



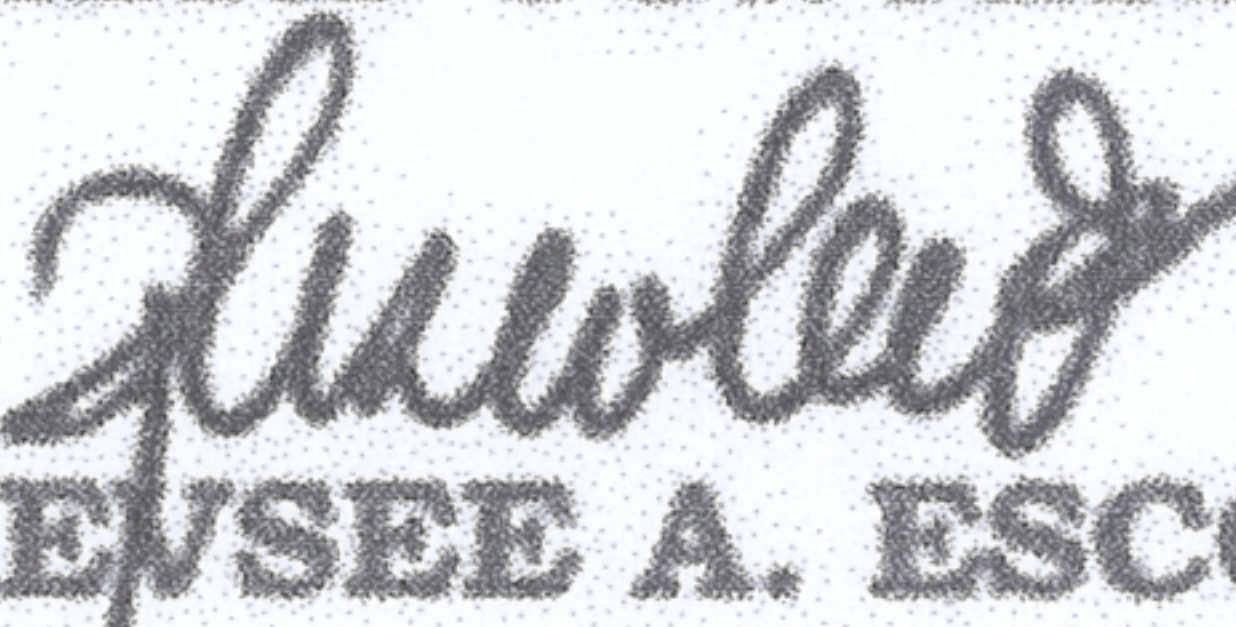
Republika ng Pilipinas
Department of Education

OFFICE OF THE UNDERSECRETARY FOR OPERATIONS

MEMORANDUM

OM-OUOPS-2024-65-03942

TO : REGIONAL DIRECTORS
SCHOOLS DIVISION SUPERINTENDENTS
SCHOOL DISTRICT SUPERVISORS
SCHOOL HEADS
LEARNER RIGHTS AND PROTECTION FOCAL PERSONNEL
ALL OTHERS CONCERNED

FROM :  ATTY. REVSEE A. ESCOBEDO
: Undersecretary for Operations 

SUBJECT : GUIDANCE ON POSTING LEARNERS' IMAGES OR DATA
POSTINGS ON SOCIAL MEDIA

DATE : May 15, 2024

This is to reiterate the need to protect the right to privacy of our learners in this digital age. For emphasis, the Department of Education (DepEd) strictly adheres to the United Nations Convention on the Rights of the Child (UNCRC) in safeguarding our learners against abuse, neglect, and exploitation. DepEd issued DepEd Order No. 40, s. 2012 or the "Child Protection Policy," reiterating DepEd's zero-tolerance policy for any act of abuse, exploitation, violence, discrimination, bullying, and other forms of violence directed towards our learners.

Pursuant to Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012", learners including teaching and non-teaching personnel are considered as data subjects whose personal information are protected by law, Section 13 and 16:

Sec. 3. (b) Consent of the data subject refers to any freely given, specific, informed indication of will, whereby the data subject agrees to the collection and processing of personal information about and/or relating to him or her. Consent shall be evidenced by written, electronic, or recorded means.

Sec. 3. (g) 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.

Sec. 16. Rights of the Data Subject - The data subject is entitled to:

(a) Be informed whether personal information pertaining to

him or her shall be, are being, or have been processed.

