 File No.: PS/00029/2021

RESOLUTION OF PUNISHMENT PROCEDURE

Of the procedure instructed by the Spanish Agency for Data Protection and based on

to the following

BACKGROUND

FIRST: A.A.A. (hereinafter, the claimant) filed a claim on 08/05/2020

before the Spanish Agency for Data Protection. The claim is directed against the

DEPARTMENT OF EDUCATION AND EMPLOYMENT of the GOVERNMENT OF EXTREMADURA, with NIF

S0611001I (hereinafter, the claimed one). The claimant, *** POSITION.1 in the course 19/20 in

the ***ORGANISM.1, of ***LOCATION.1, rendered its services in the previous year in the

***ORGANISM.2, in ***LOCATION.2. The grounds on which the claim is based are that

disciplinary procedure was initiated on ***DATE.2, appointing Instructor, at

POST.2 D B.B.B. (POSITION.2 hereinafter) that throughout the procedure has

communicated to third parties that said file is being instructed.

By way of example and without being exhaustive:

-***DATE.1, notification of initiation of the file through two colleagues of his

new Center, ***ORGANISMO.1, D. C.C.C., (C.C.C. hereinafter) and D. D.D.D.

(***STATION.3 of the Center, ***STATION.3 hereinafter) who sign the formality of

notification. DOC 13 of the file.

The copy of the procedure of ***DATE.1 states that "he has been personally notified of the

resolution of the General Secretary of Education of ***DATE.2 ordering the

XX/XXXX

initiation of disciplinary proceedings

. For the record and in accordance with the

Articles 40 and 41 of Law 39/2015 and 21 of RD 33/1986 of 10/01, sign this

written by the interested party and the public employees", with the signature of C.C.C. and ***POST.3.

-10/28/2019, summons to take the claimant's statement, set for 11/12/2019,

sent by post to your address, appears in DOC 16 of the file. In it, it

invites you to sign the receipt, indicate ID and date and reiterates it by email to a

address that the Instructor consigns or, if not possible, to a postal address that he indicates.

The claimant adds that the citation is also sent by the instructor to an email

email to ***POST.3 of the Center, ***POST.3, to which is attached the document of the

summons to take a statement as filed, communicating the *** POSITION.3 the

result of your internship (DOC 17 of the file). It is a document signed by

***POSITION.3 on ***DATE.3, addressed to the instructor of the file with the headline "subject

notice of summons to the claimant", stating that "it has notified for its signature the

claimant a notification sent by you through the email "said

teacher informs me that she has already received the notification by mail and that after signing the

I received the mailing, which is why you are refusing to sign the notice again."

"States your intention to attend the appearance and show the registered document there

of the received."

-The claimant revealed in the act of appearance of 11/12/2019 to the Instructor,

asked by him about the address to which he wishes notifications of the

this file and to what email (folio 66 claim), indicating the

claimant the physical address without email, including that of the Instructor's office and

your email

In the act, the claimant is asked if

*** POSITION 3 gave him a notification procedure for that appearance. Besides, the

The claimant provides a copy of the documentation that he had previously submitted addressed to the center

educational as well as medical reports (folio 70).

, DOCUMENT 18.

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Several documents referring to medical consultations appear as part of the file.

and diagnoses of the claimant that she provides, according to a document signed on 09/23/2019 to

Negotiation of Secondary Teaching staff, referred to the portal management module

RAYUELA on the appearance of two unjustified fouls on 06/20 and 06/21. Ask for your correction.

Among others, it highlights photocopy of medical leave of 06/27/2019, discharge 07/3/2019, discharge 09/2/2019

and high on the same date and proof of outpatient care on 06/21/2019 at 9:17 a.m., making

receipt that same day at 9:39 a.m. Diagnoses appear in the reasons for the consultation, as well

as treatment in report of 06/24/2019, in consultation of 06/27/2019, copies of parts

medical leave on 06/27/2019 and discharge on 07/03/2019, attendance sheet on 09/02/2019 (pages

85 and earlier of your claim pdf).

-11/28/2019, letter from the instructor to the Health Area of *** LOCATION.1 informing that

has opened disciplinary file, the file number and date, and that for

specify the statement made by the claimant, asks about the visits to the center the

06/24 and 27/2019 hours of arrival, check-in and check-out. DOCUMENT 27 folio

153

-Summary of charges signed on 11/28/2019, in writing addressed to the address of the claimant

(doc 26, page 144)

-On 12/27/2019 a summons is issued for the declaration of the claimant scheduled for

01/15/2020, indicating that if its presentation is not possible for justified reasons,

"You must communicate it to a fax that indicates and by regular mail." (fol. 169) He received from

document requires the instructor to be returned by the claimant to an address of

institutional email that indicates you, and if not possible to the physical headquarters of your

office, postal address. The receipt of the summons is signed by the claimant on 01/10/2020.

-01/13/2020 due to the impossibility of attending the face-to-face statement on 01/15/2020,

request your change to the instructor by mailing the same 13/01 DOC 40, and by fax

according to the copy he provides sent on 01/13. She points out that she sent the fax from the

public establishment *** ESTABLISHMENT.1 DOC 40.(fol. 174)

01-14-2020, claimant's brief challenging the refusal of the test and requesting the

instructor annulment of "summons", by fax to the instructor, states that the fax is sent

from the public establishment *** ESTABLISHMENT.1, given the need for the

written documents reach the instructor before 01/15/2020-DOC 44., folio 185.

-01/16/2020, the respondent is notified of the modification of the citation date to the day

01/21/2020 to take a statement, through the *** POSITION.3 of the institute- Document

43. The claimant expresses in writing on 01/15/2020 her complaint to the instructor indicating that

notify you at the personal address provided, folio 205-DOC 49, on folio 184, appears the

signature of *** POSITION.3 indicating the place and time of the appearance for the initiation

of a disciplinary file, signing said diligence *** POSITION.3 together with the receipt of the

claimant on 01/16/2020.

-Emails exchanged between Instructor and ***POST.3 of the center in

***DATE.3, 01/10 and 16/2020, DOC 68. On folios 260 and ss. emails appreciated

between the instructor and D.D.D., ***POSITION.3 of the Center, in which the instructor

sends summons to be returned to that email address. contains a file

attached "summons" with the name and surname of the claimant, under the heading "summons

disciplinary record" in all of them. The one of 01/16/2020 contains instructions for

if he refuses to sign the document, with the note that the respondent refuses to sign and

that "you must make the subpoenas through your postal mail"

-01/17/2020, remission of claimant by fax from a bookstore to the instructor of a brief

with registration stamp of that day explaining that you received the summons notice for the

01/21/2020 on 01/16/2020. DOC 46, fol. 199. He adds that said summons has been

notified through the ***POST.3 of the center in which it provides services ***POST.3.

