

# Protecting Intellectual Property Rights in Online Delivery of Education

A Webinar Presentation

by Atty. Gilbert Augustin J. Ganir



# What is intellectual property (IP) and what are IP rights?

- IP are creations of the mind
- There are generally four types of intellectual property:
  - 1) copyrightable works;
  - 2) trademarks;
  - 3) patents; and
  - 4) trade secrets.

In the context of education and use of learning materials, the most relevant are copyrights. Copyrights apply to original works of a literary or artistic nature and works that are derivatives of such. The last 3 types are typically classified as “industrial property”. Prototypes and inventions of engineering students are industrial property and would fall under patents. The designs for such would, however, be copyrightable as well.



# What is intellectual property (IP) and what are IP rights?

- Intellectual property rights are like any other property right. They allow creators, or owners, of patents, trademarks or copyrighted works to benefit from their own work or investment in a creation.
- Important because:
  1. Encourages creativity and innovation;
  2. Balances interests of the public (as prospective consumers or benefactors of IP) and the innovator/artist/creator (the source of the IP)



# What are copyrightable works?

- Copyrights apply to original works of a literary or artistic nature and works that are derivatives of such. The following is a **non-exclusive** list of copyrightable intellectual property:
  - Books, pamphlets, articles and other writings; x x x
  - Lectures, sermons, addresses, dissertations prepared for oral delivery, whether or not reduced in writing or other material form; x x x
  - Dramatic or dramatico-musical compositions; x x x
  - Musical compositions, with or without words;
  - Works of drawing, painting, architecture, sculpture, engraving, lithography or other works of art; models or designs for works of art; x x x





# What are copyrightable works?

- Copyrights apply to original works of a literary or artistic nature and works that are derivatives of such. The following is a **non-exclusive** list of copyrightable intellectual property:
  - **Audiovisual works and cinematographic works and works produced by a process analogous to cinematography or any process for making audio-visual recordings;**
  - **Pictorial illustrations** and advertisements;
  - Computer programs; and
  - Other literary, scholarly, scientific and artistic works
  - Dramatizations, translations, adaptations, abridgments, arrangements, and other alterations of literary or artistic works;
  - Collections of literary, scholarly or artistic works, and compilations of data and other materials which are original by reason of the selection or coordination or arrangement of their contents.



# When do copyrights begin to exist?

- At the moment of creation of a copyrightable work, the IP is protected. There is no need to register, but the IP owner has the option to remit/register a copy of the IP to the Intellectual Property Office (IPOPHL), but at most, this only serves an evidentiary benefit in case of litigation in the future.
- In contrast, trademarks and patents need to be registered with the (IPOPHL) in order to be fully protected.



# What rights does the owner of IP have?

- Economic rights (may be transferred to another person for economic considerations):
  - To reproduce, dramatize, translate, adapt, abridge, arrange, or transform the IP;
  - To publish and distribute;
  - To rent out a copy;
  - To publicly display, perform, or otherwise communicate the work.  
(INCLUDING ONLINE)
  - To transfer, assign, or license the copyright.



# What rights does the owner of IP have?

- Moral rights (retained by the author whether or not the economic rights have been contracted to another person):
  - To be cited as the author;
  - To alter the work prior to publication;
  - To object to any distortion, mutilation or modification of the work;
  - To restrain use of his/her name with respect to any work that is not his/hers or any distorted version of his work.





# When can a non-owner of IP use or copy copyrighted work?

- Generally, copyrighted property may only be used, shared, or reproduced if any of the following conditions are present:
  - Explicit consent of the owner;
  - The work is “open content”, under a “public copyright license” or “open access”, or in the public domain;
  - The principle of “fair use” applies; or
  - The copyright protection has expired.
- If none of those conditions are present, then there is copyright infringement.



