



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

**PRIVACY POLICY OFFICE
ADVISORY OPINION NO. 2020-008¹**

4 February 2020



**Re: VIDEO DOCUMENTATION OF MANDATORY TRAININGS
FOR SAFETY OFFICERS**

Dear ,

We write in response to your request for advisory opinion received by the National Privacy Commission (NPC) which sought clarify whether the requirement set by the Occupational Safety and Health Center (OSHC) mandating Occupational Safety and Health Training Organizations (OSHTOs) to submit video documentation of mandatory trainings for safety officers violates the Data Privacy Act of 2012² (DPA).

OSHC as public authority

The OSHC was created by virtue of Executive Order No. 307.³ Its primary mission is to develop effective, responsive, and sustainable Occupational Safety and Health (OSH) programs, policies and services; promote excellent management of resources and foster mutually beneficial linkages that will create a healthy and safe work environment for workers in all industries.⁴ Under Section 2 of the EO, the OSHC have the following powers and functions, among others:

- a. To undertake continuing studies and researches on occupational safety and health, including those relating to the establishment of causal connection between diseases and occupations and the development of medical criteria in determining the nature and

¹ Tags: lawful processing; personal information; public authority; general data privacy principles.

²An 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).

³ Establishing the Occupational Safety and Health Center in the Employees' Compensation Commission, attached agency of the Department of Labor and Employment [Executive Order No. 307] (1987).

⁴ Occupational Safety and Health Center, About OSHC available at <http://www.oshc.dole.gov.ph/transparency-seal/history> (last accessed December 4, 2019).

extent of impairment or diminution in health, functional capacity or life expectancy of the employees as a result of their work and working conditions;

- b. To plan, develop and implement training programs in the field of occupational safety and health, and related interests;
- c. To serve as a clearing house of information and innovative methods, techniques and approaches in dealing with occupational safety and health problems and institute a mechanism of information dissemination to the general public;
- d. To monitor the working environment by the use of industrial hygiene, field and laboratory equipment and conduct medical examinations of workers exposed to hazardous substances for the ready detection of occupational diseases;
- e. To act as the duly recognized agency to undertake practical testing for safe use and set standard specifications of personal protective and other safety devices;
- f. To assist government agencies and institutions in the formulation of policies and standards on occupational safety and health and other matters related thereto and issue technical guidelines for the prevention of occupational diseases and accidents;
- g. To adopt annually a budget of expenditures of the Center and its staff chargeable against the State Insurance Fund: Provided, That the SSS and GSIS shall advance on a quarterly basis the remittances of allotment of the loading fund for this Center's operational expenses based on its annual budget as duly approved by the Department of Budget and Management; Provided, further, That such budget shall not exceed 4% of the 12% loading fund based on the total of the State Insurance Fund and its earnings as of December 31st of the preceding years;
- h. To perform such other acts as it may deem appropriate for the attainment of the purposes of the Center and proper enforcement of the provisions of this Executive Order; and
- i. To enlist the assistance of government agencies and private organizations in carrying out the objectives of the Center.

Additionally, the OSHC is also mandated under the Department of Labor and Employment (DOLE) Administrative Order No. 56 series of 2011 to conduct spot check/audit/inspection of accredited organization's office including the actual conduct of training and to take measures that will ensure the maintenance of standards on the conduct of training by OSHTO. From the foregoing, the OSHC is a public authority exercising regulatory functions within the purview of the DPA.

Scope of the DPA; video as personal information; criteria of lawful processing; general data privacy principles

The DPA applies to the processing of all types of personal information and to any natural and juridical person in the government or private sector involved in personal information processing.⁵ Personal information refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.⁶ Accordingly, the image of

⁵ Rules and Regulations Implementing the Data Privacy Act of 2012, Republic Act No. 10173, § 4 (2016).

⁶ Data Privacy Act of 2012, § 20 (c).

an identifiable individual captured in a photograph or video is personal information about the individual, and thus, covered by the DPA.⁷

In your letter, you mentioned that OSHC received several complaints regarding the quality of trainings being conducted by the OSHTOs. To address the said complaints, the OSHC issued a Memorandum requiring OSHTOs to submit video documentation of the five (5)-day training. While some OSHTOs complied with the said Memorandum, many OSHTOs did not, and claim that the said Memorandum violates the DPA. Some OSHTOs also mentioned that training participants refused to be video-recorded invoking their privacy rights.

The DPA allows the processing of personal data subject to compliance with the law and adherence to the principles of transparency, legitimate purpose, and proportionality. Consequently, the processing activities being required by the OSHC may find support under Section 12 (e) of the DPA where processing is necessary in order to fulfill functions of public authority which necessarily includes the processing of personal data for the fulfillment of its mandate.

From the foregoing, the OSHC may review its existing accreditation requirements and may include video documentation as an additional requirement for accreditation and/or renewal of the OSHTOs, upon its determination that this is necessary to carry out its mandate in ensuring that the safety officers are provided with core knowledge and skills in the prevention of work-related injuries and illnesses.

Nonetheless, in view of the proportionality principle and taking into account that the main purpose of the video documentation is merely to ensure whether the trainings being conducted remain within the prescribed standards, the OSHC should consider the location of the camera and/or camera angle to capture relevant images or videos only, i.e. videos may be filmed from the back of the room whereby the training participants' faces are not captured.

Moreover, the OSHC should require all OSHTOs to have a standard privacy notice on the application form and the training facilities for purposes of informing the training participants of the nature and purpose of the video documentation.

This opinion is based on the information you have provided. Additional information may change the context of the inquiry and the appreciation of facts.

For your reference.

Very truly yours,

(Sgd.) RAYMUND ENRIQUEZ LIBORO
Privacy Commissioner and Chairman

⁷ See: National Privacy Commission, Advisory Opinion No. 2018-053 (26 November 2018).