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guidebook

Processing of personal data for academic purposes and for carrying out studies and research

jun / 2023

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Brasilia DF
2023

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Version 1.0

Digital publication (June / 2023)

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Note | This version is subject to comments and contributions by society on an ongoing basis, so that the Guide may be updated, at ANPD's discretion, as new regulations and understandings are published.

Suggestions can be sent to the ANPD Ombudsman, through the Fala.BR Platform: https://falabr.cgu.gov.br/

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Introduction

The General Law for the Protection of Personal Data (lgpd, Law nº 13.709/2018) established specific rules for the processing of personal data for academic purposes and for carrying out studies and research.

These rules aim to ensure that, whenever associated with the production and dissemination of knowledge, the processing of personal data is carried out with legal certainty and with respect for the rights of data subjects.

In this sense, the lgpd sought to establish a balance between, on the one hand, the protection of personal data and the guarantees of privacy and informative self-determination and, on the other hand, academic freedom and the free flow of information necessary for carrying out of studies and research in the most diverse areas of knowledge.

In practical terms, however, the definition of this balance still raises a number of questions, such as:

ÿ definition and scope of the concepts of "data processing for exclusively academic purposes" and "research body";
ÿ legal hypotheses that authorize the processing of personal data for carrying out studies and research;

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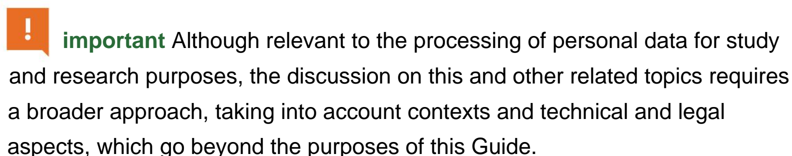
ÿ providing access or sharing personal data for study and research purposes; and ÿ relationship between lgpd and ethical parameters applicable to research with human beings.

Considering these aspects, this Guide aims to provide treatment agents with recommendations and guidelines that can encourage the adoption of good practices and support the processing of personal data carried out for academic purposes, studies and research in a manner compatible with the legislation. current.



important Although relevant to the processing of personal data for study and research purposes, the discussion on this and other related topics requires a broader approach, taking into account contexts and technical and legal aspects, which go beyond the purposes of this Guide.

Thus, they are not the object of this Guide, for example:

ÿ interpretation of specific criteria for providing access or disclosing personal information, such as those provided for in the Law on Access to Information (Lai – Law No. 12,527/2011); It is
ÿ analysis of patterns and techniques used in anonymization and pseudonymization processes.

The Orientation Guide is based on the Technical Study, prepared with the aim of encouraging public debate and supporting decision-making by the anpd.

Access the Study by clicking here

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Structure of the Guide

The Guide is divided into 5 parts.

[1] **Legal regime** | Presentation of the general contours of the special legal regime established by the lgpd for the processing of personal data for academic purposes and for carrying out studies and research.

[2] **Academic Purposes** | Analysis of the partial application of lgpd to treatment carried out exclusively for academic purposes.

[3] **Studies and research** | Analysis of the legal hypotheses applicable to the processing of personal data for the purposes of carrying out studies and research.

[4] **Provision of data access** | Recommendations for providing access or sharing personal data for the purposes of carrying out studies and research.

[5] **Ethical Standards** | Considerations on the relationship between the lgpd and the ethical standards applicable to research involving human beings.

Good reading!

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Legal regime

Initially, for the purposes of this Guide, it is considered that the lgpd conferred the same legal treatment for carrying out studies or research, using the expressions "studies" and "research" interchangeably. These terms have a broad definition, which covers basic or applied research of a historical, scientific, technological or statistical nature in the most diverse areas of knowledge.

Art. 5 For the purposes of this Law, it is considered:

[...]

xviii – research body: direct or indirect public administration body or entity or non-profit legal entity governed by private law, legally constituted under Brazilian law, with headquarters and jurisdiction in the Country, which includes basic or applied historical, scientific, technological or statistical research in its institutional mission or in its corporate or statutory purpose;

lgpd instituted a more flexible special legal regime for the processing of personal data for academic purposes and for carrying out studies and research. The main points of this regime are set out in six provisions of the lgpd.

1

The discipline of personal data protection is based on freedom of expression, information, communication and opinion; and economic and technological development and innovation.

Art. 2 The discipline of protection of personal data is based on:

[...]

iii – freedom of expression, information, communication and opinion;

[...]

v – economic and technological development and innovation;

It follows from these principles the need to interpret lgpd norms in a way that is compatible with the pluralism of ideas and freedom of expression of thought, as well as with the promotion of scientific innovation in the country.

federal Constitution

Art. 206. Teaching will be based on the following principles:

[...]

ii – freedom to learn, teach, research and disseminate thought, art and knowledge.

[...]

Art. 218. The state shall promote and encourage scientific development, research, scientific and technological training and innovation.

2

The application of the lgpd is partially excluded from treatment carried out exclusively for academic purposes.

As discussed later in this Guidance Guide, lgpd sought to protect academic freedom and establish a regime of

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protection of personal data more suited to the dynamics of academic activities.

Art. 4 This Law does not apply to the processing of personal data:

[...]

ii – carried out exclusively for:

a) journalistic and artistic;

b) academics, applying to this hypothesis the arts. 7 and 11 of this Law;

lgpd establishes a specific legal hypothesis for the processing of personal data for carrying out studies by research bodies. To this end, the processing agent must ensure the anonymization of personal data whenever possible.

Thus, the Law expressly recognizes the possibility of legitimate use of personal data to carry out studies and research, simplifying and providing greater legal certainty to the treatments carried out in these cases.

Art. 7 The processing of personal data can only be carried out in the following cases:

[...]

iv – for carrying out studies by research bodies, guaranteeing, whenever possible, the anonymization of personal data;

Art. 11. The processing of sensitive personal data can only occur in the following cases:

[...]

ii – without providing the holder's consent, in cases where it is indispensable for:

[...]

c) conducting studies by research bodies, ensuring, whenever possible, the anonymization of sensitive personal data;

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***Anonymization** is the use of reasonable technical means that makes it possible to lose the direct or indirect association of personal data with an individual.*

lgpd allows the processing of personal data for an activity other than the one that initially justified the collection, provided that the subsequent processing is compatible with the purposes of the original processing.

For this purpose, the processing must be carried out for legitimate, specific, explicit and informed purposes, without the possibility of further processing in a way that is incompatible with these purposes. As already informed, in any case, the treatment must observe the ethical standards and the applicable technical and legal safeguards.

In this sense, it can be stated that there is a presumption of compatibility when the secondary use of the data is intended for the purpose of carrying out studies and research, especially by research bodies. This is because the lgpd provided for a legal hypothesis and specific authorization for the processing and conservation of personal data for this purpose, establishing, in addition, a special legal regime, as shown in this Guide.

! **important** Thus, the subsequent processing of personal data is legitimate, when carried out for the purposes of scientific, historical or statistical research, if compatible with the purposes that justified it.

the original treatment, that is, when the secondary use of the data is intended for the purpose of carrying out studies and research, especially by research bodies.

This presumption of compatibility does not imply granting unrestricted authorization for the secondary use of personal data for study and research purposes.