# A Note on “Open” Content on the Internet

- Some entities such Creative Commons, GNU GPL, Open Source Initiative, etc., acquire intellectual property rights under a “public copyright license” to make the property (usually images, videos, and journal articles) available to the public. Some online archives or repositories make their content available under such licenses.
- “Open content” refers to any creative work which may be used, modified, and/or copied, without prior permission from the creator or owner. Likewise, some websites offer “open access” to academic journals, conference papers, theses, books, and monographs, e.g. CORE, Directory of Open Access Journals, etc. In either case, however, attribution to the owner or author is still necessary.



# What is not considered copyright infringement?

- Recitation once the IP has been published
- Quotation for a justified purpose (scientific, literary, religious, artistic, etc.) and in accordance with “fair use”, provided that attribution is made.
- Fair use under Sec. 185



# Fair Use under the IP Code

- “Fair use” of copyrighted works is allowed strictly for purposes of criticism, reporting, teaching, scholarship, and other similar purposes.
- Limited copies of copyrighted works may be used for purposes of teaching. In several cases, the Supreme Court considered certain factors in determining whether copyrighted work has been “fairly used”. In sum, these are: 1) whether the use was for commercial or for non-profit educational purposes; 2) the nature of the work; 3) the substantiality of the portion used in relation to the work as a whole; and 4) the impact on the potential or actual market value of the work.





# Fair Use under the IP Code

- This means that “fair use” **is not an excuse** for reproduction of entire books, articles, video footage, etc.
- Moreover, the Philippines is a member of the World Intellectual Property Organization and the IP Code includes a reciprocity clause which extends the protections under our law to any citizen of other WIPO countries. This means that the “fair use” provisions of the IP Code are not necessarily limited to Philippine copyrighted works. Therefore, caution must be observed in the fair use of online content.



# Attribution and Citation

- Attribution is the act of declaring an IP to be owned by or sourced from a person. Under the IP Code, the source and name of the author must be made.
- Citation is the manner by the declaration.
- While the manner may vary (APA, AMA, Chicago, Bluebook, etc.) from one academic discipline to another, what is important to avoid liability for plagiarism is that there must be attribution to the copyright owner.



# Silliman ODL

- Always attribute even when you are unsure of the proper citation style. At minimum, cite the 1) source; and 2) name of the author.
- Encourage students to look for “open” content, but instruct them to always attribute to the source and author. (NB: Most social media sites are open access, e.g. YouTube videos may be shared, embedded, or linked. So they can be used or shared without infringing copyrights. Such videos can also be clipped or modified for purposes of fair use/commentary, provided there is proper attribution.)



# Silliman ODL

- Who owns the learning materials?
  - Under the IP Code, faculty who create course materials (syllabi, guidelines, etc.) are the owners of said materials. There is a trend that as learning institutions shift towards ODL, the faculty and the institution enter into contractual arrangements as to the use and attribution of learning materials used for ODL. (Note: As of yet, there is no policy from the Board of Trustees stating so.)
  - Materials sourced from other authors must be acquired by faculty with their consent, or are open access, or are used according to fair use principles.





# Silliman ODL

- Content created or submitted by students, e.g. essays, papers, articles, drawings, etc., are their IP. Such may not be shared or reproduced unless the student had given his/her consent.

