
LEGAL ISSUES IN EDUCATION

STUDENT ACCOUNTING BY SCHOOL REGISTRARS: SCHOOL RECORDS

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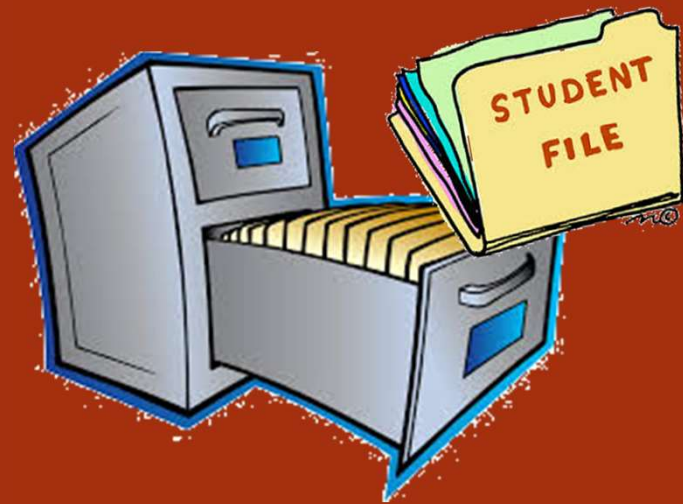
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NCR School Registrars' Association (NACSRA)

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University of Sto. Tomas, Manila



IMPORTANCE OF SCHOOL REGISTRAR

- Being considered as the crossroads of the “Academic Rotunda”
- Most delicate of their responsibility pertains to the custody, integrity, management and release of school records



Student Admission

MINIMUM/BASIC REQUIREMENTS FOR ADMISSION

Enhanced Basic Education Program (RA 10533)

The enhanced basic education program encompasses at least—

- 1 year of Kindergarten
- 6 years of Elementary education
- 6 years of Secondary education
 - 4 years Junior HS
 - 2 years Senior HS

Kindergarten / Elementary Level / High School

Level	Eligibility Standards	Documentary Requirements
Kinder	<ul style="list-style-type: none"> Children aged five years old by August 31st of the school year they will enroll in (DepEd Order No. 47, s. 2016, Omnibus Policy on Kindergarten) 	<ul style="list-style-type: none"> Philippine Statistics Authority (PSA) Birth Certificate
Grade 1	<ul style="list-style-type: none"> Children who have completed Kindergarten programs in DepEd accredited schools and centers 	<ul style="list-style-type: none"> Kindergarten Certificate of Completion PSA Birth Certificate

Level	Eligibility Standards	Documentary Requirements
Grade 1	<ul style="list-style-type: none"> Children who have completed any form of Kindergarten program in non-DepEd accredited learning and day-care centers, or home-schooled learners (DepEd Order No. 47, s. 2016, Omnibus Policy on Kindergarten) 	<ul style="list-style-type: none"> Result of PEPT or PVT PSA Birth Certificate
Grade 7	<ul style="list-style-type: none"> Grade 6 Graduate 	<ul style="list-style-type: none"> SF 9 Grade 6 (formerly Form 138)
	<ul style="list-style-type: none"> PEPT Passer or A&E Test Passer 	<ul style="list-style-type: none"> Result of PEPT of A&E Test PSA Birth Certificate

Level	Eligibility Standards	Documentary Requirements
Grade 11	<ul style="list-style-type: none"> Grade 10 Completer 	<ul style="list-style-type: none"> SF 9 Grade 10 (formerly Form 138)
	<ul style="list-style-type: none"> PEPT Passer or A&E Test Passer 	<ul style="list-style-type: none"> Result of PEPT of A&E Test PSA Birth Certificate

(Basic Education Enrollment Policy, Deped Order No. 3, s. 2018, January 26, 2018, Enclosure)

TEMPORARY ENROLLMENT

- Transferees from public and private schools in the Philippines who failed to submit the SF 9 (formerly Form 138) during early registration or upon enrollment shall only be temporarily enrolled until the submission of requirements documents on or before **August 31st of the current school year.**
- They shall be required to submit an Affidavit of Undertaking signed by the parent/guardian in order to be temporarily enrolled.