Provides folio 201 in which, with the signature of ***POST.3, it informs the claimant of the

Summons for 01/21/2020 to take a statement on the facts they have given

leading to the initiation of a disciplinary proceeding.

-01/17/2020 letter from the instructor to the claimant using the postal address provided by

interested party and also, by fax (seven pages) with the urgent and to the attention of the

claimant. The file contains the fax sent by the instructor to the establishment

*** ESTABLISHMENT.1 DOC 45 and 50 and document 3 of ticket collection by the

claimed in the bookstore *** ESTABLISHMENT.1. The claimant states that the fax, of

17/01 picked it up on the 22nd. In document 50- when the act of declaration of the

claimant- it is specified that the instructor indicates that he was unaware that the fax was public.

-01/21/2020 new appearance of the claimant before the instructor (206 et seq.)

-Writing from the claimant to the instructor in which, among other things, the notification is made clear

to third parties that a disciplinary procedure is instructed, that the *** POSITION.3 of its

institute by having to extend notification procedure, has "had access and knowledge

on the initiation of the file and many of its details" folio 253. Attached is a copy

from ***DATE.3 in which ***POST.3 sends you email

to the instructor with the summons of the claimant, in the same sense in mail of 01/10/2020

and 01/16/2020 folios 260 and 261.

-Copy of the challenge report addressed to the General Education Inspectorate made by

the instructor on 01/29/2020 alluding, among other aspects, to the notification, to the double

notification and its effects, admitting that it has been used by "the general secretary in its

communications with the claimant through ***POSITION.3, as a hierarchical superior of the

center where he works this course 2019-2020” folio 268

-Dated 01/30/2020, another formality of notification of delivery of the

agreement to suspend the procedure by challenge, including the reference of

suspension of the disciplinary procedure initiated against the interested party, signed by two employees

public, one of them again the ***PUESTO.3.-folio 266- and another professor, D C.C.C.,

appearing in DOCUMENT 70. In the same sense, on 02/02/2020, on the resolution of the

recusal procedure. DOC 74.

-Again, a procedure is carried out to notify the claimant of the resolution of

his recusal, signed on 02/04/2020, by two public employees, one of them the

*** POST.3 of the Center, folio 281.

-Response to the instructor, dated 02/12/2020 regarding his request for entry and exit times at the

that he was treated at the health center, folio 317.

-These notifications are alternated through people not related to the procedure,

with notifications to your address, as was the one in document 86, of the offer of

file hearing, held on 02/10/2020.

-02/12/2020, DOC 87 Management of the health area of ***LOCATION.1.

The claimant indicates that despite the fact that the Administration complies with the procedure disciplinary with a mission of public interest, the instructor exceeds his powers using third parties for acts in which their participation is not foreseen, producing invasive and unnecessary actions.

He also claims because he was not informed of the identity of the data controller, purpose, assignments and legitimate basis or the way to exercise their rights.

Provides 325 pages in pdf, the first 26 contain the complaint. Relates Doc 1, minutes of view of the file, two: copy of the file with 90 documents and three: fax ticket, which bears the date 01/22/2020 of the establishment *** ESTABLISHMENT.1, 1/7, with the text urgent with name and two surnames of the claimant, without indicating origin.

SECOND: In view of the facts denounced in the claim and the documents provided by the claimant, in accordance with the provisions of Title article 65.4 of Organic Law 3/2018, of 5/12, on the Protection of Personal Data and guarantee of the digital rights (hereinafter LOPDGDD), on 10/9/2020, it was transferred to the claimed the copy of the claim, receiving it on 10/12/2020.

Manifests the one claimed on 11/13/2020:

-In a written copy of the ***PUESTO.2- instructor of the file to the claimant, states:

1) Acts in the processing of the disciplinary file under the legal basis of article 6.1.c) of the RGPD.

2) In addition, it has complied with the provisions of article 27 of the LOPDGDD on processing of data related to infractions and administrative sanctions.

3) The notification of the initiation of the disciplinary file is made by the General Secretariat of Education by diligence of personal notification of ***DATE.1/ 2019 and signing the claimant and two public employees as collaborators, one of them ***POST.3, and another Mr. C.C.C.. “Furthermore, article 41 b of Law 39/2015 allows the

administrations to be able to practice notifications by non-electronic means “to ensure the effectiveness of administrative action. It indicates that since the claimant signed that delivery, "supposes the consent of the personal data that concerns you", "the subsequent requests to the ***POSITION.3 for collaboration throughout the instruction are framed in article 18 of law 39/2015”, “using the double channel of notification in under article 41.7 of law 39/2015.

4) Regarding the data requested from the Health Area, it states that they are requested because they were provided by the claimant and were considered essential for the clarification of the alleged facts. It is practiced by virtue of article 34 of Royal Decree 33/1986 of the 10/01 approving the regulation of the disciplinary regime of the civil servants of the AGE and article 156.1. f) of the law 13/2015 of Public Function of Extremadura, as practice of diligence of request of merely non-sensitive administrative data, leading to the determination and verification of facts to determine the responsibilities subject to sanction. What was requested were check-in and check-out times. to the health center related to the initiation of the file.

5) Regarding the fact that on 01/17/2020, the instructor sent the answer to some allegations made by the claimant to a fax number previously used by her, without verifying If it was public or private, sending information, state:

5.1 In the claimant's appearance record of 11/12/2019, the claimant asked by the address to which you wanted the notifications to be sent, and to which email email, he only gave a physical mailing address. It considers that the respondent did not comply with the established in article 14 of Law 39/2015, which establishes that in any case “they will be

obliged to interact through electronic means with public administrations

to carry out any procedure in an administrative procedure at least the

employees of public administrations for the procedures actions that they carry out with

them by reason of their status as public employees, in the manner determined

regulations by each administration" in such a way that the instructor was not able to

notify preferably by electronic means (art 41.1. Law 39/2015) nor could he use the

notice of availability of a notification in electronic headquarters that mention the

same article in its point 6. The Public Function Law of Extremadura in its article 156

determines that the maximum duration of the disciplinary procedures that have as their object

very serious or serious offenses will not exceed nine months, adding that exceeding

Said limit "supposes the nullity" of the procedure. In the same minutes, it was communicated to the

claimant the Instructor's mailing address and email address,

stating that in that act "he gave him the information established in article 13 of the RGPD

on the exercise of their rights, indicating an electronic address of the instructor who

allow."