It is necessary to evaluate the concrete case, taking into account, among other relevant aspects:

ÿ the nature of personal data, adopting greater caution when covering sensitive data; ÿ the legitimate expectations of data subjects and the possible impacts of further processing on their rights; ÿ the lgpd principles, in particular those of purpose, appropriateness, necessity, transparency and non-discrimination; ÿ appropriate prevention and safety measures; and ÿ the ethical standards applicable to the hypothesis.

4

lgpd honors the promotion of scientific innovation in the country for the purposes of studies and research by research bodies, guaranteeing, whenever possible, their anonymity.

Art. 15. The termination of the processing of personal data will occur in the following cases:

[...]

iii – communication from the holder, including the exercise of his right to revoke consent as provided for in §5 of art. 8 of this Law, safeguarding the public interest;

Art. 16. Personal data will be deleted after the end of its treatment, within the scope and technical limits of activities, with authorized conservation for the following purposes:

[...]

ii – study by research body, guaranteeing, whenever possible, data anonymization.

Thus, whenever there is a need to keep personal data to carry out studies and research, research bodies may legitimately keep personal data.

The conservation of personal data must also observe the other relevant rules regarding the classification of archival documents and the applicable time tables.

In this way, in the event of a request by the holder aiming, for example, at the end of the treatment and the elimination of his personal data, the research body may reject the request, if it finds that, given the relevant circumstances and after weighing between the interests involved, the need to protect the public interest prevails.

important It is essential to emphasize that these legal provisions cannot be used as a generic and abstract argument to justify the indiscriminate storage of personal data. In fact, as it involves a restriction on the rights of the holders, any refusal to request the deletion of personal data must always be motivated, demonstrating that its conservation is a necessary measure and has a real link with the fulfillment of the specific purpose to carry out tion of studies and research.

5

Another legal provision applicable to the processing of data for academic and research purposes is art. 13 of lgpd.

The wording is as follows:

Art. 13. When carrying out studies in public health, research bodies may have access to personal databases, which will be treated exclusively within the body and strictly for the purpose of carrying out studies and research and kept in a controlled and safe environment, according to security practices provided for in specific regulation and that include, whenever possible, the anonymization or pseudonymization of data, as well as considering due ethical standards related to studies and research.

§ 1 The disclosure of the results or any excerpt from the study or research referred to in the caput of this article may under no circumstances reveal personal data.

§ 2 The research body will be responsible for the security of the information provided for in the caput of this article, not allowing, under any circumstances, the transfer of data to a third party.

§ 3 Access to the data referred to in this article will be subject to regulation by the national authority and the authorities in the health and sanitary area, within the scope of their competences.

§ 4 For the purposes of this article, pseudonymization is the treatment whereby data loses the possibility of association, directly or indirectly, with an individual, if not through the use of additional information maintained separately by the controller in a controlled and secure environment.

Article 13 ratifies the authorization to provide access to personal data for the purposes of carrying out studies and research, stipulating, in addition, specific prevention and safety measures to be observed in the field of public health studies. Thus, personal data must be treated exclusively within the body and for the strict purpose of the research, its transfer to third parties being prohibited. In addition, they must be stored in a controlled and secure environment, anonymized or pseudonymized whenever possible. Finally, the ethical standards applicable to the hypothesis must be observed, not admitting the disclosure of personal information when publishing the result of the study.

Although art. 13 establish specific requirements for studies in public health, prevention and safety are general principles of lgpd (art. 6, vii and viii), which apply to any operation with personal data, constituting a legal obligation of processing agents, pursuant to art. 46 and 47[1]. Thus, studies and research carried out in other areas of knowledge, including by treatment agents that do not qualify as "research bodies", must also adopt the necessary and adequate protective measures to mitigate risks to the holders of personal data, applying, where applicable, the parameters defined in art. 13, according to the peculiarities of each case.

This is what happens, in particular, with studies that process sensitive personal data, such as information regarding racial and ethnic origin, religious conviction and political opinion. In these situations, even if the study or research is not located in the field of public health or is carried out by a treatment agent who does not qualify as a "research body", it will also be necessary to adopt technical safeguards – such as the anonymization and pseudonymization – and appropriate legal and proportionate to the risks involved. This minimizes the risk of incident

security, promoting the protection of the privacy of the holders, the confidentiality of the information used and the observance of the applicable ethical standards.

6

It should be emphasized that prevention and security are lgpd's general principles and apply to any operation with personal data, constituting a legal obligation for processing agents.

> **Art. 6** Personal data processing activities must observe good faith and the following principles:
>
> *[...]*
>
> vii – security: use of technical and administrative measures able to protect personal data from unauthorized access and accidental or illegal situations of destruction, loss, alteration, communication or diffusion;
>
> viii – prevention: adoption of measures to prevent the occurrence of damage due to the processing of personal data;

Thus, for the purposes of studies and research carried out in all areas of knowledge, processing agents must adopt necessary and adequate protective measures to mitigate risks to the holders of personal data – such as anonymization and pseudonymization. Also, legal measures appropriate and proportionate to the risks involved must be adopted.

Measures must be adopted, including by treatment agents that do not qualify as "research bodies", promoting the protection of the privacy of data subjects, the confidentiality of the information used and the observance of applicable ethical standards.

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Art. 46. Processing agents must adopt security, technical and administrative measures capable of protecting personal data from unauthorized access and accidental or unlawful situations of destruction, loss, alteration, communication or any form of inappropriate or unlawful treatment.

[...]

§ 2 The measures referred to in the caput of this article must be observed from the conception phase of the product or service until its execution.

Art. 47. The treatment agents or any other person who intervenes in one of the treatment phases is obliged to guarantee the security of the information provided for in this Law in relation to personal data, even after its termination.

example 1

Shared use of data between the Department of Health and the research body

Consider that a municipal health department collects data on confirmed cases of an infectious disease for the purpose of designing, implementing and monitoring a public vaccination policy. Data are shared with a research body, for the specific purpose of carrying out studies in public health.

In this case, the further processing of the data is compatible with the original purpose of the collection, in accordance with the purpose principle. Because it is sensitive data, related to health, the body must be more careful when sharing them, always observing the principles, art. 13 and Chapter IV of the lgpd, in addition to the rights of holders and the ethical standards applicable to the hypothesis[2].

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academic purposes

As previously stated, lgpd does not apply to the processing of personal data “performed exclusively for academic purposes, provided that the treatment is supported by one of the legal hypotheses established in arts. 7 and 11 of the Law. Thus, it can be said that lgpd is partially ruled out when the treatment is carried out exclusively for academic purposes.

Art. 4 This Law does not apply to the processing of personal data:

[...]

ii – carried out exclusively for:

a) journalistic and artistic;

b) academics, applying to this hypothesis the arts. 7 and 11 of this Law;

In this sense, lgpd establishes two commands:

ÿ partial withdrawal from lgpd when treatment is carried out exclusively for academic purposes;

and ÿ the determination that the treatment is supported by one of the legal hypotheses established in arts. 7 and 11 and, therefore, that the specific rules set out in the lgpd for the legal hypothesis used are observed.

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Partial withdrawal from lgpd must be interpreted restrictively, limited to situations in which the processing of personal data is strictly linked to the exercise of academic freedom.

