

**Explanation of the data protection information  
with declaration of consent  
- Data processing according to Art. 6 para. 1 p. 1 lit. a GDPR -.**

**Important general information**

• Definition:

Consent is defined by law as an indication of will given voluntarily for the specific case, in an informed manner and unambiguous expression of intent in the form of a declaration or other clear other unambiguous affirmative act by which the data subject indicates, that he or she consents to the processing of personal data relating to him or her (Art. 4 No. 11 GDPR).

• Consent as legal basis:

If the data processing is necessary for the performance of a task that is in the public interest (in particular, tasks of the university pursuant to Section 3 NHG), Art. 6 para. 1 p. 1 Letter e GDPR is relevant as a legal basis. If the data processing has no connection whatsoever with the tasks of the higher education institution, the prohibition of unauthorized extension of tasks applies, so that consent may not be used as a legal basis. Only in the case that the data processing goes beyond what is necessary for the public fulfilment of the tasks necessary for the public fulfillment of tasks, but is nevertheless related to the content of these tasks. tasks, the declaration of consent can be considered as a legal basis. However the voluntary nature of the consent must also be ensured in this case.

• Voluntariness:

- The voluntariness of consent may be doubtful, especially in special legal relationships of the Leuphana, e.g. in the relationship with students or employees in employment or civil servant employment or civil service relationships as well as in the area of (digital) house rights. In these cases, there is often a certain imbalance, because the persons concerned may consent only because they want to avoid (perceived) legal or economic disadvantages. Therefore, the voluntary nature of such cases to be particularly examined in such cases.
- In addition, a violation of the prohibition of tying can stand in the way of the voluntary nature of consent may be contrary. The prohibition of tying states that the granting of a benefit may not be made dependent on the consent to extensive data processing if the benefit is also granted if the benefit could also be granted on the basis of less extensive data processing.

• Transparency:

The principle of transparency requires, among other things, that the data protection notices will always be provided as a separate document and not combined with other texts be linked.

• Documentation:



- Documentation of consent first requires that consent be demonstrably on the basis of a previously provided comprehensive, generally understandable and easily and permanently (written or electronic) accessible information.
- It must also be documented that the data subject has consented. Since the consent must be expressly stated, an opt-out procedure is not permitted. In the case of an opt-out procedure, consent is preset or is derived from a lack of objection or other silence, effective consent is inferred from a failure to object or other silence. Instead, consent must be actively declared in writing or electronically.
- In order to guarantee the authenticity of the person concerned, the so-called double opt-in procedure must be used in the case of electronic consent. In the first step, the data subject e-mail address in a first step, and then receives an e-mail containing the data privacy data protection information and a confirmation link underneath. By clicking on this link the person confirms that he or she has received the data privacy notice and agrees to the data with the data processing under the conditions stated in the information. the terms and conditions. Clicking on the confirmation link (time of the declaration of consent) will be stored together with the e-mail address. Only in this way is the most extensive assignment of the consenting person is possible.
- Since accountability requires, on the one hand, that the consent be documented and kept together with the data and the associated data privacy notices, the data privacy notices must be made data protection information must be made permanently available to the data subjects, it should be must be made available to the data subjects on a permanent basis, sufficient copies should be copies should be kept available. Ideally, a copy should be given to each person who gives consent.

- **Minors:**

In the case of minors, special requirements apply to obtaining consent. In this context not the legal capacity of the data subject, but his or her ability to assess the risks, consequences and safeguards, as well as their rights in data processing. Since it is not the point in time at which the data subjects will have this capacity, it should be the data subject, it should be based on the age of majority, i.e. the age of 18 years of age should be taken as a basis. Until then, consent must be obtained from the holder of parental responsibility. Since this person cannot be readily identified, consent should be obtained in writing.



In summary, it can be stated that data processing can only be carried out with legal certainty in exceptional cases and, due to the special documentation requirements, only with considerable effort. Please take this into account when planning your data processing operations.

## Specific notes on the pre-formulated sample

### Purposes and legal bases of data processing:

- The categories of data are not defined per se. The grouping of several specific data under a collective designation enables you to refer later only to the category, without having to mention the individual data again and improves readability for the data subject. Examples can be: contact data, master data, examination data...
- The example under No. 2 is only necessary if several data processing operations or purposes are based on the declaration of consent. If this is not the case, the paragraph under No. 2 as well as the entire numbering should be deleted.

### General information:

- In the case of commissioned processing (CP), the processing activities that are currently already or could potentially be outsourced, must be described in such a way that the data subjects can get an idea of the respective categories of data recipients. Classic cases are ticketing services, billing, photos at events, Test assessments, evaluations, newsletters, data storage/hosting/cloud services, Website administration, databases.
- If data is to be transferred to or through a third country, this must be indicated. Thereby further information requirements apply, on which the legal department or the data privacy Data Protection Officer will be pleased to advise you.
- When informing about the consequences of not granting consent, the prohibition of tying is to be observed in order to maintain the voluntary nature of consent. When providing information about the consequences of not giving consent, pay particular attention to the prohibition of tying consent to the voluntary nature of the declaration of consent (see above). You should only those negative consequences that result directly from the failure to give consent. If the data processing is also possible in parts without the declaration of consent because, for example, the data processing can also be based on other legal grounds, these parts of the data processing may not be made dependent on the granting of consent.
- According to the legal definition in Art. 4 No. 4 of the GDPR, profiling is any type of automated processing of personal data which consists in using such personal data to evaluate certain aspects relating to a natural person, in particular aspects relating to work performance, economic situation, health, personal preferences, interests, reliability, behavior, whereabouts or change of location of this natural person to analyze or predict. A profiling is only subject to special requirements under data protection law if,



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firstly, the processing is exclusively automated and, secondly, the decision based on it directly affects the data subject or affects him or her significantly in a similar way. It must therefore be a so-called "computer decision".