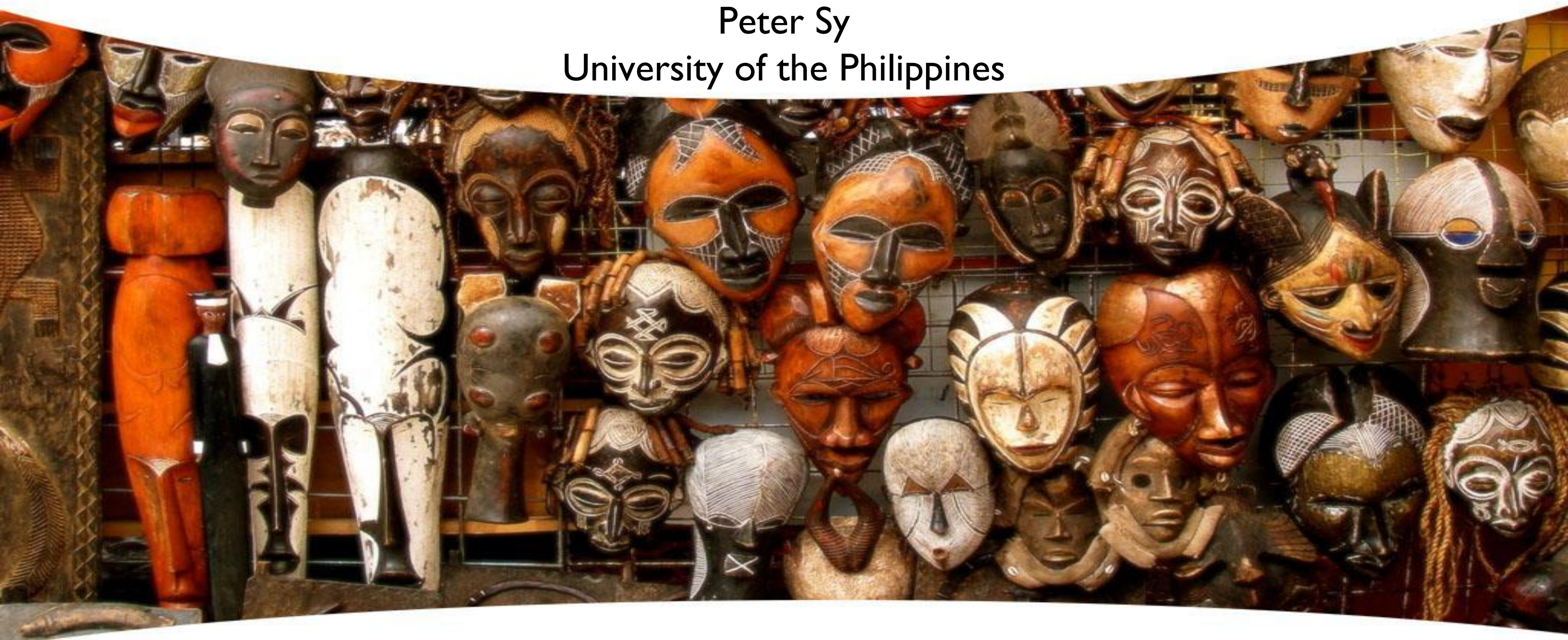




# Privacy in Online Education

Peter Sy

University of the Philippines







# Shift to online learning ignites student privacy concerns

Apr 28, 2020 Save This

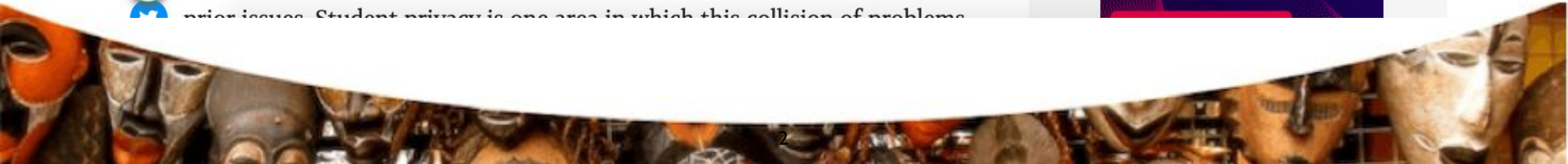


Joe Duball



Privacy professionals are watching concerns compound during the COVID-19 outbreak as the effects of the virus bring new problems and magnify prior issues. Student privacy is one area in which this collision of problems

