides that the managers of a registered PEI shall prepare and submit to the CPE, by the 31<sup>st</sup> day of December of each year, an annual report on the activities and affairs of the PEI in that year. This includes, but is not limited to, personal data on the managers, academic/examination board members, teachers as well as students of the registered PEI.
- 6.4 Section 19 of the PDPA provides that notwithstanding the other provisions of Part IV of the PDPA, an organisation may use personal data collected before the appointed day for the purposes for which the personal data was collected, unless consent for such use is withdrawn or the individual has indicated to the organisation that he does not consent to the use of the personal data. Such 'use' could include disclosure that is

necessarily part of the organisation's use of such personal data. For avoidance of doubt, the Do Not Call Provisions will apply to the sending of specified messages to Singapore telephone numbers, even if the Singapore telephone numbers are collected before the appointed day.

## PART III: APPLICATION OF THE DO NOT CALL PROVISIONS TO SCENARIOS FACED IN THE EDUCATION SECTOR

The following examples outline the application of the Do Not Call Provisions and the Personal Data Protection (Exemption from Section 43) Order (S.817/2013) (“Exemption Order”). They address particular aspects of the PDPA, and are not meant to exhaustively address every obligation in the PDPA that would apply in that scenario. In particular, they do not illustrate the application of the Data Protection Provisions, which were addressed earlier in these Guidelines.

### 7 The Do Not Call Provisions

- 7.1 Messages with a purpose to offer to supply, advertise or promote goods or services, land or an interest in land, or a business or investment opportunity, or a supplier of such goods, services, land or opportunity are specified messages and the Do Not Call Provisions will apply to such messages. Messages which do not have any of the purposes listed above will not be considered specified messages. The Eighth Schedule to the PDPA sets out exclusions from the meaning of “specified message” that relate to, among others, any “business-to-business” marketing message, any message sent by a public agency under, or to promote, any programme carried out by any public agency, which is not for commercial purpose, any message the sole purpose of which is to conduct market research or market survey, and other types of information specified in the Eighth Schedule.
- 7.2 The Do Not Call Provisions apply to a specified message addressed to a Singapore telephone number if the sender of the specified message is present in Singapore when the specified message is sent or the recipient of the specified message is present in Singapore when the specified message is accessed.
- 7.3 One significant obligation under the Do Not Call Provisions is that the organisation sending the specified message will have to check the Do Not Call Registers as described above, unless:
- a) the user or subscriber of the Singapore telephone number has given clear and unambiguous consent in written or other accessible form to the sending of the specified message to that number; or
  - b) the organisation is exempted from complying with its obligation under the Exemption Order.
- 7.4 Under the Exemption Order, a sender that is sending a specified fax message or a specified text message to a Singapore telephone number related to the subject of an ongoing relationship between the sender and a recipient is exempted from the

requirement to check the relevant Do Not Call Registers, if certain conditions are met. An “ongoing relationship” under the Exemption Order means a relationship which is on an ongoing basis, between a sender and a subscriber or user of a Singapore telephone number, arising from the carrying on or conduct of a business or activity (commercial or otherwise) by the sender. The Exemption Order does not apply to voice calls and a sender is still required to check the Do Not Call Register before making any telemarketing calls to promote related products or services. The Advisory Guidelines on the Do Not Call Provisions provide further elaboration.

- 7.5 In determining what constitutes an ongoing relationship, the Commission considers one-off interactions or transactions in themselves to be insufficient to be an ongoing relationship. For example, the fact that an individual previously contacted the education institution to enquire about upcoming courses or programmes once, or attended an open house organised by the education institution once, by themselves, would be insufficient to establish an ongoing relationship between the individual and the sender.

7.6	<p><b>Examples: Whether messages are specified messages<sup>13</sup></b></p> <p>School ABC is conducting an annual walkathon.</p> <p>(a) School ABC sends an SMS inviting students to attend the annual walkathon. To the extent that the walkathon does not offer to supply a good or service or have any of the other purposes listed in the definition of a specified message, School ABC would <u>not</u> be sending a specified message, therefore the Do Not Call Provisions would <u>not</u> apply.</p> <p>(b) In conjunction with “Healthy Week”, School ABC calls to inform students about an upcoming seminar by a shoe retailer on choosing the right shoes for the walkathon. As the seminar involves promoting a supplier, School ABC is likely to be sending a specified message and the Do Not Call Provisions will apply.</p> <p>(c) School ABC calls all parents of students to be chaperones at the walkathon. Such messages will <u>not</u> be considered “specified messages” under the PDPA to the extent that they do not involve marketing of any good or service. Hence, the Do Not Call Provisions do <u>not</u> apply.</p>
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<sup>13</sup> Please refer to the Advisory Guidelines on the Do Not Call Provisions for more information and examples on when messages are considered specified messages.

	(d) School ABC sends an SMS to thank all parents who volunteered in the walkathon. School ABC is <u>not</u> sending a specified message and the Do Not Call Provisions do <u>not</u> apply.
7.7	In the upcoming school term, School ABC will be organising a school trip to Country XYZ as part of its efforts to enhance students’ understanding of history and architecture. School ABC sends an SMS to students announcing the school trip, and possible travel insurance packages offered by various companies available to interested students. In this case, School ABC is considered to be sending a specified message as the SMS was also promoting travel insurance packages from different vendors to students. Hence, the Do Not Call Provisions will apply.
7.8	School DEF sends an SMS to students providing them administrative details of an upcoming examination, such as date, timing, venue and instructions for candidates to bring along their student matriculation card for verification purposes. School DEF is <u>not</u> sending a specified message, and the Do Not Call Provisions do <u>not</u> apply.
7.9	School ABC calls Albert to remind him of the deadline to settle his tuition fees. In this scenario, School ABC is <u>not</u> sending a specified message, and the Do Not Call Provisions do <u>not</u> apply.
7.10	School ABC sends an SMS to students announcing cancellation of outdoor classes due to inclement weather. School ABC is <u>not</u> sending a specified message, and the Do Not Call Provisions do <u>not</u> apply.

7.11 The following examples illustrate the application of the Exemption Order.

7.12	<p><b>Examples: Application of the Exemption Order</b></p> <p>School ABC will be introducing new language courses over the next year.</p> <p>(a) Jim previously enquired with School ABC on another course, and had no further interaction with School ABC thereafter. In this case, School ABC <u>cannot</u> rely on the Exemption Order to send a text or fax message marketing its new programmes to Jim as his enquiry was considered a one-off interaction.</p> <p>(b) Tracy, a former student of School ABC, has joined School ABC’s alumni</p>
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	<p>network, which receives regular email updates from School ABC on school-related news including new courses and events open to alumni. School ABC may rely on the Exemption Order to send Tracy text or fax messages containing information about its new language courses.</p> <p>(c) Jason enrolls his daughter, Jasmine, in a language course conducted by School ABC. In the enrolment form, Jason provides his name and Singapore telephone number as “parent contact information”, which School ABC requires for the purposes of sending administrative updates about the course. In this case, the fact that Jason enrolled his daughter and provided his contact information, on its own, does not give rise to an ongoing relationship between him and School ABC. The on-going relationship is generally established between School ABC and Jasmine. School ABC should thus obtain clear and unambiguous consent, evidenced in written or any other form, from Jason if it wishes to send specified messages (e.g., such as promoting the new language courses) to Jason’s telephone number.</p> <p>If School ABC wishes to rely on any ongoing relationship to send specified messages under the Exemption Order to Jason, School ABC would need to consider if there are relevant factors that establish an ongoing relationship between itself and Jason.</p>
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