Academic freedom constitutes a kind of freedom of expression and expression of thought, generally exercised by teachers, students and researchers from research bodies or teaching institutions in environments conducive to the exposition and debate of ideas, such as classrooms, congresses and scientific seminars.
Thus, lgpd seeks to facilitate the performance of academic activities, removing the incidence of certain legal obligations.

Data protection legislation, in this sense, cannot be interpreted or applied in such a way as to prevent or establish undue obstacles to the exercise of intellectual and didactic-scientific autonomy by professors and students in academic environments.

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At the European level, the European Data Protection Supervisor (edps) presents a similar interpretation, by maintaining that the processing for the purposes of "academic expression", as provided for in art. 85 of the General Data Protection Regulation (RGPD), covers operations with personal data directly linked to the freedom to expose and disseminate knowledge, through, for example, the debate of ideas and opinions, the publication of research results and the sharing of data and methodologies among peers.

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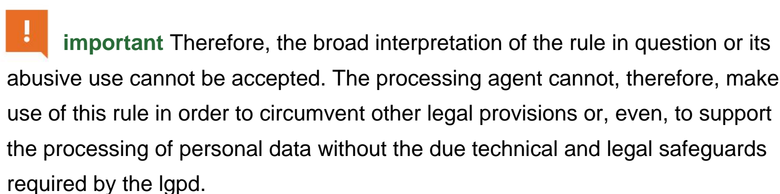
Therefore, the scope of incidence and partial removal of the lgpd is restricted to the processing of personal data strictly linked – that is, exclusively – to the exercise of freedom of expression in academic environments.

Thus, whenever the processing of personal data serves purposes other than those strictly linked to free academic expression, the lgpd must be fully observed.



important Therefore, the broad interpretation of the rule in question or its abusive use cannot be accepted. The processing agent cannot, therefore, make use of this rule in order to circumvent other legal provisions or, even, to support the processing of personal data without the due technical and legal safeguards required by the lgpd.

Therefore, the fact that part of the treatments carried out by a certain treatment agent is classified as an academic activity should not be understood as a general waiver of compliance with the lgpd.

example 2

educational institutions

The processing of personal data carried out by educational institutions for administrative or commercial purposes, even if it has some indirect link with academic actions, must fully respect the lgpd. This is the case of the collection of personal data from students for enrollment, internships, selection processes, attendance records and evaluation notes, or even the processing of personal data of employees and professors by the human resources sector of these institutions. Another example that can be mentioned is the processing of personal data carried out by these institutions for the purpose of displaying advertising, the

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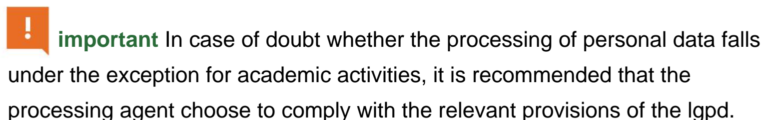
which must fully comply with the lgpd, given its nature as a commercial activity.

The relaxation of personal data protection rules applied for academic purposes should not be unduly appropriated. Likewise, flexibility cannot be used to exempt business companies and other processing agents from complying with the obligations set forth in the personal data protection legislation.

The issue gains relevance, in particular, in cases of partnerships between educational institutions or research bodies and private entities, in which the eventual processing of personal data may occur for the development of commercial activities in the corporate environment.

The adequate definition of the legal regime applicable to the concrete case must observe, among other relevant aspects, essential elements, such as:

ÿ the clear definition of the nature, functions and responsibilities des of each treatment agent;
ÿ the identification of the appropriate legal hypothesis; It is
ÿ identification of the categories of data processed and their respective purposes.



important In case of doubt whether the processing of personal data falls under the exception for academic activities, it is recommended that the processing agent choose to comply with the relevant provisions of the lgpd.

This posture of greater caution must be adopted, especially when the treatment involves a high risk for the rights of the holders, such as, for example, when large scale, sensitive data and the use of new technologies are involved.

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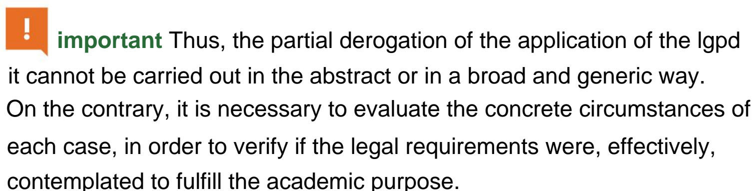
In these and other similar situations, the processing of personal data does not fall within the legal exception provided for exclusively academic purposes, since it does not meet the requirement of exclusively academic purposes.

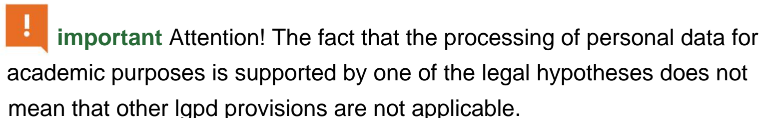


important Thus, the partial derogation of the application of the lgpd it cannot be carried out in the abstract or in a broad and generic way. On the contrary, it is necessary to evaluate the concrete circumstances of each case, in order to verify if the legal requirements were, effectively, contemplated to fulfill the academic purpose.

In cases of processing of personal data for academic purposes, the processing must always be lawful, that is, compatible with the legal system and regularly supported by one of the legal hypotheses provided for in the lgpd.

The legal hypotheses are provided for in art. 7, for personal data, and in art. 11, for sensitive personal data, both from lgpd.

Examples of legal hypotheses that, in theory, can be used in the academic context: the holder's consent, carrying out studies by a research body and meeting legitimate interests.



important Attention! The fact that the processing of personal data for academic purposes is supported by one of the legal hypotheses does not mean that other lgpd provisions are not applicable.

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For example, if the processing of personal data is supported by the consent of the holder, this must be carried out through a free, informed and unequivocal statement by which the holder agrees with the processing of his personal data for the purpose of academic activities. Furthermore, consent must observe the rules established in the lgpd, such as:

ÿ criteria for waiving the requirement for consent (art. 7, §§4º and 6º);
ÿ need to communicate or share personal data with other controllers (art. 7, §5);
ÿ how consent must be given (art. 8);
ÿ holders' right (art. 9, §§1 and 2 and art. 18).

important It is worth mentioning that the processing of personal data whose access is public must also comply with lgpd. More specifically, the processing of personal data, a usual practice in the academic environment, must be supported by an appropriate legal hypothesis and respect “the purpose, good faith and public interest that justified its availability”, safeguarding the rights of the holders.

Art. 7 The processing of personal data can only be carried out in the following cases:

[...]

§ 3 The processing of personal data whose access is public must consider the purpose, good faith and public interest that justified its availability.

§ 4 The requirement of consent provided for in the caput of this article is waived for data made manifestly public by the holder, safeguarding the rights of the holder and the principles provided for in this Law.

In addition, the use of this data for other purposes – including data made manifestly public by the holder – must

observe "the legitimate and specific purposes for the new treatment and the preservation of the holder's rights, as well as the foundations and principles set forth" in the lgpd (art. 7, paragraph 7).

Art. 7 The processing of personal data can only be carried out in the following cases:

[...]

§ 7 The subsequent processing of personal data referred to in §§ 3 and 4 of this article may be carried out for new purposes, provided that the legitimate and specific purposes for the new treatment and the preservation of the holder's rights are observed, as well as the foundations and principles set forth in this Law.