**Automate Data Rights Fulfillment**  
Across all enterprise data – Everywhere.

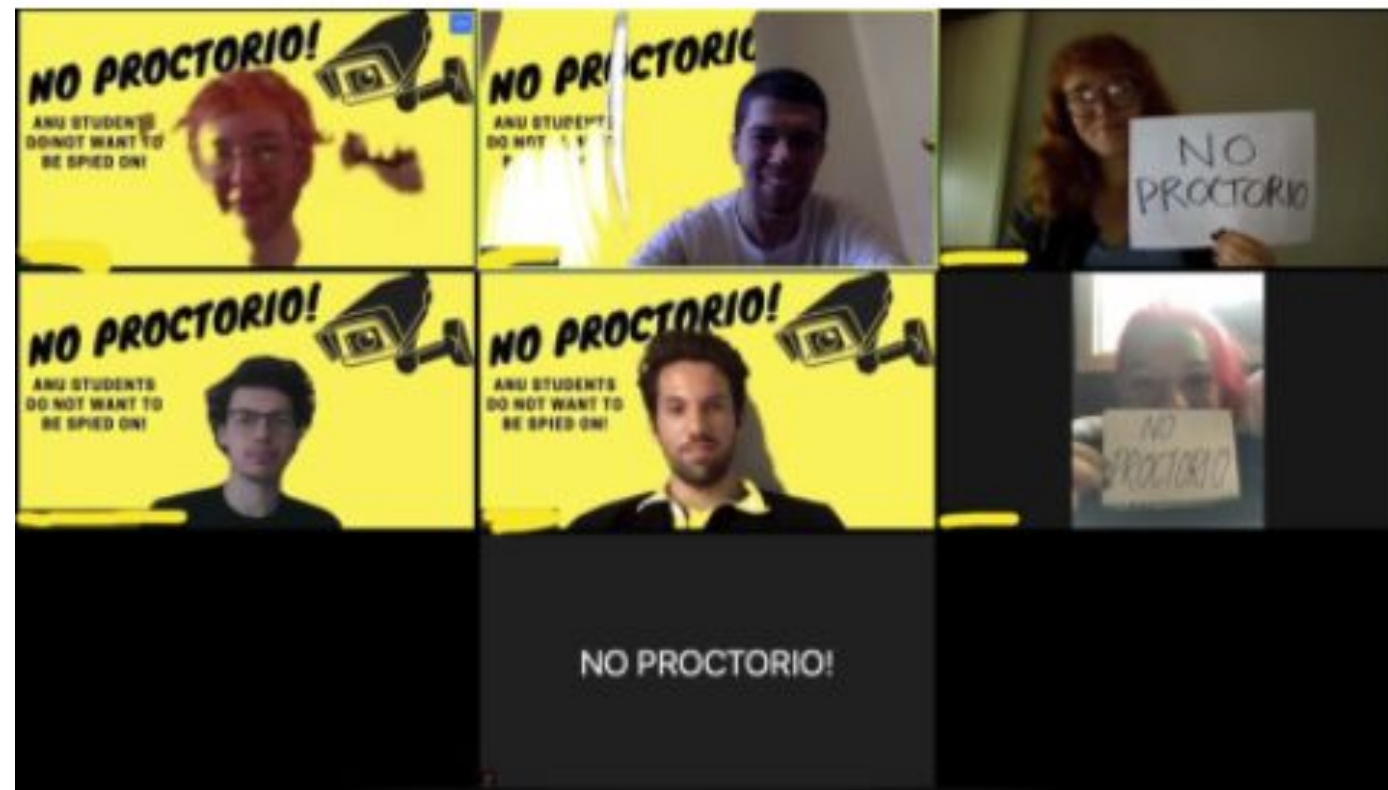




# ANU to use facial detection software on student computers in response to coronavirus remote exams

By [Jake Evans](#)

Posted Mon 20 Apr 2020 at 12:06pm, updated Wed 22 Apr 2020 at 6:57am



Australian National University students are protesting against the software via Zoom. (Facebook)



## business case for privacy

- Return on Investment for Privacy Protection
- Management of Risk
- Privacy Risk Management in Highly Regulated Markets (e.g., Education)

# Privacy Benefits Compared to Investments

(% of Organizations)



Benefits at least 2 times investments



Benefits 1 to 2 times investments



Benefits roughly the same as investments



Benefits less than investments

Source: Cisco 2020 Data Privacy Benchmark Study. Infographic by Help Net Security.