The claimant used faxes on 01/13, 14 and 17/2020, not being "all valid"

in that they do not comply with the "notification channels signed in the minutes" . Declares

that the fax has been used voluntarily by the claimant "even knowing that it was not one

of the means signed in said act", considers the fax of 01/13 valid, because it indicated

so in the writing, although the shipment does not indicate where it is sent from. but not of the

two others of 14 (sent from the same number as the one on January 13 and 17, 2020

from another number). Explain why this delivery channel is considered by the claimant

“invalid”, when, as he comments, they were received by him, and “in good faith”, they were read.

He proceeded to “answer using the same fax numbers, because if he had used the

postal mail had arrived after the summons scheduled for 01/21.”

"Assumes that when you sent the fax of 01/17 that you should not have used", but

did so because there was no other alternative way, in good faith and in order not to incur defenselessness, in

response to faxes from 13 and 14.

5.2 Concludes that the possible people who have participated in the tests such as the

health personnel, or their colleagues who participated in the notification procedure

they did “as collaborators”.

- Copy of a document signed by the Secretary General of Education and Employment,

11/10/2020, in which it indicates that it will remember and transfer both to the General Inspection of

Education and Evaluation as the education inspections of the Delegations

Provincial, the need to ensure that in the processing of disciplinary files

because it is applied with the greatest possible rigor in the Data Protection regulations.

THIRD: On 10/26/2020, the claimant files a new document stating that

The resolution of the file has been notified through two public employees who

mentions, colleagues of hers in the work center where she currently lends her

services ***BODY.3***LOCALITY.1, who have signed the notification procedure

staff on 09/23/2020. This time it indicates that notification has not been attempted on your

home address.

Provide a copy of document 1, consisting of two parts:

a) “Notification” document, directed by the ***POST.2nd General Education and

evaluation to the *** POSITION.3 of the IES, in which "I am sending you a sealed document to deliver to...

The data of name and surname, DNI and NRP... that holds your destination during the

course in that center… The personal delivery must be carried out by two officials appointed

for that headquarters, one of them being you, and you must collect the return from the recipient

of the copy…dated and signed by the interested party".

"Personal notification diligence" completed, and by hand annotated on 09/23/2020,

b)

the data of the claimant and those of the resolution that resolves the disciplinary file, with

your number.

FOURTH: On 01/15/2021, it is agreed by the *** POSITION 3a of the AEPD the admission

to process the claim

FIFTH: On 05/12/2021, it was agreed by ***POST.3a of the AEPD:

"INITIATE PUNISHMENT PROCEDURE to MINISTRY OF EDUCATION AND

EMPLOYMENT (JUNTA DE EXTREMADURA), with NIF S0611001I, for the alleged

Infractions of articles 32 and 5.1.f) of the RGPD, as indicated in articles 83.4. a) and

83.5.a) of the GDPR.

For the purposes specified in the art. 64.2 b) of Law 39/2015, of 1/10, of the Procedure

Common Administrative Law of Public Administrations, the sanction that could

to reciprocate would be a warning."

SIXTH: On 05/26/2021 the respondent alleges:

1) At all times we have acted guided by the interest in the correct notification of the

acts that occurred in it, complying with the rules that govern the procedures

disciplinary and in the event of possible resources.

It was intended to leave sufficiently accredited in the file the extremes referred to

notices and deadlines.

The instructor used the means that the administration itself has through the centers of work in which the claimant provides service. They were civil servants in the exercise of public functions and subject to the duties of confidentiality in the performance of its functions. As a collaborating civil servant in the disciplinary procedure, the treatment carried out has been lawful, aimed at the purpose pursued, which was to fulfill procedures and deadlines. For this, it was essential to prove the correct notification of the acts of the procedure and the person to whom they were addressed.

It indicates that it contained "a brief alphanumeric reference that I could not help guessing no relevant data about its specific content for the functioned officials collaborators in said procedure.

Article 41.b) of Law 39/2015 admits to ensure the effectiveness of the action administrative notification by direct delivery of a public employee of the notifying administration. Being a legal possibility and even indicated for assumptions such as the one at hand, in which it is vitally important to prove the correct completion of each legal procedure

The legal requirement obliges to record in the file what is notified and who, how and when said notification is made.

The aim was to achieve, on the one hand, to avoid difficulties entailed by home notification and the successive delays that accumulate consume time and can produce the expiration of the procedure and be sufficiently justified in the procedure of the compliance with the required procedures.

2) The principle of typicity that is foreseen in the sanctioning procedure is not complied with, article 27 of law 40 2015, in the accusations, since it refers to two articles allegedly infringed in which behaviors or actions are not described, but rather establish principles relating to the processing of personal data. Result

Insufficient appeal to these principles to take for granted the behaviors

offenders.

The principle of typicity imposes the authority that exercises the sanctioning power in the

obligation to subsume the imputed facts adequately in the type, this is a

description of the sanction by the legal norm. They request the file that the claim

3) It accompanies a report prepared by the instructor of the procedure of 9/11/2020, which already

was contemplated in the response to the transfer of the claim.

SEVENTH: On 12/28/2021, the proposal for

resolution with the literal:

" FIRST

: That by ***PUESTO.3a of the Spanish Agency for Data Protection,

sanction the DEPARTMENT OF EDUCATION AND EMPLOYMENT of the BOARD OF EXTREMADURA,

with NIF S0611001I, for an infringement of article 32 and another of 5.1.f) of the RGPD, of

in accordance with articles 83.4 a) and 83.5.a) of the RGPD, typified as serious and very

serious in articles 73.f) and 72.1.a) of the LOPDGDD.

SECOND: That by ***PUESTO.3a of the Spanish Agency for Data Protection,

proceed to impose the COUNCIL OF EDUCATION AND EMPLOYMENT of the BOARD OF

EXTREMADURA in the period determined, the adoption of the necessary measures to

adapt the processing operations to the personal data protection regulations

that it performs, with the scope expressed in the Fundamentals of Rights of this proposal

of resolution."

Unlike the initial agreement, its content was not accessed, producing the effects

determined by article 43.2 of Law 39/2015, of 1/10, of Administrative Procedure

Common Public Administrations (LPACAP):

“When notification by electronic means is mandatory, or has been

expressly chosen by the interested party, it will be understood as rejected when the

ten calendar days from the availability of the notification without accessing its

contents."

No claims are received.

EIGHTH: Of the actions carried out in this procedure and of the

documentation in the file, the following have been accredited:

PROVEN FACTS

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

9/22

FIRST: The claimant, when submitting the claim, 08/05/2019 *** POSITION.1 in the

***ORGANISM.1 of ***LOCATION.1, claims because in the disciplinary file that

he was initiated on *** DATE.2, due to events that occurred in his previous destination and course 18/19 in the

***ORGANISM.2, of ***LOCALITY.2, in several acts of notification procedures of the

actions followed, their personal data have been disclosed and the situation or the

procedure to other people, third parties, co-workers, who are not related to the

processing of the same.