Another example is when the processing of personal data carried out exclusively for academic purposes is necessary to meet the legitimate interests of the controller or a third party. In this case, the legitimate interest cannot override the fundamental rights and freedoms of the holder that require the protection of personal data.

For the processing of personal data based on legitimate interest, the rules for using the legal hypothesis of legitimate interest must be observed, such as:

ÿ processing must be limited to strictly necessary data (art. 10, §1);
ÿ guarantee of treatment transparency (art. 10, §2);
ÿ need to keep records of personal data processing operations (art. 37).

Art. 10. The legitimate interest of the controller can only justify the processing of personal data for legitimate purposes, considered from concrete situations, which include, but are not limited to:

i – support and promotion of the controller's activities; It is

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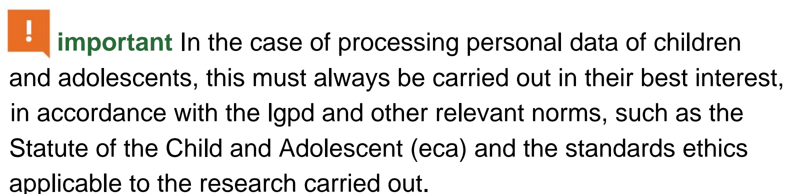
> ii – protection, in relation to the holder, of the regular exercise of his rights or provision of services that benefit him, respecting his legitimate expectations and fundamental rights and freedoms, under the terms of this Law.
>
> § 1 When the treatment is based on the legitimate interest of the controller, only the personal data strictly necessary for the intended purpose may be processed.
>
> § 2 The controller must adopt measures to ensure the transparency of data processing based on its legitimate interest.
>
> § 3 The national authority may ask the controller for an impact report on the protection of personal data, when the processing is based on its legitimate interest, observing commercial and industrial secrets.
>
> **Art. 37.** The controller and the operator must keep a record of the personal data processing operations they carry out, especially when based on legitimate interest.

Also, mention may be made, among others, of art. 12, 13 and 14 that establish, respectively, relevant rules on the anonymization of personal data, studies in public health and processing of personal data of children and adolescents.



important In the case of processing personal data of children and adolescents, this must always be carried out in their best interest, in accordance with the lgpd and other relevant norms, such as the Statute of the Child and Adolescent (eca) and the standards ethics applicable to the research carried out.

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Studies and research

The processing of personal data for the purposes of carrying out studies and research can be carried out by the following processing agents in the face of 2 legitimate possibilities compatible with the lgpd, to which different rules apply:

ÿ research bodies; or
ÿ treatment agents not qualified as research bodies.

research body

Among the legal hypotheses of the lgpd, the processing of personal data for carrying out studies by research bodies is foreseen. This hypothesis even covers the processing of personal data of a sensitive nature, regardless of consent by the data subject.

Art. 7 The processing of personal data can only be carried out in the following cases:

[...]

iv – for carrying out studies by research body, guaranteeing, whenever possible, the anonymization of personal data;

> **Art. 11.** The processing of sensitive personal data may only occur in the following cases:
>
> *[...]*
>
> ii - without providing the holder's consent, in cases where it is indispensable for:
>
> *[...]*
>
> c) conducting studies by a research body, ensuring, whenever possible, the anonymization of sensitive personal data;

As already mentioned, the existence of a legal provision that makes it possible to carry out studies involving personal data privileges and recognizes the relevance of activities related by research bodies for the production of knowledge and resolution of the most varied challenges of human knowledge.

At the same time, the fundamentals of the lgpd that govern the protection of personal data, described in article 2 of the law, guide any operation involving the processing of personal data.
Of note are respect for privacy, freedom of expression, information, communication and opinion, the inviolability of privacy, honor and image, and economic and technological development and innovation.

In this context, the lgpd established requirements for the processing of personal data for carrying out studies by a research body, which must necessarily be completed by the processing agents.

The first requirement is that the treatment be carried out by a research body:

> **Art. 5** For the purposes of this Law, it is considered:
>
> *[...]*
>
> xviii – research body: body or entity of the direct or indirect public administration or non-profit private legal entity legally constituted under Brazilian law, with headquarters and jurisdiction in the Country, which includes in its institutional mission or in its corporate purpose or statutory basic or applied research of a historical, scientific, technological or statistical nature;

For the use of this legal hypothesis, there is a need for the treatment agent to be a body or entity of the direct or indirect public administration, or even a private non-profit legal entity legally constituted under Brazilian law, with headquarters and forum in the country.

In addition, the agent must have, among its institutional missions or in its corporate or statutory purpose, basic or applied research, for historical, scientific, technological or statistical purposes.

By mentioning the "bodies and entities of the direct and indirect public administration", the provisions of article 5, xviii of lgpd covers, in general, all bodies and entities of the direct or indirect public administration, of the three powers of the Union, the States, the Federal District and the Municipalities, provided that they have basic or applied research in their institutional mission historical, scientific, technological or statistical.

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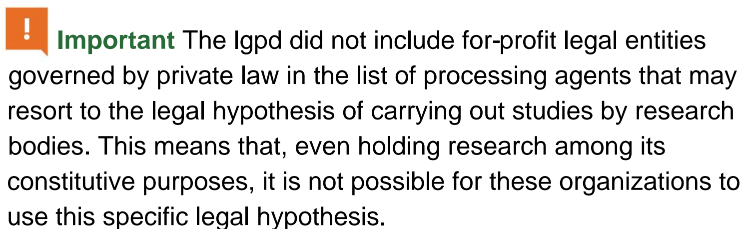
Examples of research bodies are: Public or private non-profit Higher Education Institutions, national research centers and public entities that carry out research, such as the Brazilian Institute of Geography and Statistics (ibge) and the Institute of Applied Economic Research (ipea).

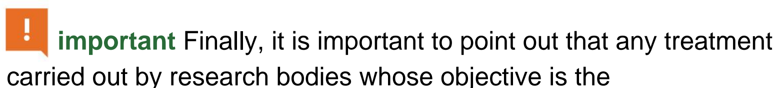


Important The lgpd did not include for-profit legal entities governed by private law in the list of processing agents that may resort to the legal hypothesis of carrying out studies by research bodies. This means that, even holding research among its constitutive purposes, it is not possible for these organizations to use this specific legal hypothesis.

For such agents, the processing of personal data for the purposes of studies and research must be carried out with the support of other legal hypotheses, such as consent or legitimate interest.

Another aspect that must be considered is that the definition of research bodies only covers bodies and institutions that have been constituted for, among other activities, the carrying out of basic or applied research, as defined in their institution act, following the example of laws , regulations and by-laws.

Therefore, even if they have a non-profit public or private nature, they are not covered by the definition of a research body contained in the lgpd, the bodies and institutions that carry out study and research activities in an occasional or accessory way and that have not been constituted for this purpose. goal. In this case, the processing agent must base the processing of personal data for the purposes of studies and research on another legal hypothesis.



important Finally, it is important to point out that any treatment carried out by research bodies whose objective is the

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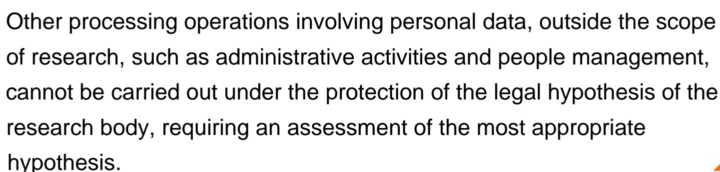
the fulfillment of other purposes, unrelated to carrying out studies, must be supported by another legal hypothesis that is more appropriate to the case, respecting all the provisions of the lgpd.

example 3

Research Center created by the Public Ministry of one of the states of the federation

To illustrate the legal hypothesis under evaluation, it is possible to highlight the case of the Research Center created by the Public Ministry of one of the states of the federation, constituted with the primary purpose of producing studies and research related to the activities carried out by the members of the body.