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- For temporarily enrolled learners, the receiving school shall issue a Temporary Progress Report Card signed by the Class Adviser for the parents/guardians to monitor the progress of his/her child. **This form is inadmissible for transfer and enrollment purposes and is only for progress monitoring.** *(Basic Education Enrollment Policy, Deped Order No. 3, s. 2018, January 26, 2018, Enclosure)*

LATE ENROLLMENT

- A school may accept late enrollees provided that the learner will be able to meet eight percent (80%) of the prescribed number of school days for each school year and the quarterly requirement to pass the grade level as governed by the latest existing applicable DepEd issuances.
- If the learner cannot meet the required number of school days and the quarterly requirement, the school head may exercise his/her discretion to accept the enrollee and implement catch-up activities or intervention under acceptance circumstances.
(Basic Education Enrollment Policy, Deped Order No. 3, s. 2018, January 26, 2018, Enclosure)

College

Minimum Basic Requirements

- Graduate from high school
- Who has NOT completed HS but who has qualified in the PEPT
- Graduate of foreign HS who does NOT fully satisfy requirement of HS program may be admitted, provided, deficiency to be corrected during initial school term

(Sec. 81, MORPHE; Sec. 123, TVET)

QUESTION

Can a private school impose **ADDITIONAL** admission requirements over and above what are required by existing laws, rules and regulations?

ANSWER

Sec. 120, RMBE; Sec. 83, MORPHE; Sec. 137, TVET—

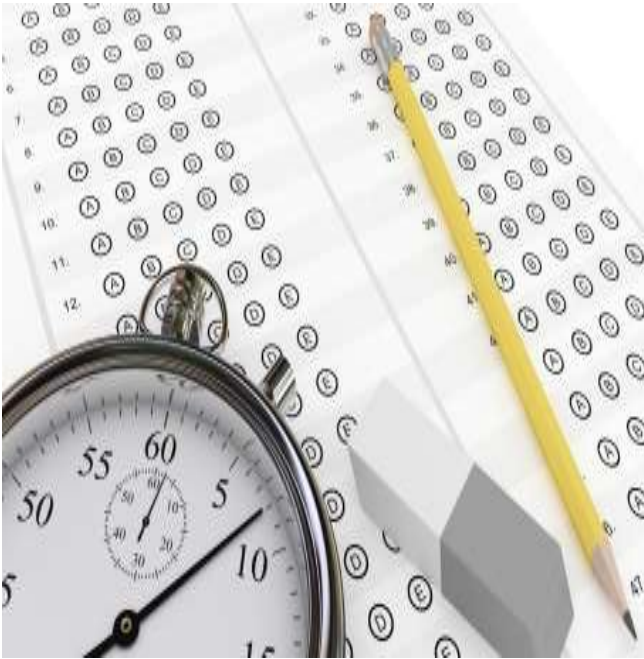
“Admission to any private school is open (to those) who meet (the school’s) specific standards, requirements and regulations as expressed in printed publication or other written material xxx.”

BASIC LEGAL ISSUE

Issue in the choice of criteria is whether the use of certain factors – primarily passing an entrance examination, race, color, national origin, sex, age, handicap, or sexual orientation – is partially or wholly precluded.

Except for certain statutory and regulatory provisions, private schools, are free to establish their own admission criteria/requirement, including subjective and objective standards for admission to specialized areas of study. These criteria/requirements must however be “xxx expressed in printed publications or other written material. xxx”

ENTRANCE EXAMINATION



Private schools have the right to require applicants to take and pass entrance examinations as a precondition for acceptance. Thus, in *Carvero vs. Technological Institute of the Phils., et al.* (G.R. No. 75412, Dec. 5, 1986), the Supreme Court ruled that—

“xxx courts will not interfere with the school’s prerogative to require students to take entrance examinations before they may be allowed to enroll xxx. This is part of academic freedom in connection with which the school has the right to choose whom to teach.”

OTHER ADMISSION REQUIREMENTS

Private schools have the right to impose other rules and regulations for the admission of student aside from the entrance examination (*Yap Chin Fah, et al. vs. CA, G.R. No. 90063, Dec. 12, 1989*). In the United States, the US Supreme Court recognizes the right of private schools to refuse admission to students on the grounds of religion, gender and even handicap (*Grove City College vs. Bell, 465 US 555 [1984]*).

NOTE:

RA 9710 “Magna Carta for Women” Section 13
provides –

“xxx No school shall turn out or refuse admission to a female student SOLELY on the account of her having contracted pregnancy OUTSIDE of marriage xxx”

Considering the new law, it appears that schools are now prohibited from DENYING admission or re-admission of female students who get pregnant OUT of wedlock.