**Figure 2** Business impact of privacy  
Percentage of companies getting significant benefits in each area, N=2549



Reducing sales delays



Mitigating losses from data breaches



Enabling agility and innovation



Achieving operational efficiency from data controls



Making company more attractive to investors



Building loyalty and trust with customers

Source: Cisco 2020 Data Privacy Benchmark Study. Infographic by Cisco





# Concerns

- Learner success
- Use of university resources
- At-risk learners (predictive capacity)
- Help-seeking behavior
- Intervention
- Learner dashboard
- Real-time analytics
- Integrity of Exams/Assessments



def

# privacy

- the right to be let alone (Warren & Brandeis, 1890)
  - ex: “do not call” registry
- Decisional Privacy - personal & family decisions about life, death, and reproduction that **protect citizens from state intrusions**

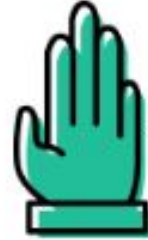
def

# privacy

- Informational Privacy - "the claim of individuals, groups, or institutions to determine for themselves **when, how, and to what extent information** about themselves is communicated to others" (Alan Westin, 1967)
- be-let-alone preference, decisions, personal information - in form of data. Hence, **“data privacy”**



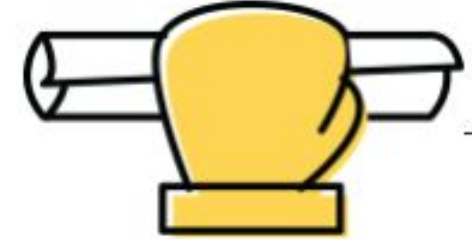
**The right to be informed**



**The right to access**



**The right to object**



**The right to erasure or blocking**



**The right to damages**



**The right to file a complaint**



**The right to rectify**



**The right to data portability**

limits?

Def

# Personal information

any information 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 3g, RA 10173)



# Personal Identifiers

- Name
- Address
- Telephone
- Fax
- Email
- Social Security
- Birth date
- Medical record
- Health plan
- Dates of treatment
- Account number
- License number
- Device identifiers
- Vehicle identifiers
- URL
- IP address
- Biometric identifiers
- Photos or comparable images