SECOND: It is accredited in the page number of the claim 55/325, a "Diligence

personal notification”, pre-filled template, handwritten the date

***DATE.1/2021, dependency: ***ORGANISM.1, (in which he holds his post

during the course 19/20 the claimant), and the data of the claimant, and the literal that she was

notifies the resolution of ***DATE.2 by which the initiation of the file is ordered

disciplinary no. XX/XXXX. For the record, articles 40 and 41 of Law 39/2015 appear

and 31 of RD 33/1986 of 10/01. The document is signed by two public employees D.D.D.,

***POSITION.3 and C.C.C. who, according to the claimant, were classmates at said center.

Days later, in writing of 10/28/2019, she was summoned for 11/12/2019 by the Instructor

for taking a statement, specifically, appearing in the same document I received that the

claimant received on 6/11/2019. The document details the day and place and that you will be

take a statement on the facts that have given rise to the initiation of the file

disciplinary. The complainant reiterates that the notification is also made, through the

*** POSITION 3 of the center, providing as evidence, a document signed by the center

***DATE.3, indicating to the instructor in the matter, the data of the claimant, and that "she has

notified for signature to the claimant a notice sent by you through the

email in which he is summoned to appear on ***DATE.4 of 2019…" said

The teacher informs me that she has already received the notification by postal mail that she signed the receipt and

sent from the administrative attention center of the Junta de Extremadura" (62/325). The

The claimant provides a copy of the instructor's delivery receipt to her, which she carries as

address of the claimant, and the copy provided by the claimant shows received the

6/11/2020.

THIRD: In the appearance to take a statement on 11/12/2019 (65-66/325), the

The instructor asks the claimant to which address she wants the reports to be sent.

notifications of the file and to which email, providing an address

particular, while the instructor indicates the physical address of the -Delegation of

Education, and an email where you can "contact me at any time to

all those procedures that it considers opportune or convenient in the processing". To the

indicated domicile of the claimant, the instructor sent several notifications after said

date, according to the copy it provides (140/325, 11/19/2019 request for information), or the

statement of charges of 11/28/2019 (144/325) that appears in the acknowledgment of receipt delivered to the

claimant on 12/2/2019 (154/325), to name just a few.

FOURTH: Another procedure notified through the *** POSITION.3 of the Center is accredited with the

signing of the notice of notification to the claimant for summons on 01/21/2020, the place, and the

reason, "for the taking of a statement of the facts that have given rise to the file

disciplinary", "following the instructions of the Instructor", signed by both on 01/16/2020

(185/325) document 43. The same letter reached the claimant by post, including

I received from 01/16/2020 (7 and 184/325).

FIFTH: The communications exchanged between the Instructor and ***POSITION.3 of the Center

to send the citation models signed by the claimant, and that were returned

signed by it or with the notice of its attempted delivery or rejection, were implemented,

some at least, by email, as proof that it provides printing of

Screenshot of the emails, from ***DATE.3 (260/325), 10, and 01/16/2020 (261-262/325). In

the latter, urges ***POSITION.3 that if he refuses to sign the delivery of the document of

the citation of 01/21/2020, "sign it and a witness of that refusal and send me that

document, with the added notation that it has been denied" and the note that the claimant

He refuses to receive it, urging that "just as they asked him, he should make the summonses to

through your postal mail. On 01/17/2020, the claimant sent by fax from another

public establishment "Library El Encuentro" (document 46, 198/325) written in which

You have been notified in two ways of the summons for 01/21/2020 accompanying the

I received.

phone ***PHONE.1

SIXTH: The claimant, for the citation of 01/15/2020, requests the instructor on 01/13/2020 change of date through postal mail, document 41 (178 and 179/325) and in order to prompt reception, send the same request by fax from a public establishment *** ESTABLISHMENT.1 the same date, document 40.

Also dated 01/14/2020 from the same establishment and method, the claimant sends new fax to the instructor with 6 pages (document 44) that he also sent by registration administrative, according to a copy of the fax you send. In the letter, he reveals his procedural disagreements and justification for not being able to attend his lawyer

The claimant submitted a letter to the instructor on 01/16/2020 urging them to practice the notifications at the address that he had provided for this purpose in taking the statement of 11/12/2019 (Document 49). Dated 01/17/2020, reception in the Ministry of 23,

He filed a challenge against the instructor and a complaint for the use of the notification against his rights by not being notified at home, using other means. (251/325) document 68.

SEVENTH: On 01/21/2020, the claimant stated in the record of appearance before the instructor (206/325) the violation of their rights due to the way in which the summons notifications, and that in fact he had submitted a brief on the 17th of the same month, recusing him and requesting his abstention, showing him a copy of the sheets.

EIGHTH: Document 45 (197/325) contains a report of the fax sent by the instructor on 01/17/2020 to the attention of the claimant, being the number to which it is sent coincident with that of the establishment open to the public *** ESTABLISHMENT.1 with 7 pages. In the written (192/325 document 45) means “informative note attached using in your shipment, in addition to postal mail, the same fax medium, which you have used in your writings

addressed to this instructor dated 01/13 and 14/2020". In the letter, it also indicates that "It
has tried to guarantee the defendant's right to defense and avoid carrying out
administrative actions after the deadline", "requesting double confirmation of receipt of
the proceedings issued by registered postal mail and by email. Likewise, it
give extensive details and explanations of the incidents and procedures of the procedure in
up to seven points. The claimant adds that the same letter is sent to her by post.
The claimant learned that this fax was sent on 01/17/200, when she attended the hearing of
01/21/2020 (document 50, 206/325) and thus appears the declaration of the instructor that "no
he was warned that the fax from which he received the two writings from the claimant was public", and
The claimant indicates that "both in the letter sent to the instructor and in this act
reiterated being informed by postal mail as the only means of communication" The

claimant appeared on 01/22/2020
in the establishment open to the public
*** ESTABLISHMENT.1 to pick up the fax, proving the delivery of the document with a copy
invoice (doc 3).
NINTH: Dated 1/30/2020, the file contains "personal notification diligence"
communicating the suspension of the procedure due to the start of the notification process of recusal
to the claimant through 2 classmates, ***PUESTO.3 from the school and another teacher,
document 70 (11 and 266/325). The diligence contains the data of the claimant, DNI and NRP,
the act that is contained on 01/29/2020 of suspension of the procedure, number of
file, by challenge, and for the record according to articles 40 and 41 of the LPCAP and

31 of the RRD Officials AGE.