(b) Be furnished the information indicated hereunder before the entry of his or her personal information into the processing system of personal information into the processing system of the personal information controller, or at the next practical opportunity:

(1) Description of the personal information to be entered into the system;

(2) Purposes for which they are being or are to be processed;

(3) Scope and method of the personal information processing;

(4) The recipients or classes of recipients to whom they are or may be disclosed;

(5) Methods utilized for automated access, if the same is allowed by the data subject, and the extent to which such access is authorized;

(6) The identity and contact details of the personal information controller or its representative;

(7) The period for which the information will be stored; and

(8) The existence of their rights, i.e., to access, correction, as well as the right to lodge a complaint before the Commission.

In consideration of the learners minority, parental or guardian's consent is necessary prior to the use of the learner's data for media posting¹. Additionally, D.O. 32, s. 2022² recognizes our learners as subjects with rights and obligations. As duty-bearers, it is our responsibility to empower them to know and advocate their rights and be involved in policies or activities affecting them. As such, their affirmative consent is needed prior to posting of their personal information or image.

This Office reminds all school personnel to uphold their responsibilities as duty-bearers in ensuring that the rights of learners are recognized and protected. Consequently, all school personnel are to exercise special parental authority³ and responsibility over the learners under their supervision. DepEd Order No. 40, s. 2012⁴ highlights the specific duties and responsibilities of the school personnel in ensuring that the rights of learners are protected and exemplify respect for the data privacy of individuals, to wit:

B. Keep them in their company and support, educate and instruct them by the right precept and good example;

G.Inculcate the value of respect and obedience.

¹ DepEd Order No. 40, s. 2012, "Child Protection Policy", Section 3.a.

² DepEd Order No. 31, s. 2022, "Rights-Based Education (RBE) Framework in Philippine Basic Education".

³ Family Code of the Philippines, Article 218.

⁴ DepEd Order No. 40, s. 2012, "Child Protection Policy", Section 8,b and g.

Under the Cybercrime Prevention Act⁵, consent is necessary when sharing or posting images of other people on social media to avoid possible legal consequences especially if the person affected believes that his privacy or reputation has been violated or compromised.

Accordingly, enclosed is a copy of the DepEd's *Consent, Waiver, Indemnity, and Release form* which is required to be filled out by learners' parents or guardians involved in any media posting by the said agency whether written, audio-recorded, or photographed. Moreover, following the Rights-Based Education (RBE), learners should also be consulted in matters affecting them. This Office would like to compel school personnel from all schools division offices to refer and use this form prior to posting any information or image of learners in social media.

For your guidance and strict observance.

Thank you very much.

[LRPO/ASPR]

⁵ Republic Act No. 10175, "Cybercrime Prevention Act of 2012".

Department of Education

Republic of the Philippines

CONSENT, WAIVER, INDEMNITY and RELEASE

I, _____, M/ F, _____ years of age, hereby grant permission to the Department of Education (DepEd) and its representatives to make recordings of my voice and to take photographs and /or videos in which I appear in, to be used for the communications and various public campaigns of the Agency be it in print, broadcast, and/or electronic media, at the event and location stated below:

Production name/ Project title: _____

Location: _____

I acknowledge that the DepEd owns all rights to these images and recordings. I further grant the DepEd and its representatives the right to use, display, exhibit, reproduce, distribute, and create derivative works of these images and recordings in any media now known or later developed.

I hereby waive any right to inspect or approve the use of the images or recordings or of any written derivatives. I further waive all moral rights. I also waive any right to royalties or other compensation arising from or related to the use of the materials.

I hereby release, defend, indemnify, and hold harmless the DepEd and its representatives from and against any claims, damages, or liability arising from or related to the use of the images, recordings, or materials, including but not limited to claims of defamation, invasion of privacy, or rights of publicity or copyright infringement, or any misuse, distortion, blurring, alteration, optical illusion or use in composite form that may occur or be produced in taking, processing, reduction or production of the finished product, its publication or distribution.

I am 18 years of age or older/ I am accompanied by my legal guardian, and I am competent to enter into this contract/ NAME OF GUARDIAN: _____ has legal authority to enter into this contract. I have read this document before signing below, and I fully understand the contents, meaning and impact of this consent, waiver, indemnity and release.

This consent, waiver, indemnity and release is binding on me, my heirs, executors, administrators and assigns.