Def

# Personal info controller

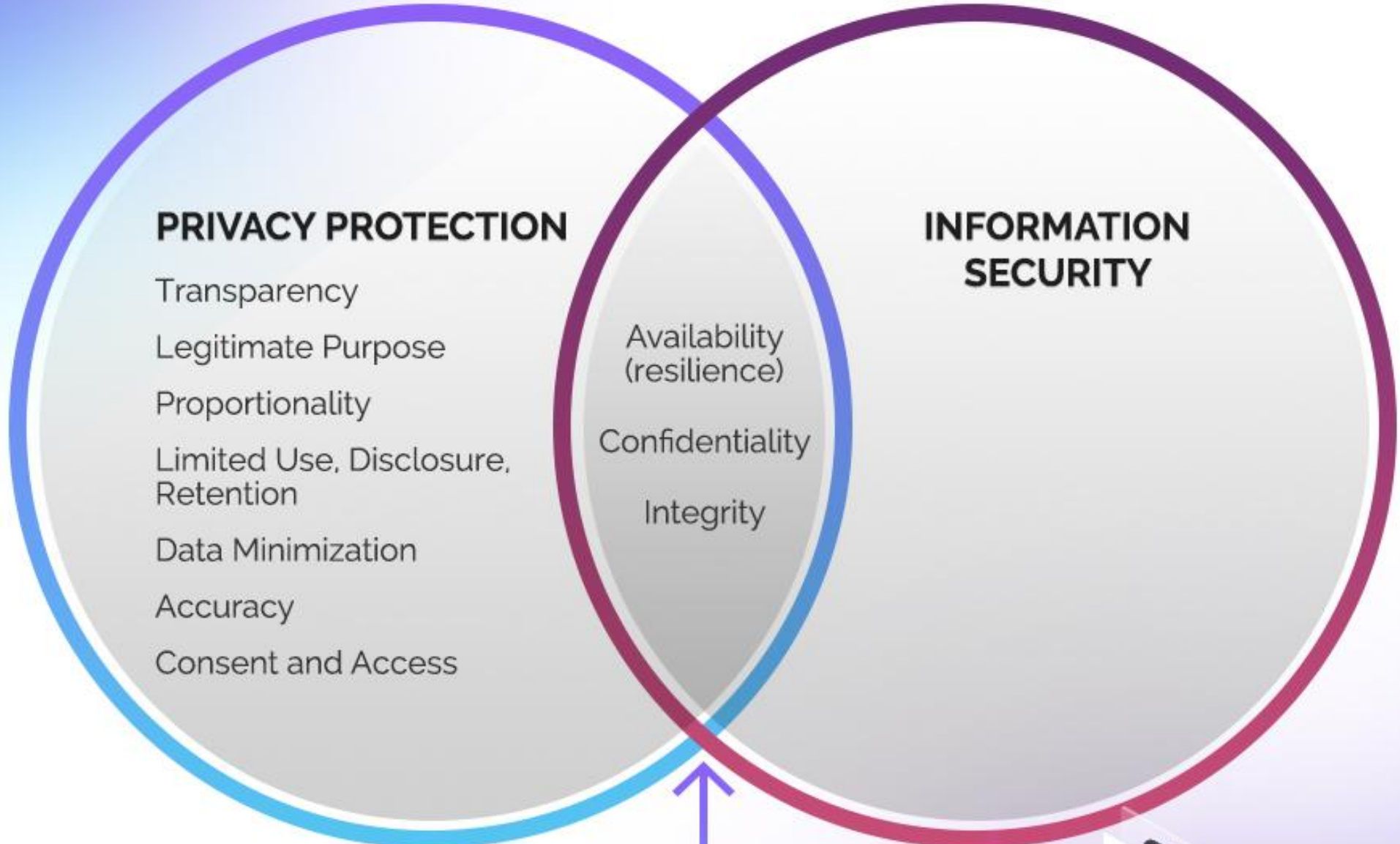
person or organization who controls the collection, holding, processing or use of personal information, including a person or organization who instructs another person or organization to collect, hold, process, use, transfer or disclose personal information on his or her behalf (sec 3h)

Def

# Personal info processor

any natural or juridical person to whom a personal information controller may outsource the processing of personal data pertaining to a data subject (sec 3i)





Security of processing

Privacy impact assessment





# Consent

“freely given, **specific**, informed indication of will, whereby the data subject agrees to the collection and processing of personal information” (Sec 3b)

- from data or research subjects for the collection, use, or disclosure of personal information
- not silence, pre-ticked boxes, not inactivity (GDPR)
- “clear and plain language” (GDPR)

# THE INFORMATION LIFECYCLE

## 5. DISPOSAL

Release of de-identified data or proper disposal of personal information that's no longer needed.

## 4. PROTECTION

Appropriate steps, strategies have to be in place to secure personal data your organization holds.

## 3. RISK ASSESSMENT

Processes, systems, programs, projects dealing with personal information need to be evaluated for privacy risks.



## 1. COLLECTION

What is the extent necessary to collect and hold personal information in order to carry out your functions?

## 2. HANDLING


Using, organizing, sharing personal information requires an overall data and privacy management plan.