The same circumstances exist with respect to the notification of the resolution of 02/02/2020 of the challenge, produced on 02/4/2020, document 74, making the "Personal notification procedure" in a document signed by the parties on 02/04/2020, containing similar extremes in the document. (281/325).

TENTH: Finally, the resolution of the file has been notified to the claimant at through two public employees that she mentions, classmates in the new course and new work center, on 09/23/2020. On this occasion it indicates that the notification at his home address and provides a copy of two documents: notification and diligence of personal notification in which DNI, NRP and file number are contained and the act that is notified.

ELEVENTH: Different procedures after or before the claimant have been practiced exclusively at the postal address indicated by the claimant.

FOUNDATIONS OF LAW

Yo

By virtue of the powers that article 58.2 of the RGPD recognizes to each authority of control, and as established in arts. 47 and 48.1 of the LOPDGDD, the *** POSITION.3a of The Spanish Agency for Data Protection is competent to resolve this process.

II

Law 39/2015, of 1/10, of the Common Administrative Procedure of the Administrations Public (hereinafter, LPACAP) in its article 13 indicates: "Those who, in accordance with the article 3, have the capacity to act before the Public Administrations, are holders, in their relations with them, of the following rights:

h) To the protection of personal data, and in particular to the security and confidentiality of the data contained in the files, systems and applications of the

Public administrations."

As rights of public employees, Law 7/2007 of 12/04, of the Basic Statute of the

public employee in article 14, individual rights, establishes that "employees

public have the following rights of an individual nature in correspondence with the

legal nature of your service relationship:

h) To respect their privacy, sexual orientation, self-image and dignity at work,

especially against sexual harassment and for reasons of sex, moral and labor."

Article 4.1 and 2 of the RGPD defines:

"1) "personal data": any information about an identified or identifiable natural person

("the interested"); An identifiable natural person shall be deemed to be any person whose identity

can be determined, directly or indirectly, in particular by means of an identifier, such as

for example a name, an identification number, location data, an identifier

online or one or more elements of the physical, physiological, genetic,

psychological, economic, cultural or social of said person;

2) "processing: any operation or set of operations performed on data

personal data or sets of personal data, whether by automated procedures or not,

such as the collection, registration, organization, structuring, conservation, adaptation or

modification, extraction, consultation, use, communication by transmission, diffusion or

any other form of authorization of access, collation or interconnection, limitation, suppression or

destruction;"

The RGPD in accordance with article 1.2 indicates that it "protects the rights and freedoms

rights of natural persons and, in particular, their right to the protection of

personal information."

The right to data protection is not unlimited. The Constitutional Court has declared,

in its Judgment 292/2000, of 11/30, regarding the fundamental right to protection of

data, “that the right to data protection is not unlimited, and although the Constitution does not

expressly impose specific limits, nor refer to the Public Powers for their

determination as it has done with other fundamental rights, there is no doubt that they have

to find them in the remaining fundamental rights and constitutional legal goods

protected, as required by the principle of unity of the Constitution”.

In view of this, the legislator has created a system in which the right to data protection

acts of a personal nature yields in those cases in which the legislator himself (constitutional

or ordinary) has considered the existence of reasoned and well-founded motives that justify

that the need to process the data, incorporating said assumptions into the rules of,

at least, the same range as the one that regulates the protected matter.

As stated in the reiterated jurisprudence of the Constitutional Court (for all, STC

186/2000, of 10/07, citing many others) "the right to privacy is not absolute,

as none of the fundamental rights is, being able to cede before cons-

institutionally relevant, provided that the cut that it will experience is revealed

as necessary to achieve the legitimate purpose intended, proportionate to achieve it and, in all

case, be respectful of the essential content of the right".

The limitation of the fundamental right to the protection of personal data must be the

strictly necessary. This implies that if the achievement of the intended goals can
be carried out without processing personal data, this route will be preferable and will mean that it is not
necessary to carry out any data processing. Valued that collection,
storage and use of data is necessary, which constitutes per se a limitation of the
right to data protection, must also comply with the regulations in question. It
It therefore requires, first of all, to analyze and ensure that the collection and use of data is
necessary for the established or intended purpose and, if so, that it be proportional.
Necessity is a fundamental principle when assessing the restriction of fundamental rights.
fundamental, such as the right to the protection of personal data. On the principle of ne-
cessation of treatment of personal data it should be said that any treatment
of data implies per se and from the beginning, the restriction of the fundamental right, when the
collection and disposal of the same by the person in charge who is going to operate with it.
According to case law, due to the role that the processing of personal data plays
for a series of fundamental rights, the limitation of the fundamental right to pro-
Protection of personal data must be strictly necessary.
Regarding proportionality, the Constitutional Court has indicated in the Judgment
207/1996 that it is "a common and constant requirement for the constitutionality of
any restrictive measure of fundamental rights, including those that involve a
interference in the rights to physical integrity and privacy, and more particularly of the
restrictive measures of fundamental rights adopted in the course of a criminal proceeding
is determined by strict observance of the principle of proportionality."
In this sense, we have highlighted that, in order to verify whether a restrictive measure of a
fundamental right exceeds the judgment of proportionality, it is necessary to verify if it complies
the following three requirements or conditions: "if such a measure is likely to achieve the
proposed objective (judgment of suitability); if, in addition, it is necessary, in the sense that it does not
there is another more moderate measure to achieve such purpose with equal effectiveness

(judgment of necessity); and, finally, if it is weighted or balanced, because it is derived from

it more benefits or advantages for the general interest than damages on other goods or

conflicting values (judgment of proportionality in the strict sense)".

In this way, if said purpose could be achieved by carrying out an activity

different from the aforementioned treatment, without said purpose being altered or harmed, should

opt for this last activity, given that the processing of personal data

supposes, as established by our Constitutional Court, in Judgment 292/2000, of

30/11, a limitation of the right of the person to dispose of the information referring to the

same."

On the other hand, it is necessary to evaluate compliance with proportionality and legitimacy,

taking into account the risks for the protection of rights and freedoms

of people and especially if the ends pursued can be achieved

or not in a less intrusive way.

III

The claimed party is charged with an infringement of article 32 of the RGPD, which indicates:

"1. Taking into account the state of the art, the application costs, and the nature, the

scope, context and purposes of the treatment, as well as risks of probability and severity

variables for the rights and freedoms of natural persons, the controller and the processor.

party of the treatment will apply appropriate technical and organizational measures to guarantee

a level of security appropriate to the risk, which, where appropriate, includes, among others:

a) pseudonymization and encryption of personal data;

b) the ability to ensure confidentiality, integrity, availability and resilience

permanent treatment systems and services;

c) the ability to restore the availability and access to personal data in a

fast in the event of a physical or technical incident;

d) a process of regular verification, evaluation and assessment of the effectiveness of the measures

technical and organizational measures to guarantee the security of the treatment.