Being a public administration body and having as its institutional mission the carrying out of studies and research, the center can be considered a research body, under the terms of item xviii of art. 5 of the lgpd, being authorized to use personal data in its final activities based on articles 7, iv and 11, ii, c, of the lgpd.



Other processing operations involving personal data, outside the scope of research, such as administrative activities and people management, cannot be carried out under the protection of the legal hypothesis of the research body, requiring an assessment of the most appropriate hypothesis.

Treatment agents not qualified as research bodies

Observing the rules applicable to research bodies, it becomes opportune to assess the legal scenario applicable to other processing agents.

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that do not fit the definition of research bodies, namely:

ÿ legal entities governed by private law that have the purpose profitable;
ÿ non-profit public entities and bodies or legal entities governed by private law that do not have in their institutional mission or in their social or statutory objective basic or applied research of a historical, scientific, technological or statistical nature; or
ÿ by natural persons.

It is important to clarify that lgpd did not eliminate the possibility that other processing agents – not covered by the definition of research bodies – may carry out studies and research involving personal data.

Thus, the lgpd admits the processing of personal data for the purpose of carrying out studies and research by treatment agents not qualified as research bodies, requiring, however, the support of the concrete situation in another legal hypothesis, such as the bases the holder's consent, legitimate interest or compliance with a legal or regulatory obligation, also observing the other legal requirements applicable in each case.

In practice, the lgpd imposed stricter requirements for the processing of personal data for the purpose of carrying out studies and research by agents that do not fit the definition of a research body. This is the case, in particular, in the processing of sensitive personal data. This is because, in this case, recourse to the legal hypothesis of legitimate interest is not allowed, a prohibition that, on many occasions, may require the processing agent to obtain consent "in a specific and prominent way, for specific purposes".

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example 4

For-profit legal entity governed by private law

Consider the case of a for-profit legal entity governed by private law, created with the aim of developing applications related to technology, the internet of things and artificial intelligence.

As provided in the lgpd, in order to be included in the definition of a research body, in addition to having basic or applied research among its statutory attributions, the institution cannot have a profit-making purpose.

As a consequence, the use of personal data for studies and research carried out by the company will not be appropriate, if the legal hypothesis adopted to justify the treatment is that contained in arts. 7th, iv; and 11, ii, c of the law.

However, in the proposed example, the studies conducted may be considered lawful if they are carried out based on another legal hypothesis provided for in the lgpd that is applicable to the specific case. In this way, the controller may base the processing of personal data on the consent of the holders, in their legitimate interest or that of a third party or in another hypothesis contained in the law, provided that the formalities are observed and the requirements required for each case are fulfilled.

It is also worth remembering that the lgpd does not apply to the processing of personal data carried out by a natural person for exclusively private and non-economic purposes (art. 4, i).

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> Art. 4 This Law does not apply to the processing of personal data:
> i – carried out by a natural person for exclusively private and non-economic purposes;

However, the lgpd will be levied if the natural person processes personal data for studies and research, for purposes that are not exclusively private or that have an economic purpose.

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Availability data access

Personal data constitute an essential input for carrying out studies and research, which, in turn, generate numerous social benefits, resulting from innovation and scientific and technological development.

For this reason, the lgpd provided for a special legal regime that recognizes the possibility of providing access to personal data, including those of a sensitive nature, for the purposes of carrying out studies and research, provided that the norms and prevention measures and relevant security.

This regulation is reinforced by the provision of a specific legal hypothesis that authorizes the processing of personal data to carry out studies by research bodies, as previously demonstrated in this Guide, and by the possibility of preserving personal data when necessary for the same purpose.

Art. 16. Personal data will be deleted after the end of its treatment, within the scope and within the technical limits of activities, authorized to con

service for the following purposes:

[...]

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> ii – study by research body, guaranteeing, whenever possible, the anonymization of personal data;

In a similar sense, art. 13 of the lgpd provides that "research bodies may have access to personal databases" to carry out studies in public health.

> **Art. 13** When carrying out studies in public health, research bodies may have access to personal databases, which will be treated exclusively within the body and strictly for the purpose of carrying out studies and research and kept in a controlled and safe environment, as security practices provided for in specific regulation and that include, whenever possible, the anonymization or pseudonymization of data, as well as considering due ethical standards related to studies and research.

Therefore, the lgpd established rules whose purpose is to bring greater legal certainty and protection to the rights of holders - and not to prohibit or establish undue obstacles to the provision of access and sharing of personal data for the purposes of studies and research.

Based on this assumption, some guidelines will be presented below with the aim of assisting treatment agents in the process of providing access to data for study and research purposes.

The first issue to be considered is that the access, transmission or sharing of personal data are considered activities of "processing" of personal data, as defined in art. 5th, x, from lgpd.

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Art. 5 For the purposes of this Law, it is considered:

[...]

x – treatment: all operations carried out with personal data, such as those referring to collection, production, reception, classification, use, access, reproduction, transmission, distribution, processing, archiving, storage, elimination, evaluation or control of information , modification, communication, transfer, dissemination or extraction;

Thus, the processing agent that holds the data must verify which legal hypothesis authorizes the operation, in accordance with the provisions of art. 7 (personal data) or in art. 11 (sensitive personal data) of lgpd.

If the processing agent that receives the personal data is a research body and the processing has the purpose of carrying out studies or research by the research body itself, the availability of access may be supported by the legal hypothesis that studies are carried out by a research body. research (provided for in article 7, item iv or in art. 11, item ii, c of the lgpd).

In cases where the processing agent receiving personal data is not a research body, the provision of access must be based on another legal hypothesis, different from the legal hypothesis of carrying out studies by a research body, such as consent and legitimate interest, the latter not being able to be used for the processing of sensitive personal data.

Specifically in the case of public entities and bodies, the availability of access to personal data for the purposes of carrying out studies may result from compliance with a legal obligation or when necessary for the execution of public policies.

Art. 7 The processing of personal data can only be carried out in the following cases:
ii – for compliance with a legal or regulatory obligation by the controller;

iii – by the public administration, for the treatment and shared use of data necessary for the execution of public policies provided for in laws and regulations or supported by contracts, agreements or similar instruments, subject to the provisions of Chapter IV of this Law;

Art. 11. The processing of sensitive personal data may only occur in the following cases:
ii – without providing the holder's consent, in cases where it is indispensable for:
a) compliance with a legal or regulatory obligation by the controller;
b) shared treatment of data necessary for the execution, by the public administration, of public policies provided for in laws or regulations;

In all cases, the security requirements and safeguards provided for in the lgpd must be safeguarded.

example 5

Public archives and access to public information

Public archives have their activities governed by Law nº 8.159, of January 8, 1991 and specific regulations, which establish their own procedures and rules for document management and special protection of archival documents, which include, among other determinations , the legal obligation to provide access to certain information of particular interest or of collective or general interest, including for study and research purposes.