# Breach

“a security incident that leads to unlawful or **unauthorized processing** of personal, sensitive or privileged information, or that otherwise compromises the availability, **integrity** or confidentiality of information processed under the control of a personal information controller”  
(NPC Circular 16-001, June 10, 2016)





# Breach Types

- Availability breach – from the loss accidental or unlawful destruction of personal data
- Integrity breach – from the unauthorized alteration of personal data
- Confidentiality breach – from the unauthorized disclosure of or access to personal data

Source: NPC, “Exercising Breach Reporting Procedures”

# Dashboards



## Training Hours Report



Gender



Month



Job Rank



Segment

	Online	Last Session End
5	Gregory	0 min No Session
6	Hunyo	24 min Wednesday, 5 December 2018, 8:18 AM [1543997898]
7	Juan De La Cruz	13 min Monday, 10 December 2018, 6:11 AM [1544422294]
8	Luch	53 min Thursday, 4 October 2018, 3:36 AM [1538620583]
9	Maria	33 min Wednesday, 1 August 2018, 9:08 AM [1533110883]
10	Rafael	3 h, 23 min Tuesday, 4 December 2018, 7:09 AM [1543907355]
11	Ruben	0 min No Session
12	Student One Moodlelearning	33 h, 8 min Tuesday, 11 December 2018, 7:18 AM [1544512718]
13	Tonton	1 h, 57 min Friday, 29 June 2018, 2:47 AM [1530236829]
14	beta_user01	47 min Tuesday, 3 July 2018, 5:32 PM [1530635550]
15	beta_user02	4 h, 48 min Monday, 19 November 2018, 5:35 AM [1542605759]
		2 h, 8 min Monday, 25 June 2018, 8:36 AM [1529912218]
		1 h, 59 min Tuesday, 11 December 2018, 3:26 AM [1544498799]
		8 h, 14 min Thursday, 6 December 2018, 7:22 AM [1544080973]
		15 min Tuesday, 16 October 2018, 7:32 AM [1539671540]

## Budget Execution

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0 min	No Session
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# Dashboards



A screenshot of a learner dashboard interface. The dashboard is organized into several sections. At the top, there are navigation tabs for 'Dashboard', 'My courses', 'My courses', and 'Notifications'. The main content area includes: 1. A 'Course Completed' section with a green progress indicator showing 14%. 2. A 'Next Online' section with a red progress indicator showing 18%. 3. An 'Average Score' section with a blue progress indicator showing 64%. 4. A 'Daily Online Participation' bar chart showing participation levels for days M through S. 5. A 'Recently accessed courses' section with a horizontal bar chart showing two courses: 'Ice and Fire' and 'Highway'. 6. A 'Course level' section with a blue star icon containing the number '1'. 7. A 'My enrolled courses' section listing 'Ice and Fire', 'Silicon Valley', and 'Highway'. 8. An 'Upcoming events' section with a message: 'There are no upcoming events to be notified...'. 9. A 'Calendar' section showing a calendar for November 2017. The user's profile is visible on the right side, showing the name 'Arya Stark' and the role 'Account Manager'. A blue button at the bottom right says 'Get the mobile app'.





# Predictions

my.e[training].ph

Students who have not accessed the course recently  
The following students have not accessed a course they are enrolled in within the set analysis interval (by default the past month).


[Send message](#) [Accept](#) [Not applicable](#) [Incorrectly flagged](#)

Description	Actions
<input type="checkbox"/>  Marteuz Salvana	

### Prediction details

Time predicted	Friday, 26 June 2020, 7:00 PM
Analysis interval	Tuesday, 26 May 2020, 7:00 PM to Friday, 26 June 2020, 7:00 PM

### Indicators

Any course access	 No
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Target

Students at risk of dropping out

Indicators



- × Course accessed after end date
- × Course accessed before start date
- × Any write action in the course
- × Read actions amount
- × Completion tracking enabled
- × Course potential cognitive depth
- × Course potential social breadth
- × Assignment cognitive
- × Assignment social
- × Book cognitive
- × Book social
- × Chat cognitive
- × Chat social
- × Choice cognitive
- × Choice social
- × Database cognitive
- × Database social
- × Feedback cognitive
- × Feedback social
- × Folder cognitive
- × Folder social
- × Forum cognitive
- × Forum social
- × Glossary cognitive
- × Glossary social
- × IMS pkg cognitive
- × IMS pkg social
- × Label cognitive
- × Label social
- × Lesson cognitive
- × Lesson social
- × LTI cognitive
- × LTI social
- × Page cognitive
- × Page social
- × Quiz cognitive
- × Quiz social
- × File cognitive
- × File social
- × SCORM cognitive
- × SCORM social
- × Survey cognitive
- × Survey social
- × URL cognitive
- × URL social
- × Wiki cognitive
- × Wiki social
- × Workshop cognitive
- × Workshop social