As a matter of fact:

Leus vs. St. Scholastica's College Westgrove ***G.R. 187226 (JANUARY 28, 2015)***

What stands out as important in this decision is that the Supreme Court reiterates the rule that when the ground of "grave immorality or serious misconduct" are the bases for separation from the service, the standards must be secular, and not religious standards—and according to the Court, sexual congress between two consenting, unmarried adults not laboring under any impediment to marry does not constitute grave immorality, although it may offend sectarian or religious persuasions.

Christine Joy Capin-Cadiz v. Brent Hospital and Colleges, February 24, 2016

SC declare:

“(Pregnancy out of wedlock does) xxx not readily equate to disgraceful and immoral conduct. Brent’s Policy Manual and Employees Manual of Policies DO NOT DEFINE what constitute immorality, it simply stated immorality as a ground for disciplinary action.

Instead, Brent erroneously relied on the standard dictionary definition of fornication as a form of illicit relation and proceeded to conclude that Cadiz's acts fell under such classification, thus constituting immorality.

QUESTION

May CATHOLIC SCHOOLS still dismiss students or deny admission/readmission on such grounds?

ANSWER

YES.

REASON: School rules that prohibits, restricts, restrains or limits student legal rights MAY be valid IF the said rules DO HAVE a “RATIONAL” Basis or legitimate institutional objective – such as Religion.

Provided, that—

- The Catholic character of the school or the college is clearly articulated in its philosophy and its mission statement.

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- The contract of enrollment or student manual contains the following provision, or anything similar to it: *"Conduct prohibited by Catholic morals such as, but not limited to, extramarital sexual affairs, sexual relations between unmarried persons, disgraceful and shameless public displays of intimacy, homosexual acts, etc. will constitute ground for dismissal/deny admission/readmission of students."*

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- The Student Manual or the Student Code expressly contains the following prohibition:

"Students are forbidden from engaging in extra-marital affairs, sexual relations when unmarried, homosexual affairs, scandalous and shameless public displays of intimacy. Any of the foregoing, as well as acts similar to them, shall constitute ground for disciplinary action, including dismissal."

Thus, this makes it very important that:

- 1) Student disciplinary policies should be made known to the students at the time of enrollment; and
- 2) There is proof that students have been apprised of such policies. One way to do this is to make them sign a form under which they declare that they have been apprised and informed of the disciplinary policies and rules of the school.



Student Records

in relation to the

Data Privacy Act of 2012 (RA 10173)