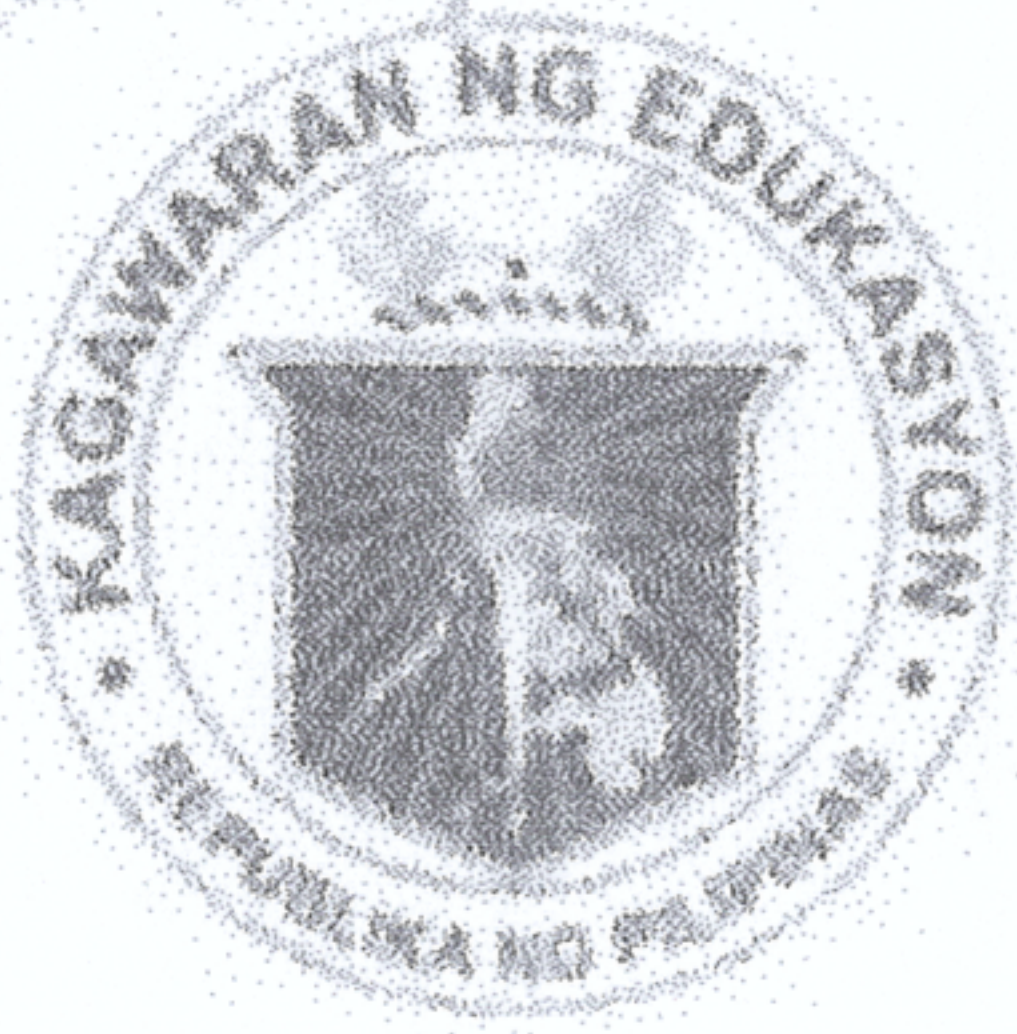
Signature mm / dd / yyyy

Signature over printed name of Parent /Guardian/ Teacher mm / dd / yyyy

Address: _____

Home phone: _____ Mobile phone: _____

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Department of Education

Republic of the Philippines

In line with the mission of the Department of Education (DepEd) to provide quality, equitable, culture-based, and complete basic education where:

- Students learn in a child-friendly, gender-sensitive, safe, and motivating environment;
- Teachers facilitate learning and constantly nurture every learner;
- Administrators and staff, as stewards of the institution, ensure an enabling and supportive environment for effective learning to happen;
- Family, community, and other stakeholders are actively engaged and share responsibility for developing life-long learners;

And in accordance with the DepEd's thrust to continuously improve itself to better serve its stakeholders, an effective communications strategy paves the way to a more efficient public policy formulation and implementation.

The Department of Education and its representatives are therefore seeking your permission to take and make use of voice recordings and/ or audiovisual images of you/ your children/ your students for the purposes stated above.

Please furnish us with your full name and signature on the next page should you confirm your consent to the proposed use of your/ your children/ your students' photographs and video/voice recordings in our communications and publicity materials.

Thank you very much.