

[NPC CIRCULAR NO. 18-01, September 26, 2018]

RULES OF PROCEDURE ON REQUESTS FOR ADVISORY OPINIONS

Adopted: 19 September 2018
Date Filed: 26 September 2018

Pursuant to the authority vested in the National Privacy Commission (NPC) through Section 7 of Republic Act No. 10173, otherwise known as "The Data Privacy Act of 2012" (DPA), the following guidelines for requests for advisory opinions of the NPC are hereby prescribed and promulgated:

RULE I PRELIMINARY PROVISIONS

SECTION 1. *General Principles.* - The NPC is an independent body mandated by law to provide assistance on matters relating to privacy or data protection at the request of a national or local agency, a private entity or any person. It is authorized to promulgate rules to facilitate the drafting of opinions, determine the requirements, and provide guidelines to ensure efficiency in the administration and adequacy of response to the requesting party.

SECTION 2. *Advisory Opinion.* - An advisory opinion refers to a determination of the NPC on matters relating to data privacy or data protection, at the request of any party, or on a complaint endorsed by the Complaints and Investigations Division (CID) under Sections 4 and 10 of Rule II of NPC Circular No. 2016-04.

It shall be based only on the facts and circumstances provided by the requesting party, taking into account applicable laws and regulations. It shall serve to provide guidance to the requesting party and the general public, but shall not be used in the nature of a standing rule binding on the NPC when evaluating other cases regardless of the similarity of the facts and circumstances.

An advisory opinion shall neither adjudicate issues between parties nor impose any sanctions or award damages. It may be referred to the CID for evaluation, investigation and appropriate action, as may be necessary.

SECTION 3. *Scope and Coverage.* - These rules shall apply to all requests for advisory opinions cognizable by the NPC.

**RULE II
REQUIREMENTS FOR REQUESTS FOR ADVISORY OPINIONS**

SECTION 4. *Letter Request.* - The requesting party shall submit a letter request

for the issuance of any advisory opinion, addressed to the Privacy Commissioner and Chairman. The letter request may be delivered to the NPC personally, or sent by direct or electronic mail.

The following information shall be indicated in the letter request:

- a. Name, complete business or postal address, telephone and e-mail address of the requesting party;
- b. Novel issues, questions of law or matters and other legitimate concerns sought to be clarified or confirmed by the requesting party;
- c. A comprehensive narrative of the factual circumstances and legal bases of the request;
- d. An affidavit or certification^[1] that the subject of the request for advisory opinion is not matter pending in a case in litigation before the courts, the NPC or is not subject of an ongoing investigation or compliance check; and
- e. All relevant documents and attachments that will enable the NPC to appropriately respond to the request.

The letter request shall not be required if the matter is endorsed by the CID under Rule II of NPC Circular No. 2016-04.

SECTION 5. *Subject of an advisory opinion.*

- a. The following may be the subject of an advisory opinion:
 1. Interpretation of the provisions of the DPA, its Implementing Rules and Regulations (IRR) and NPC Issuances;
 2. Compliance requirements under the DPA and related issuances;
 3. Enforcement of data privacy laws and regulations; and
 4. Other related matters on personal data privacy, security, and protection.
- b. A request for advisory opinion shall not be accommodated if:
 1. The request is on an issue which has been finally decided by the courts or is pending in case in litigation;
 2. The request is related to any matter before the NPC, or is subject of an ongoing investigation or compliance check;
 3. The request has previously has been the subject of an advisory opinion;
 4. The request posits questions, issues or concerns that are too general in scope, overly abstract, anticipatory and speculative;
 5. The request requires a review and interpretation of contracts