DATA PRIVACY ACT

*Freedom from
unwarranted
exploitation*

*Individuality
and Human
Dignity*

*Protection
against
Financial Harm*

**Information
PRIVACY**

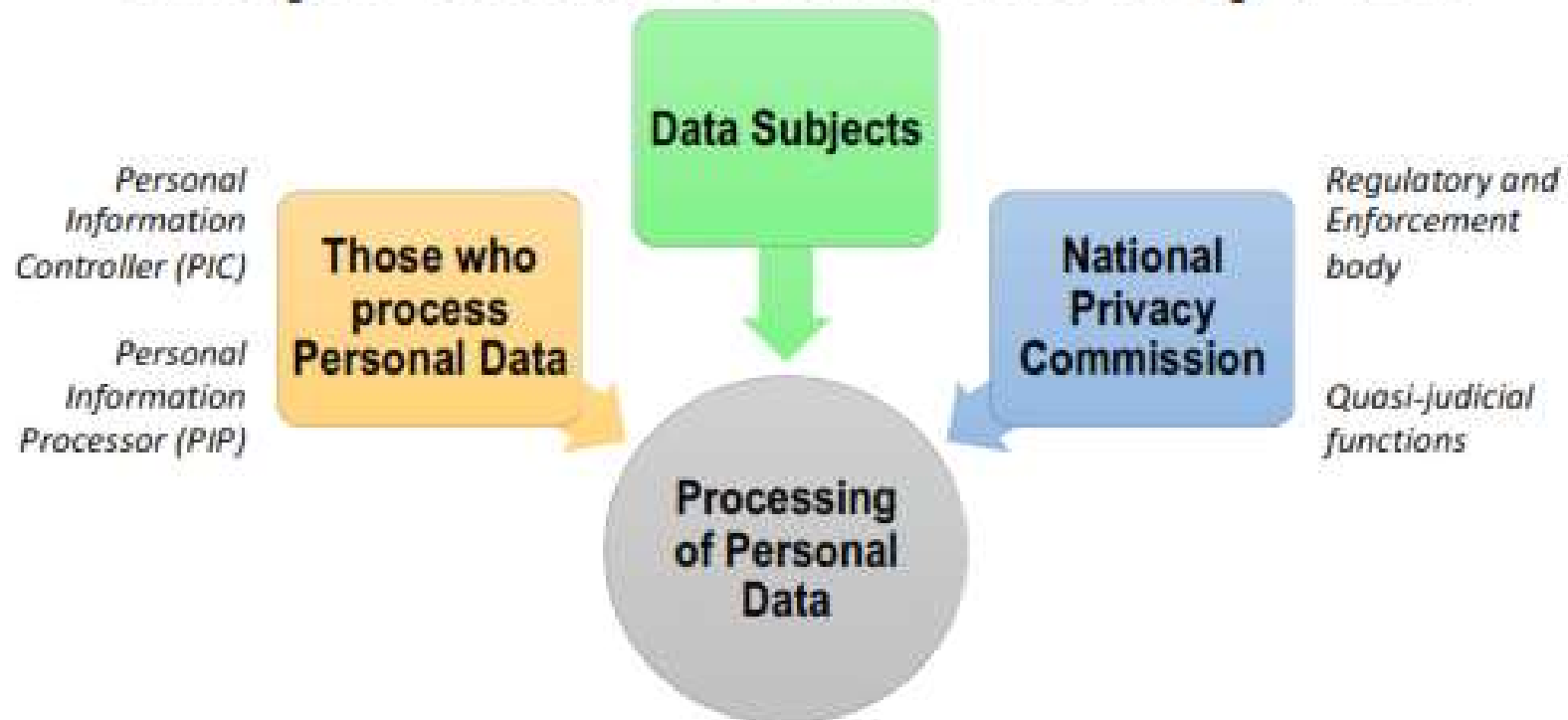
**FREE FLOW OF
INFORMATION**

*Research and
Innovation*

*Freedom of
Information*

*Data Driven
Policies*

Scope of the Data Privacy Act



Data Privacy Act applies to the processing of personal data by any natural and juridical person in the government or private sector.

Personal Data

- Any information from which the identity of an individual is apparent
- Any information that can be put together with other information to reasonably and directly identify an individual
- Includes sensitive personal information such as your health, education, genetic or sexual life
- Includes information that is classified or privileged

Identified | Identifiable

Sensitive Personal Information refers to personal information:

1. About an individual's race, ethnic group, marital status, age, color, and religious, philosophical or political affiliations;
2. About an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;

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3. Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and
 4. Specifically established by an executive order or an act of Congress to be kept classified.

Definition of Terms

- Data Subject refers to an individual whose personal information is processed.
- Personal Information Controller refers to a person or organization who controls the collection, holding, processing or use of personal information.

(Section 3, Data Privacy Act of 2012)

DISTINCTION in Data Privacy Act

- Personal Information Controller – the School (Registrar)
- Data Subject – the Students



Personal Information Controller (PIC)

Agency or other body who controls processing of personal data

Decides what is collected, purpose or extent of processing

Excludes those who process only as instructed by another

Personal Information Processor (PIP)

Agency or other body to whom processing is **OUTSOURCED** by PIC

Usually given access to personal data under contract or service provider agreement

Should not use or process personal data for own purpose

RIGHTS OF DATA SUBJECT

1. Right to Information
2. Right to Object
3. Right to Access
4. Right to Correct
5. Right to Erase
6. Right to Damages
7. Right to Data Portability
8. Right to File a Complaint



Important Legal Query:

Whether or not to release records upon the request of the student, his parents or guardian or by a third person outside of the institution.

Proper Guidelines to Observe

1. What is the character of the student records?
2. Who owns the student records?
3. When should such records be released?

WHAT IS THE CHARACTER OF STUDENT RECORDS?

- Public or Private?

- distinction is necessary since upon such distinction would depend what records may generally be released to the public

WHO OWNS THE RECORDS?

- US SC – in theory, school records of students belong to the students but their custody is the school's responsibility and they may be used freely by the school for the purpose of promoting the educational welfare of the student to whom the records belong.