2. When evaluating the adequacy of the security level, particular account shall be taken

the risks presented by the data processing, in particular as a consequence of the

accidental or unlawful destruction, loss or alteration of transmitted personal data, con-

stored or otherwise processed, or unauthorized communication or access to said data.

cough.

4. The person in charge and the person in charge of the treatment will take measures to guarantee that

any person acting under the authority of the person in charge or the person in charge and having

access to personal data can only process said data following instructions from the person in charge.

saber, unless it is obliged to do so by virtue of the Law of the Union or of the States

members."

Recital 74 of the RGPD says that it indicates: "The responsibility must be established

of the person in charge of the treatment for any treatment of personal data carried out by

himself or on his own. In particular, the person responsible must be obliged to apply measures

timely and effective and must be able to demonstrate compliance of the trading activities

treatment with this Regulation, including the effectiveness of the measures. These measures

must take into account the nature, scope, context and purposes of the treatment as well

as the risk to the rights and freedoms of natural persons." (The underlining is from

the AEPD)

In this case, the treatment is related to the series of documents that make up the

administrative acts of the disciplinary file opened to the claimant. The data is the

referring to the person of the claimant with the addition of the information that was

manifest in:

-In the documents of the different notification proceedings delivered to the claimant by

part of *** POSITION.3 and another public employee. In addition to the review of the

notified, information that he was an educational disciplinary, the date for

appear, or the specific procedure to which he referred, suspension ... statement, etc.

-The document sent by fax from the instructor addressed to the claimed on 01/17/2020 to a

establishment open to the public, and its associated content. This shipment is made to

margin of the circuit planned for the notification of the acts that took place in the first

diligence with the instructor.

The 39/2015, of 1/10, of the Common Administrative Procedure of the Administrations

Public (LPACAP), establishes in articles 41 and 42:

"1. The notifications will preferably be made by electronic means and, in all

case, when the interested party is obliged to receive them by this means.

Notwithstanding the foregoing, the Administrations may make notifications by means of

non-electronic in the following cases:

a) When the notification is made on the occasion of the spontaneous appearance of the

interested party or his representative at the registration assistance offices and request

communication or personal notification at that time.

b) When, in order to ensure the effectiveness of the administrative action, it is necessary

practice notification by direct delivery of a public employee of the Administration

notifier.

Regardless of the means used, notifications will be valid as long as

allow to have proof of its sending or making available, of the reception or access by

the interested party or his representative, their dates and times, the full content, and the

reliable identity of the sender and recipient thereof. The accreditation of the

notification made will be incorporated into the file.

Interested parties who are not required to receive electronic notifications may

decide and communicate at any time to the Public Administration, through the

standardized models that are established for this purpose, that the successive notifications

practice or stop practicing by electronic means.

By regulation, the Administrations may establish the obligation to practice

electronically notifications for certain procedures and for certain

groups of natural persons who, due to their economic, technical,

professional dedication or other reasons, it is accredited that they have access and availability

of the necessary electronic means.

Additionally, the interested party may identify an electronic device and/or an address

of electronic mail that will serve for the sending of the notices regulated in this article,

but not for notification practice.

2. In no case will the following notifications be made by electronic means:

a) Those in which the act to be notified is accompanied by elements that are not

capable of conversion into electronic format.

b) Those that contain means of payment in favor of the obligors, such as checks.

3. In the procedures initiated at the request of the interested party, the notification will be made

by the means indicated for that purpose. This notification will be electronic in the cases where

which there is an obligation to relate in this way with the Administration.

When it is not possible to make the notification in accordance with what is indicated in the request,

It will be carried out in any suitable place for that purpose, and by any means that allows to have

proof of receipt by the interested party or his representative, as well as the date,

identity and content of the notified act.

4. In the procedures initiated ex officio, for the sole purpose of their initiation, the

Public Administrations may collect, by consulting the databases of the

National Institute of Statistics, the data on the domicile of the interested party collected in the

Municipal Register, sent by the Local Entities in application of the provisions of the Law

7/1985, of April 2, regulating the Bases of the Local Regime.

5. When the interested party or his representative rejects the notification of an action

administrative, it will be recorded in the file, specifying the circumstances of the

notification attempt and the means, considering the procedure completed and following the

process.

6. Regardless of whether the notification is made on paper or by electronic means,

the Public Administrations will send a notice to the electronic device and/or to the address

email of the interested party that he has communicated, informing him of the implementation

provision of a notification in the electronic headquarters of the Administration or Organization

corresponding or in the unique enabled electronic address. The lack of practice of this

notice will not prevent the notice from being considered fully valid.

7. When the interested party is notified by different channels, the date of

notification of the one that occurred first.

“Article 42. Practice of notifications on paper

1. All notifications that are made on paper must be made available

of the interested party in the electronic headquarters of the Administration or Acting Body so that

You can access their content on a voluntary basis.

2. When the notification is made at the domicile of the interested party, if there is no

present at the time of delivery of the notice, may take charge of the same

Any person over the age of fourteen who is at the address and records

his identity. If no one took care of the notification, this circumstance will be recorded.

on the record, along with the day and time service was attempted, I intend to have it served.

will be repeated only once and at a different time within the following three days. In case

that the first notification attempt has been made before fifteen hours, the

second attempt must be made after fifteen hours and vice versa, leaving in all

case at least a margin of difference of three hours between both notification attempts.

If the second attempt is also unsuccessful, proceed as provided in the

article 44.

3. When the interested party accesses the content of the notification in electronic headquarters,

will offer the possibility that the rest of the notifications can be made through

electronic media.

It will analyze whether there was a need and proportionality in data processing

related to the notification procedure, called double confirmation by the

claimed, of acts and resolutions to the claimant, when some of them were notified

via post to the address of the claimant, also on paper, through officials, in

In this case, colleagues from two different work centers, according to the one claimed, guarantee the

effectiveness, without further evaluating or taking into account the need. This, considering that other Acts were notified at the postal address that the instructor requested of the claimant in a first hearing.

They take into account not only that the claimant was notified on paper at her address postal, but also the same notification was made in double entry, in the own notification proceedings by designated employees, except in the agreement of initiation and final resolution (the latter is unknown why). Added to this is shipping. of a fax containing as a note, a letter from the instructor to the claimant several pages referred to the procedure that remained a few days in the establishment to which they sent.