# Exam Integrity

- Exam  $\neq$  Assessment
- Test = Education = Learning
- Cheating
  - Proctored Exam

**Proctorial**  
proctorial.etraining.ph



[Online Exam](#)[Cheating \(exams\)](#)[E-learning](#)

## How do people cheat on online proctored exams?

Ad by Another71

### CPA review courses. Which course is best?

Compare Becker, Wiley, Roger, and Ninja CPA Review.

[Learn More](#)

11 Answers



**Robert Vincelette**, former Visiting Professor at Lincoln University, PA (2015-2018)

Answered May 23, 2019 · Author has 1.2K answers and 568.9K answer views

They photograph the computer screen with their telephones or easier to conceal device and send the password to a friend who is not in class but somewhere else where they can take the test while looking up the answers on the internet. There are several websites specifically designed for this kind of cheating set up by corporations that are as dishonest as tobacco and junk food manufacturers. If it is a large class they have a friend sign in the attendance sheet for them.

They might claim an emergency need to use the lavatory and look up answers.

They hide concealable earphones and have a friend tell them answers.

Some of these methods can be suppressed with good monitoring, but let us not flatter ourselves into thinking we are so clever we can detect all cheating. Cheating is an integral part of American competitive culture where honesty is for losers and chumps who do not have the drive to do whatever it takes to be number one and that includes everything from performance enhancing drugs with urine testing defeated through catheter injections of urine from a "clean" donor through deceptive advertising and "heart healthy" breakfast cereal, through the academic fraud of the soda industry

### Related Questions

[How can people cheat on a highly proctored exam?](#)

[Can we cheat in online proctored exam?](#)

[How do I detect cheating when students take tests or exams online at home?](#)

[Is it possible to detect cheating in an online exam?](#)

[How do I detect cheating when students take online quizzes or exams from home during...](#)

[Is it possible to cheat in an online exam?](#)





# PRIVACY NOTICE

For taking an exam on Proctorial, the exam taker agrees to be monitored, watched, or listened to during the exam. A video and audio recording of the test taker taking the exam will be immediately deleted once exam results are validated. Any efforts to thwart the monitoring system of Proctorial (including but not limited to: turning off the cam or microphone, using another device to search for answers, plugging in any external storage device, using cameras to photograph the exam, asking someone else for answers) are to be construed as dishonesty that may invalidate a test taker's exam results.

The test taker's personal data will not be stored nor shared beyond the purpose of the exam. The Proctorial staff are processing personal data on behalf of the institution or organization (information controller) authorizing or giving the exam.





## Technical

- time limitation
- different test for each student
- shuffled questions and answers
- closing the test
- limited number of questions on a screen
- large number of questions
- IP address and geolocation monitoring
- password use
- restrict access to old exams
- use of Safe Exam Browser that features the following:



## Safe Exam Browser

- only one access device allowed
- only one browser to use, with only one tab available
- only one screen allowed
- forced fullscreen
- printing disabled
- clipboard disabled
- cache cleared
- download disabled
- external storage device disallowed
- no re-entry allowed

## Organizational

- simultaneous conduct of exams
- restriction of physical movement or location
- restriction of IP
- communication of rules



## Methodological

- use of creative questions
- use of calculated or weighed questions
- use of test weights

## Behavioral

- Use of Honor Code
- Communication of Technical Measures
- Penalties for Cheating







# Postscript

- Legitimate purpose
- Data Governance and Accountability
- Proportionality