TO WHOM SHOULD RECORDS BE RELEASED

- To the students or authorized representative
- To the parents
- To third persons



A. TO THE STUDENTS

Section 9, pars. 4 and 5, BP 232—

“Rights of Students in School.

xxx xxx xxx

4. The right to access to his own school records, the confidentiality of which the school shall maintain and preserve.

5. The right to the issuance of official certificates, diplomas, transcript of records, grades, transfer credentials and other similar documents within 30 days from request.”



Right to access to records is an individual right, which means a right conferred by law upon the student ONLY!!!

Must promptly render or give grades.
Otherwise, the unjustified or
unreasonable delay in giving grades
constitutes gross neglect of duty.

In the case of ***University of the East vs. Romeo A. Jader***, the SC declared—

“It is the contractual obligation of the school (through the teachers) to **TIMELY INFORM AND FURNISH** sufficient notice and information to each and every student as to whether he/she had already complied with all the requirements xxx.

The negligent act of a teacher who fails to observe the rules of the school, for instance, by not promptly submitting a student's grade is not only imputable to the teacher but is an act of the school being his/her employer xxx.”

ABOVE OBLIGATION OF SCHOOL IS DEPENDENT ON STUDENT'S PAYMENT OF SCHOOL FEES

Section 128, RMBE—

“xxx release of the transfer credentials xxx may be withheld for reasons of xxx non-payment of financial obligations xxx.”

Section 98, MORPHE—

“The higher education institution, xxx may withhold the release of the transfer credentials of a student who has financial obligation xxx to the institution xxx.”

Issuance of transfer credentials establishes that—

- 1) Student is free from all financial and property responsibilities
- 2) Not under a term of suspension or expulsion; and
- 3) Fully eligible to transfer

Hence, DepEd ruling—

Once school releases transfer credentials, school cannot withhold anymore transcript of records (TOR) for non-payment of school fees.



B. TO THE PARENTS

Section 8, par. 2, BP 232—

“Rights of Parents.

XXX XXX XXX

2. The right to access to any official record directly relating to the children who are under their parental responsibility.”

Conflicting claims between Father and Mother –
Joint parental custody – hence, both do have a
right to access of school records.



BUT...

If legally separated or marriage annulled –
determine who has legal custody over the
MINOR.




Generally, if of age already, parents cannot demand access to records of their children without latter's consent.



DEPED

Even if already of age, but if student is still wholly dependent on parents for support, latter may still have access to records.



May the spouse of a student request for the latter's records in school without his/her consent?

In the case of ***Cecilia Zulueta vs. CA and Alfredo Martin***, the SC ruled that documents taken from the office of the husband by the wife without the former's consent were inadmissible as evidence in a legal separation case, the same having been procured in violation of the right to privacy of the husband.

Following this ruling, it is submitted that release to the spouse without the student's consent should not be allowed.



C. TO THIRD PERSONS (OUTSIDE OF THE SCHOOL)

- Classified or strictly confidential may be released only upon lawful order of the court or when public safety and order requires it. (Article III, Sec. 3(1), 1987 Constitution)
- Subpoena duces tecum issued by Administrative Offices such as NBI etc. – should prove that the release of school records is required by public safety and order.

CONCLUSION

Right to CONFIDENTIALITY requires that the student's RECORD must be released only—

1) To the student

2) To the parents

- In case of minors
- In case already of majority age but still wholly dependent upon parents for support
- Spouse does NOT have right to access

3) To authorized representatives

- Must have the written authorization from student/parents

4) To other members of school administration/faculty if:

- For legitimate education interest

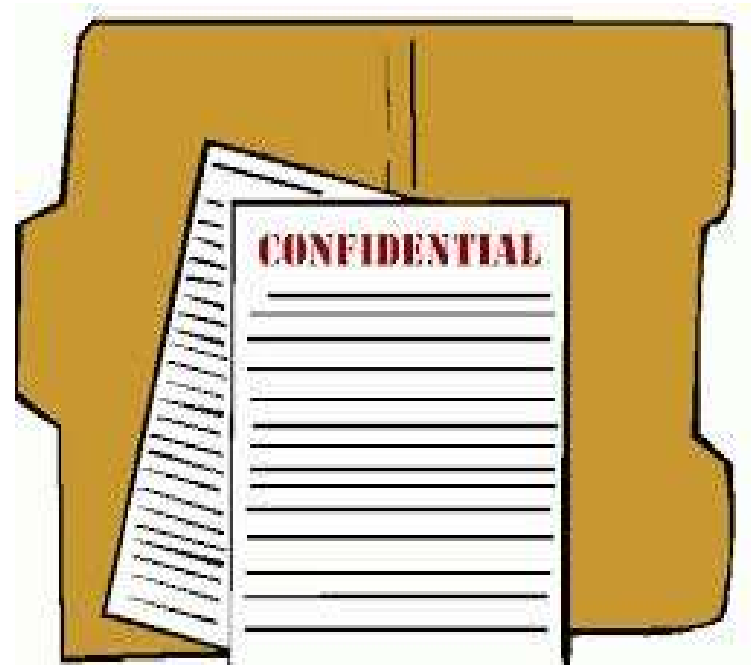
5) To third persons—

- Upon lawful order of court thru the issuance of a *subpoena duces tecum*
- Or when public safety and order requires it
- Officials/other schools in which the student seeks to enroll
- Authorized representative of government, as long as records are not identifiable to a particular student
- In connection with a student's application for or receipt of financial aid

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- Groups conducting studies for educational agencies if personal ID of students is destroyed after
 - Accrediting organizations
 - Regulations of government entities (like DepEd, CHED, TESDA, DSWD, DOH)

CLASSIFIED or STRICTLY Confidential Records

- personal and academic records of students
- baptismal or birth certificates (PD 607, Article 7)
- adoption papers
- academic reports
- medical and guidance reports
- disciplinary records (if entrusted)
- alien certificate of registration

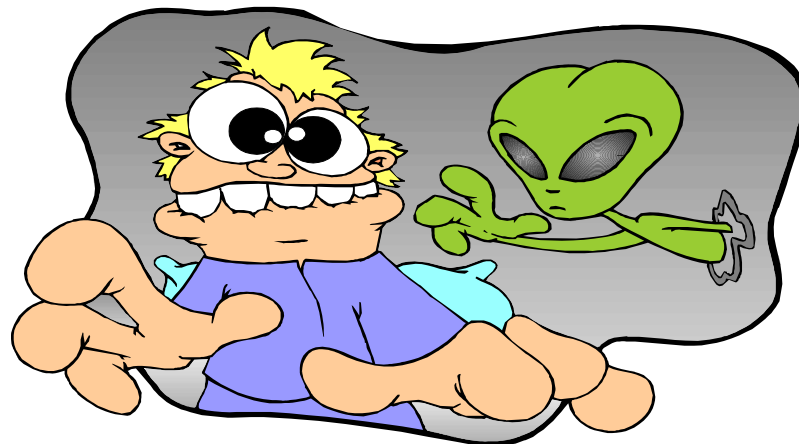


Does NOT apply to Unclassified or Non-Confidential
such as:

- enrollment list
- class and teacher programs
- teaching contracts
- directory of grades
- school annuals
- catalogs
- approval of courses
- permits or recognitions
- statistical records

HALLEY'S COMET

A memorandum, as it goes down the chain of command in an educational institution.



SUBJECT : Operation Halley's Comet
FROM : Chairman of the Board of Trustees
TO : The President

Tomorrow evening at approximately eight (8) p.m., Halley's Comet will be visible in this area, an event which occurs only once every seventy five (75) years. Have the students fall out in the football field in uniforms and I will explain this rare phenomenon to them. In case of rain, we will not be able to see anything, so assemble the students in the auditorium and I will show them film of it.

FROM : The President

TO : Vice President for Academic Affairs

By order of the Chairman of the Board, tomorrow, at eight in the evening, Halley's Comet will appear above the football field, if it rains, fall the students out in uniforms. Then lead them to the auditorium where the rare phenomenon will take place, something which occurs only once every seventy five years.

FROM : Vice President for Academic Affairs
TO : College Dean

By order of the Chairman of the Board, in uniform, at eight o'clock in the evening tomorrow, the phenomenal Halley's Comet will appear in the auditorium. In case of rain in the football field, the Chairman of the Board will give another order, something which occurs once every seventy five years.

FROM : Dean of College
TO : Academic Coordinators

Tomorrow at eight o'clock in the evening, the Chairman of the Board will appear in the auditorium with Halley's Comet, something which happens every seventy-five years. If it rains, the Chairman of the Board will order the COMET into the football area in uniform.

FROM : Academic Coordinators

TO : Department Heads

When it rains tomorrow at eight in the evening, the phenomenal, seventy-five year old Chairman Halley, accompanied by the President will drive his Comet thru the football field area theater in uniform.



DEAN ULAN, MAAASAHAN

Thank You!!