Initially, the first dispatch of the agreement to initiate the procedure takes place at through ***PUESTO.3 and another employee, colleagues from the center, where the claimant provides services, not to the address of the affected, and the reason is not explained, but in process successive, already with the personal address obtained, more notifications are produced to your address and at the same time by said means. The resolution is also an exception in the that according to the claimant. It is not sent to your designated address. Notifications are start from the beginning by non-electronic means, by post through the mail, on paper, where the effective delivery of the notification usually appears. does not occur double shipment electronically and by post, there are only shipments to the address of the claimed and through diligence of notification, or of this only.

Article 41.7 of the LPACAP mentions about notifications, two modalities, or channels, in writing or by electronic means, and here both are given in writing. In the notification, there is the term "double confirmation", referring to the claimed delivery by post and through diligence in person when in others there was no such double shipment, only via diligence in person.

Regarding these notifications, the respondent should have assessed the risks and purposes of the treatment within the administrative procedure.

Regarding the necessity and proportionality of notification of administrative acts (not all have been notified, for which an explanation would be useful) that the LPACAP indicates to through public employees, in connection with the assurance of effectiveness in the administrative action, “when necessary”. in this case, it follows that it looks like necessary from the beginning, when previous investigative actions were carried out and should have already entered a postal address for the referral of the agreement to start the process. Instead, its apparent need has been reiterated at various times of the same, although it is appreciated that some acts are notified by this means, others are not, the Most are not reported by employees. In any case, there is no reason why certain acts of notification, it is estimated that they serve to ensure effectiveness and others do not. The procedure is starts on ***DATE.2, with an expected duration of nine months, so the 07/16/2020, should be resolved and notified to the claimant, except for suspension. About the questions that arise regarding the proceedings of double notifications, postal to your address and through public employees, colleagues from the two Institutes in which he has been providing services during the substantiation of the procedure, they begin to occur from ***DATE.1/2021, continuing on ***DATE.3, on 01/16 and 30/2020, 02/04/2020 and 09/23/2020 (six times). There is no danger of expiration of the procedure, and It occurs as has been said in some communications, not in all.

The need to ensure the effectiveness of the notification would not go through a prior

notification via post to the interested party, and another later, by the employees, because in that efficiency consists in making sure that the notification occurs, with which it would not be necessary prior to the affected. This efficacy arises from an early phrase of the procedure when there is no evidence of any obstacle to the reception of the notifications to the indicated address, and therefore there is no risk in the effectiveness of the notifications, rejection of the same. However, the sending by said means of double delivery even in the resolution that is produced exclusively by employees.

In addition, what the norm allows is the practice of notification, not the full knowledge and detail of it, and in various stages, as happens when knowing the phase, the act, the NRP and DNI.

In sending the fax, it is also not a notification through an employee but using a unusual means of communication, not arranged or established by the claimant, and that gave rise to the disclosure of the data and part of the note to third parties sent by the instructor, having sent the data and detailed information of procedural issues to a third party who is not a party to the disciplinary proceeding.

To do this, the justification that she had sent two letters by fax and therefore reciprocally enables is not justified, on the basis that there is no parity of obligations and rights in the procedure, having fixed the ends and means the administration claimed.

In addition, the claimant sent them and received them at the same time that she received them in her address the instructor's submissions.

Within a disciplinary procedure, not only does the principle of respect for rights of those affected in obtaining and collecting data and action, but must analyze what data is necessary and proportional for the processing of the procedure, including those strictly necessary, and minimizing as far as possible their handling and management.

In this case, it is also appreciated that it was sought that the instructor knew with

quickly if the act had been received.

The manifestations of ***PUESTO.2, instructor of the disciplinary procedure of the

claimant to justify that third parties have participated in the notifications to the claimed party,

in this case public employees cannot prosper to consider non-compliance with the

obligations established in article 32, which starts from the risks of treatment and

implementation of treatment measures to ensure confidentiality and security

of the data. In this case, although officials are the ones who notify the acts, such as

collaborators in aiding notification, in addition to being excessive in terms of the purpose

of the notification itself, said use exceeds that purpose, by repeatedly containing the literal

informative of the acts that are notified. It should be noted that the responsibility does not lie

entirely on the instructor. given that the initiation agreement or resolution is not a

their act, but of the body that signs the same and is notified by the entity with competence

in notifications within the body. This happens repeatedly and despite the warning of

the claimant.

It is considered that there is no adequate protocol that indicates and assesses the efficacy and need

in the way of notifying sanctioning actions that consider the risks, the

rights, the way to carry it out, and the dignity of the accused in this case, when notified

both the initiation agreement and resolution and other acts through peers without

necessity and disclosing facts that are neither necessary nor proportional to the purpose, even

by sending a fax to a public establishment.

IV

The second infraction that is imputed is that of article 5.1.f) of the RGPD, which indicates:

The personal data will be:

“processed in such a way as to ensure adequate security of the data

including protection against unauthorized or unlawful processing and against their

accidental loss, destruction or damage, through the application of technical measures or

appropriate organizational structures (“integrity and confidentiality””

Connected with the duty of confidentiality provided for in the LOPDGDD, its article 5

indicates:

Those responsible and in charge of data processing, as well as all the people who

intervene in any phase of this will be subject to the duty of confidentiality to which

refers to article 5.1.f) of Regulation (EU) 2016/679.

2. The general obligation indicated in the previous section will be complementary to the

duties of professional secrecy in accordance with its applicable regulations.

3. The obligations established in the previous sections will be maintained even when

the relationship of the obligor with the person responsible or in charge of the treatment had ended.

In the first place, there has been an unnecessary, proportional use of double notification,

in up to six administrative actions that are not related to the effectiveness of the

shipments.

The notification system has not been balanced giving occasion to third parties in charge

of the notification, colleagues from two institutes knew not only that he was being followed

disciplinary file, they also access data that is not precise or necessary for the

purpose, due to the lack of protocol or measures to conveniently execute the procedures.

The systematic sending of, for example, a final resolution directly by hand delivery

of two companions in their new destination, instead of proceeding in reverse, notifying

firstly to the indicated address, it can suppose not only an interference in its

privacy, but an impairment of the dignity of the subject to the procedure, when it is not

accredits the imperative need to notify by this means.

Regarding the fax, it has been made known to third parties, by sending a fax without really knowing

what place it was, nor having been arranged that form of shipment.