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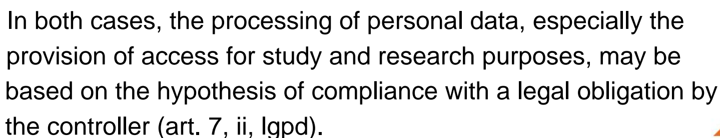
Likewise, the disclosure of certain information, including personal information, may result from the principle of administrative publicity, in accordance with the provisions of the law.



In both cases, the processing of personal data, especially the provision of access for study and research purposes, may be based on the hypothesis of compliance with a legal obligation by the controller (art. 7, ii, lgpd).

There are formalities that must be observed by processing agents, especially the correct identification of subjects authorized to have access to personal data and to conduct studies and research. This is the case of researchers linked to research bodies.

To this end, when access is made available by entities and public bodies, the presentation of a “term of acknowledgment and responsibility” can be an appropriate instrument to attest to the institution’s awareness regarding the performance of the study and the fulfillment of the relevant obligations provided for in lgpd.

Among these obligations, we highlight the linking of data use to the exclusive purpose of carrying out the study and the commitment to respect the confidentiality of the data and the privacy of the holders and to adopt the prevention and security measures appropriate to the case.

The presentation of this type of document is usual in similar contexts, being required, for example, for the submission of a research project involving human beings to the evaluation of a Research Ethics Committee.

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According to item 03, of Annex ii, of Operational Standard No. 001/2013, of the National Health Council, a "commitment term" signed by the "most responsible person of the institution" must be presented.

Access the Standard by clicking here

In turn, the art. 61 of Decree No. 7,724, of May 16, 2012, which regulates the law within the scope of the federal Executive Branch, conditions access to personal information by third parties "to the signature of a term of responsibility, which will provide for the purpose and destination information on which his authorization was based, on the obligations to which the applicant will be submitted."

It should be noted that the request for an acknowledgment and responsibility term or other similar document must be evaluated and adapted according to the context and procedures already adopted by the treatment agent.

After all, the lgpd has not established a rigid form for identifying researchers, so it is possible to adopt any other legitimate formats, including in digital media.

important It is important to reinforce the importance of the document being signed by an employee of the institution that has the competence to do so.

Once again, the assessment regarding this point must be verified in each case, considering the institution's internal structure and the nature of the personal data shared, among other relevant elements.

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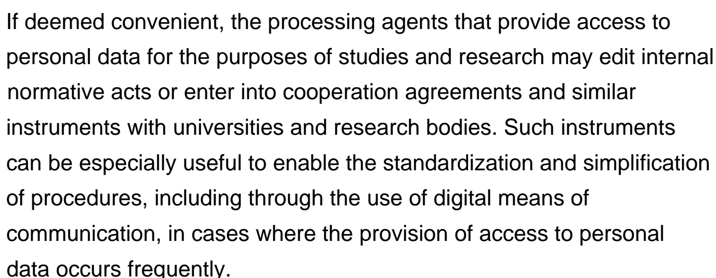
example 6

University student

In the event that an undergraduate or graduate student requests access to personal data held by a public body for the purposes of carrying out studies and research, including for the purpose of subsidizing the preparation of monographs, dissertations, theses or research reports, access may be granted, subject to the applicable norms, provided that the "term of acknowledgment and responsibility" or equivalent document is presented, signed by a competent employee of the teaching institution, such as the tutoring professor or the course coordinator.



If deemed convenient, the processing agents that provide access to personal data for the purposes of studies and research may edit internal normative acts or enter into cooperation agreements and similar instruments with universities and research bodies. Such instruments can be especially useful to enable the standardization and simplification of procedures, including through the use of digital means of communication, in cases where the provision of access to personal data occurs frequently.

Finally, whenever possible, the anonymization of personal data must be guaranteed, in accordance with the provisions of arts. 7th, iv and 16, ii, c, of the lgpd.

As defined in the lgpd, anonymization is the "use of reasonable technical means available at the time of treatment, through which data loses the possibility of association, directly or indirectly, with an individual."

For this reason, according to art. 12, anonymized data are not considered personal data, except for the cases of reversal of the anonymization process, "using exclusively own means, or when, with reasonable efforts, it can be reversed".

More broadly, art. 13 refers to the adoption of "safety practices", which include, *"whenever possible, the anonymization or pseudonymization of data".* As already mentioned, although this last article refers to studies in public health, the legal parameters provided for therein must also be applied to research carried out in other areas of knowledge, according to the peculiarities of each case.

Likewise, art. 16, ii, when authorizing the conservation of personal data for study purposes by a research body, refers to the guarantee of anonymization whenever possible.

Together, these legal provisions indicate that the anonymization or pseudonymization of personal data were not instituted by the lgpd as imposing security measures, that is, that they must be adopted in each and every case of studies and research.

Likewise, lgpd has not established anonymization or pseudonymization as a technical condition for the public disclosure or sharing of personal data for the purposes of carrying out studies and research, and it should also be recognized that, in some cases , the identification of the holders may be essential for the purposes of the research.

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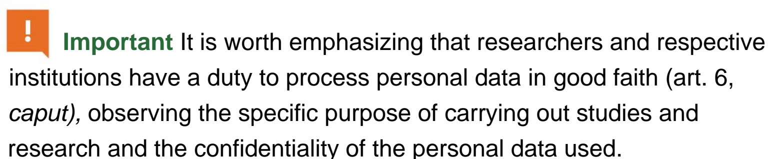
The most appropriate reading – and that arises, in particular, from the use of the expression *“whenever possible”* both in arts. 7 and 11 and in arts. 13 and 16 – is that the lgpd opted for a more flexible model, which seeks to balance the protection of personal data with the peculiarities and purposes of carrying out the most diverse studies and research.

In fact, the lgpd's main determination concerns the need for risk assessment and the adoption of measures to mitigate the occurrence of damage. Therefore, the eventual identification of the holders or the admission of some degree of risk of their identification, when necessary to comply, for example, with legal determinations, the public interest and the right of access to information, are compatible with the lgpd , provided that appropriate safeguards are in place.

According to this model, it is up to the processing agents themselves to define and implement the appropriate prevention and security measures for the protection of personal data in each context, always through the adoption of reasonable efforts and the techniques available at the time of the treatment, considering, also, the nature of the research carried out, the risks for the holders and the applicable ethical standards.



Important It is worth emphasizing that researchers and respective institutions have a duty to process personal data in good faith (art. 6, *caput),* observing the specific purpose of carrying out studies and research and the confidentiality of the personal data used.

This interpretation is consistent with the special legal regime provided for the processing of personal data for the purposes of studies and research and with the principle of responsibility and accountability (art. 6, x).

In addition, it does not rule out the need to observe specific tax rules provided for in the lgpd, such as the prohibition of disclosing

personal data in the publication of results of studies in public health (art. 13, paragraph 1).

Art. 13. When carrying out studies in public health, research bodies may have access to personal databases, which will be treated exclusively within the body and strictly for the purpose of carrying out studies and research and kept in a controlled and safe environment, according to security practices provided for in specific regulation and that include, whenever possible, the anonymization or pseudonymization of data, as well as considering due ethical standards related to studies and research.