On the data request to the Health Management, the instructor motivates the request, and the

request can be made, when it comes to contrasting and verifying what was provided by the claimant,

within the powers that the instructor has in the procedure, to verify the facts

that is of interest to accredit, being able, however, to have further minimized the request, and the

information. For the rest, in this aspect, it is not considered that there are reasons to

understand that with said request violates the regulations.

v

Article 83.4 of the RGPD indicates: “Infringements of the following provisions will be sanctioned

subject to administrative fines of EUR 10,000,000 in accordance with paragraph 2

maximum or, in the case of a company, an amount equivalent to 2% maximum

mo of the total global annual turnover of the previous financial year, opting for

the largest amount:

a) The obligations of the person in charge and the person in charge in accordance with articles 8, 11, 25 to 39,

42 and 43;”

While article 83.5 of the RGPD indicates:

"5. The infractions of the following dispositions will be sanctioned, in accordance with the paragraph

2, with administrative fines of a maximum of EUR 20,000,000 or, in the case of a

company, of an amount equivalent to a maximum of 4% of the total turnover

annual global of the previous financial year, opting for the highest amount:

a) the basic principles for treatment, including the conditions for consent

pursuant to articles 5, 6, 7 and 9;”

The prescriptions of the infractions are contained in:

Article 73 of the LOPDGDD:

“Based on the provisions of article 83.4 of Regulation (EU) 2016/679,

considered serious and will prescribe after two years the infractions that suppose a

substantial violation of the articles mentioned therein and, in particular, the following:

f) The lack of adoption of those technical and organizational measures that result

appropriate to guarantee a level of security appropriate to the risk of the treatment, in the

terms required by article 32.1 of Regulation (EU) 2016/679.”

Article 72 of the LOPDGDD:

"1. Based on the provisions of article 83.5 of Regulation (EU) 2016/679,

considered very serious and will prescribe after three years the infractions that suppose a

substantial violation of the articles mentioned therein and, in particular, the following:

a) The processing of personal data violating the principles and guarantees established in

Article 5 of Regulation (EU) 2016/679.”

SAW

Article 58.2 of the RGPD provides: "Each control authority will have all the si-

following corrective powers indicated below:

b) address a warning to any data controller or processor when the operations

treatment rations have violated the provisions of this Regulation;

Article 83.7 of the RGPD indicates:

“Without prejudice to the corrective powers of the control authorities under article

58, paragraph 2, each Member State may establish rules on whether it is possible, and in what

measure, impose administrative fines on authorities and public bodies established

in that Member State."

The Spanish legal system has chosen not to penalize public entities with a fine.

public, as indicated in article 77.1. c) and 2. 4. 5. and 6. of the LOPDDGG: “1. The regimen

established in this article will be applicable to the treatments that are res-

responsible or in charge:

c) The General Administration of the State, the Administrations of the communities

autonomous and the entities that make up the Local Administration.

2. When those responsible or in charge listed in section 1 commit any

one of the infractions referred to in articles 72 to 74 of this organic law, the

competent data protection authority will issue a resolution sanctioning the

themselves with warning. The resolution will also establish the appropriate measures

adopt to stop the behavior or correct the effects of the infraction that had occurred.

task.

The resolution will be notified to the person in charge or in charge of the treatment, to the body of which

hierarchically dependent, where appropriate, and those affected who had the condition of interest

sad, in your case.

4. The data protection authority must be informed of the resolutions that

gan in relation to the measures and actions referred to in the preceding sections.

5. They will be communicated to the Ombudsman or, where appropriate, to the analogous institutions of

the autonomous communities the actions carried out and the resolutions issued under the

ro of this article.

6. When the competent authority is the Spanish Agency for Data Protection, this

will publish on its website with due separation the resolutions referring to the entities

from section 1 of this article, with express indication of the identity of the person in charge or

in charge of the treatment that had committed the infraction."

Once the infraction is confirmed, the adoption of adequate measures is agreed, to adjust its

action to the regulations mentioned in this act, in accordance with the provisions of the

cited article 58.2 d) of the RGPD.

It is noted that failure to meet the requirements of this body may be considered

as an administrative offense in accordance with the provisions of the RGPD, and may motivate

such conduct the opening of a subsequent sanctioning administrative proceeding.

Therefore, in accordance with the applicable legislation,

the *** POSITION.3a of the Spanish Data Protection Agency RESOLVES:

FIRST: SEND a warning to the EDUCATION AND EMPLOYMENT OFFICE of the

JUNTA DE EXTREMADURA, with NIF S0611001I, for an infraction of article 32 and another

of 5.1.f) of the RGPD, in accordance with articles 83.4 a) and 83.5.a) of the RGPD,

classified as serious and very serious in articles 73.f) and 72.1.a) of the LOPDGDD.

SECOND: ORDER the COUNCIL OF EDUCATION AND EMPLOYMENT of the BOARD OF

EXTREMADURA, in accordance with the provisions of article 58.2 d) of the RGPD, so that in

within two months, document a common and unique document for the aspects of

notifications on paper and through employees considering the type of procedure, the

justified necessity and proportionality in relation to effectiveness, and the risks and rights

of those affected, with special reference to disciplinary procedures

THIRD: NOTIFY this resolution to the MINISTRY OF EDUCATION AND

EMPLOYMENT of the JUNTA DE EXTREMADURA.

FOURTH:

in accordance with the provisions of article 77.5 of the LOPDGDD.

COMMUNICATE this resolution to the OMBUDSMAN, of

In accordance with the provisions of article 50 of the LOPDGDD, this Resolution

It will be made public once it has been notified to the interested parties.

Against this resolution, which puts an end to the administrative procedure in accordance with art. 48.6 of the

LOPDGDD, and in accordance with the provisions of article 123 of the LPACAP, the

Interested parties may optionally file an appeal for reconsideration before the

***PUESTO.3a of the Spanish Agency for Data Protection within a month to

count from the day following the notification of this resolution or appeal directly

contentious-administrative before the Contentious-administrative Chamber of the High Court

National, in accordance with the provisions of article 25 and section 5 of the provision

additional fourth of Law 29/1998, of July 13, regulating the Contentious Jurisdiction-

administrative, within a period of two months from the day following the notification of

this act, as provided for in article 46.1 of the aforementioned Law.

Finally, it is pointed out that in accordance with the provisions of art. 90.3 a) of the LPACAP, it may be

precautionary suspension of the firm decision in administrative proceedings if the interested party expresses

its intention to file a contentious-administrative appeal. If this is the case, the

The interested party must formally communicate this fact in writing addressed to the Agency

Spanish Data Protection, presenting it through the Electronic Registry of the

Agency [https://sedeagpd.gob.es/sede-electronica-web/], or through one of the

remaining records provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1.

You must also transfer to the Agency the documentation that proves the filing

effectiveness of the contentious-administrative appeal. If the Agency were not aware of the

filing of the contentious-administrative appeal within two months from the day

following the notification of this resolution, it would end the suspension

precautionary

Sea Spain Marti

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