§ 1 The disclosure of the results or any excerpt from the study or research referred to in the caput of this article may under no circumstances reveal personal data.

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Applicable ethical standards

Research carried out with human beings must observe ethical standards, which are established in normative acts issued by the National Health Council (cns). For this reason, in addition to complying with lgpd provisions, researchers and respective institutions need to submit their research projects to the Research Ethics Committee (cep) or the National Research Ethics Committee (Conep).

These bodies are part of the cep/Conep System, which is responsible for evaluating research from an ethical point of view in all areas of knowledge that have the direct or indirect participation of human beings. The main purpose of the cep/ Conep System is to "defend the rights and interests of research participants, maintaining their integrity and dignity, and contributing to the development of research in Brazil"[3] .

Thus, it can be stated that there is a complementary relationship between the lgpd and the ethical standards applicable to carrying out studies and research with human beings, since both aim to protect the rights of holders whose personal data are used and handled for research purposes. In this sense, art. 13 of the lgpd establishes that, when carrying out public health studies,

“due ethical standards related to studies and research” should be considered .

Art. 13. When carrying out studies in public health, research bodies may have access to personal databases, which will be treated exclusively within the body and strictly for the purpose of carrying out studies and research and kept in a controlled and safe environment, according to security practices provided for in specific regulation and that include, whenever possible, the anonymization or pseudonymization of data, as well as considering due ethical standards related to studies and research.

As already mentioned, studies and research carried out in other areas of knowledge must also adopt the necessary and adequate protective measures to mitigate risks to the holders of personal data, being able to use, where applicable, the parameters defined in art. 13, since this legal device has a protective function for the rights of the holders performed by the defining norms of ethical parameters applicable to research with human beings.

important Compliance with lgpd does not remove the need to respect ethical determinations or to follow the proper procedures established in the relevant standards.

In this line, it is important to emphasize that any waiver of consent for the purposes of the lgpd, due to the incidence of another legal hypothesis in the concrete case, does not remove the need to obtain the consent of research participants when required by the norms and standards applicable ethics. Therefore, it is fully possible that consent is dispensable from the point of view of personal data protection legislation and necessary from an ethical point of view.

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It should also be considered that access to personal data by educational institutions and respective researchers is linked to the legal and ethical commitment to respect the confidentiality of this data and the privacy of the holders, as well as to use them only for the specific purpose of carrying out studies and research.

This is what art. 13 of the lgpd by providing that the data will be treated "strictly for the purpose of carrying out studies and research", with its transfer to a third party prohibited, under the terms of § 2 of the same article.

Art. 13. *[…]*

§ 2 The research body will be responsible for the security of the information provided for in the caput of this article, not allowing, under any circumstances, the transfer of data to a third party.

Similarly, art. 61 of Decree No. 7,724/2012, which regulates the law within the scope of the Federal Executive Branch, provides that "the use of personal information by third parties is linked to the purpose and destination on which the authorization of access was based, with the use of personal information prohibited. differently", under penalty of liability "for its improper use, in accordance with the law".

Art. 61. Access to personal information by third parties will be conditioned to the signature of a term of responsibility, which will provide for the purpose and destination that justified its authorization, on the obligations to which the applicant will be submitted.

§ 1 The use of personal information by third parties is linked to the purpose and destination that justified the authorization of access, its use in any other way being prohibited.

§ 2 Anyone who obtains access to the personal information of third parties will be held responsible for its misuse, as provided by law.

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In turn, CNS Resolution No. 466/2012, which establishes ethical guidelines for research involving human beings, defines research as being co-responsible for the integrity and well-being of research participants. Still, the Resolution states that the material and data obtained in the research must be used exclusively for the purpose foreseen in its protocol, or according to the consent of the participant.

> ii.15 – researcher - member of the research team, co-responsible for the integrity and well-being of research participants;
> iii.2 – Research, in any area of knowledge involving human beings, must observe the following requirements:
> *[...]*
> q) use the material and data obtained in the research exclusively for the purpose foreseen in its protocol, or according to the consent of the participant;

Reinforcing the above, the same Resolution establishes that research involving human beings, carried out in any area of knowledge, must provide for procedures that ensure confidentiality and privacy.

> iii.2 – Research, in any area of knowledge involving human beings, must observe the following requirements:
> *[...]*
> i) provide for procedures that ensure confidentiality and privacy, image protection and non-stigmatization of research participants, ensuring that information is not used to the detriment of people and/or communities, including in terms of self-esteem, prestige and/or economic-financial aspects;

The aforementioned legal and ethical standards are convergent with regard to the protection of data subjects' rights, binding treatment

of data for the purpose of carrying out the research and assigning responsibilities to researchers and research institutions.

In fact, the position of researchers in these situations can be equivalent to that of professionals who have a duty to ensure confidentiality of information received in the exercise of their professional activity, such as doctors and lawyers. According to the guidelines provided by the National Research Ethics Commission, researchers must assure participants of *"the professional commitment to the absolute secrecy of the information"* used in the research[4].

The National Health Council published the Booklet on the rights of research participants.

Click here and access the Booklet.

It is, moreover, a result of the principle of good faith, which must guide all personal data processing activities, as provided for in art. 6th of lgpd.

Thus, the processing of data must always be guided by parameters of transparency, correctness and loyalty, ensuring due protection to the trust and legitimate expectations of the holders.

The principle of good faith, in short, establishes a duty of conduct for researchers and their institutions, who must act according to ethical foundations and standards[5].

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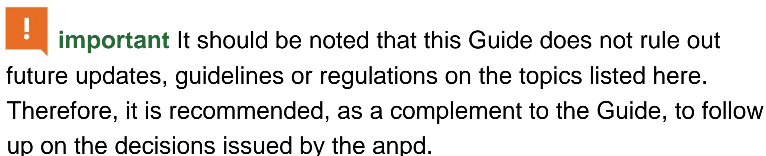
Considerations finals

This Guidance Guide was prepared with the aim of bringing greater security to data holders and processing agents, solving some of the doubts regarding the main provisions of the lgpd applicable to the processing of personal data carried out for academic purposes, studies and research.

In this sense, the concepts of “data processing for exclusively academic purposes” and “research body” were analyzed.
In addition, guidelines were presented regarding the application of the legal hypotheses that authorize the processing of data for the purposes of studies and research and regarding the provision of access to personal data for these purposes.

Finally, considerations were presented on the relationship between lgpd and ethical standards applicable to research. The main conclusions and recommendations were summarized in the Annex to this Guide.



important It should be noted that this Guide does not rule out future updates, guidelines or regulations on the topics listed here. Therefore, it is recommended, as a complement to the Guide, to follow up on the decisions issued by the anpd.

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Grades

Legal regime ÿ p. 8–17

[1] Art. 46. Processing agents must adopt security, technical and administrative measures capable of protecting personal data from unauthorized access and from accidental or unlawful situations of destruction, loss, alteration, communication or any form of inadequate treatment or illicit. § 1 The national authority may provide for minimum technical standards to make the provisions of the caput of this article applicable, considering the nature of the information processed, the specific characteristics of the treatment and the current state of technology, especially in the case of sensitive personal data, as well as the principles set out in the caput of art. 6 of this Law. § 2 The measures referred to in the caput of this article must be observed from the conception phase of the product or service until its execution. Art. 47. The treatment agents or any other person who intervenes in one of the treatment phases is obliged to guarantee the security of the information provided for in this Law in relation to personal data, even after its termination. ÿ p.15

[2] Example cited in ANPD. Guidance Guide – *Processing of personal data by the Power Public.* Brasilia, Jan./2022. ÿ p.17

Applicable ethical standards ÿ p. 44–48

[3] Booklet on the rights of research participants. Brasilia, Ministry of Health, National Health Council, 2020, p. 3. Available at: https://bit.ly/3cg0i4U. Aces sun: 2 mar. 2022. ÿ p.44

[4] *Booklet on the rights of research participants,* op. quote, p. 11. ÿ p.48

[5] ral. On the principle of good faith in Brazilian law, see LOBO, Paul. *Civil law:* general part 5th ed. São Paulo: Saraiva, 2015, p. 91–92. ÿ p.48

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Attachment

Summary of conclusions and recommendations

legal regime

lgpd established a special and more flexible legal regime applicable to the processing of personal data for academic purposes and for carrying out studies and research.

The lgpd must be interpreted in a manner compatible with the guarantees of freedom of expression and pluralism of ideas in the academic environment, as well as with the promotion of innovation and scientific and technological development in the country.

lgpd recognizes the legitimacy of the treatment, conservation and secondary use of personal data for the purposes of carrying out studies and research, a purpose considered compatible with the legislation on the protection of personal data, especially when the treatment is carried out by research bodies and respective researchers.

lgpd authorizes the provision of access or sharing of personal data, including those of a sensitive nature, for the purposes of carrying out studies and research, especially by research bodies and respective researchers, as provided by law, subject to: (i) the save technical and legal safeguards appropriate and proportionate to the risks involved; and (ii) linking the treatment to the purpose of carrying out studies and research.

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studies and research

The lgpd must be interpreted restrictively, so that partial removal from the application of the law is allowed only in cases of processing of personal data strictly linked to the exercise of academic freedom, understood as a kind of freedom of expression and expression of thought .

In general, academic freedom is exercised by professors, students and researchers from research bodies and teaching institutions in environments conducive to exposing and debating ideas, such as classrooms, congresses and scientific seminars.

The processing of personal data for academic purposes must be without prejudice, that is, compatible with the legal system and regularly supported by one of the legal hypotheses provided for by law, without prejudice to the incidence of other lgpd provisions.

The legal exception provided for in art. 4, ii, b, of the lgpd is not applicable if the processing of personal data serves other purposes, such as for administrative or commercial purposes of educational institutions, even if they have an indirect link with academic activities.

In this way, the fact that part of the processing of personal data carried out by a controller falls within the scope of an academic activity does not extend the waiver for other treatments carried out by that same controller, and the principles and obligations of the lgpd must be observed, in accordance with the specific purposes of each treatment.

In case of doubt about the incidence of the legal exception provided for in art. 4, ii, b, it is advisable to adopt a more cautious stance in complying with the relevant provisions of the lgpd, especially if the treatment carried out involves a high risk for the rights of the holders.

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research bodies

lgpd enables the processing of personal data, including those of a sensitive nature, provided that its purpose is to carry out studies by research bodies, regardless of consent by the data subject.

The treatment agent must fit the definition of "research body", and must be a direct or indirect public administration body or entity, or even a private non-profit legal entity legally constituted under Brazilian law, with headquarters and jurisdiction in the country.

The treatment agent must have, among its institutional missions or in its corporate or statutory purpose, as defined in its institution act, such as laws, regulations and bylaws, basic or applied research, for historical, scientific, technical and technical purposes. logical or statistical.

The definition of research body does not cover: (i) natural persons; (ii) for-profit legal entities governed by private law; or (iii) non-profit public entities and bodies or legal entities governed by private law that do not have in their institutional mission or in their social or statutory objective basic or applied research of a historical, scientific, technological or statistical nature.

The legal hypothesis is restricted to the processing of personal data for the specific purpose of carrying out studies and research. Therefore, any treatment carried out by research bodies that has the objective of meeting other purposes, unrelated to carrying out studies, must be supported by another legal hypothesis.

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treatment agents not qualified as a research body

lgpd admits the processing of personal data for the purpose of carrying out studies and research by treatment agents not qualified as research bodies, requiring, however, the support of the concrete situation in another legal hypothesis, such as the consent of the holder, the legitimate interest of the controller or a third party or compliance with a legal or regulatory obligation, also observing the other legal requirements applicable in each case.

provision of data access

lgpd established a special legal regime that recognizes the possibility of providing access to personal data, including those of a sensitive nature, for the purposes of carrying out studies and research, provided that the relevant norms and prevention and security measures are observed . As it is configured as "treatment" (art. 5, xi), the provision of access to personal data for the purposes of studies and research must be supported by a legal hypothesis provided for in lgpd (arts. 7 or 11).

If the processing agent that receives the data is a research body, the availability may be based on the legal hypothesis provided for in art. 7, iv or in art. 11, ii, c, provided that it is for the purposes of studies by the said research body.

If the processing agent receiving the data is not a research body, the operation must be based on another legal hypothesis, such as consent and legitimate interest.

For public entities and bodies, providing access to data

of personal data for the purposes of carrying out studies by research bodies or other treatment agents may also result from compliance with a legal obligation or when necessary for the execution of public policies, including to comply with the principle of administrative publicity, under the terms of the Law of Access to Information, safeguarding the security requirements and safeguards provided for in the lgpd.

It is recommended to request a "term of acknowledgment and responsibility" or an equivalent document, which attests to the institution's awareness of the conduct of the study and compliance with the relevant obligations set forth in the lgpd, including linking the use of data to the exclusive purpose of carrying out the study and the commitment to respect the confidentiality of the data and the privacy of the holders and to adopt the prevention and security measures appropriate to the c

Processing agents who provide access to personal data for the purposes of studies and research may edit internal normative acts or enter into cooperation agreements and similar instruments with universities and research bodies, with the purpose of standardizing and simplifying procedures, including through the use of digital means of communication.

The anonymization or pseudonymization of personal data was not instituted as imposing security measures, that is, that must be adopted in each and every case of studies and research, and it must be recognized that, in some cases, the identification of the holders may be essential for the purposes of the research.

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applicable ethical standards

There is a complementary relationship between lgpd and the ethical standards applicable to carrying out studies and research with human beings, since both aim to protect the rights of holders whose personal data are used and handled for research purposes.

Compliance with the lgpd does not remove the need to respect ethical determinations or follow the specific procedures established in the relevant regulations.

Any waiver of consent for the purposes of the lgpd, due to the incidence of another legal hypothesis in the concrete case, does not remove the need to obtain the consent of research participants, when required by the applicable ethical norms and standards.

It is entirely possible that consent is dispensable from the point of view of personal data protection legislation and necessary from an ethical point of view.

Access to personal data by educational institutions and their researchers is linked to the legal and ethical commitment to respect the confidentiality of this data and the privacy of the holders, as well as to use this data only for the specific purpose of carrying out studies and research.

As a result of current ethical standards and the principle of good faith provided for in the lgpd, the processing of personal data for the purposes of studies and research must always be guided by parameters of transparency, correctness and loyalty, with due protection of trust and confidence. to the legitimate expectations of the holders.

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