

LEGISLATION ON ACCESS TO DATA IN PHYSICAL EDUCATION

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CURRENT STATUS:

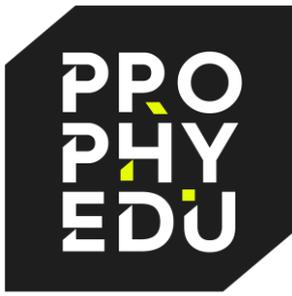
- Reviewed by Steering Committee

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1 Introduction and context

The PRO-PHY-EDU project operates at a complex legal intersection: data processing in the education system, for research and education improvement purposes, in Europe and Latin America.

Although there is European and national legislation that regulates access to and other conditions on personal data, including those that are generated, stored or processed in the educational field (e.g. data of students, teachers or staff related to Physical Education), there is no specific regulation for "access to data in Physical Education" as an isolated discipline, neither in Europe nor in Latin America. Therefore, the applicable regulations are of a general nature on the protection of personal data and the processing of educational information of the regions/countries of the consortium institutions.

In this area, the guiding principle of the consortium will be the "Principle of Greater Protection": since data will flow between jurisdictions with different regulations (EU and Latin America), the project will always adopt the strictest standard available to ensure the legal certainty of the institutions and participants.

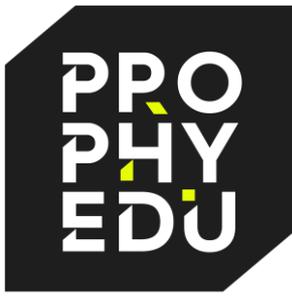
The applicable regulations by country/region and their specific implications for Physical Education are broken down below.

2 European regulatory framework

This framework applies directly to European partners (UMH, EU) and sets out the conditions for receiving data for the entire consortium.

The reference standard is the General Data Protection Regulation (GDPR/GDPR) – EU 2016/679. Article 9 prohibits, by default, the processing of health-related data, except for explicit exceptions. Biometric data (heart rate, motion analysis) used to uniquely identify a person is also protected.

In addition, in connection with the transfer of data, European partners should not receive databases with direct identifiers (names) from Brazil or Chile, but pseudonymized data (codes).



3 Legislative summary Spain and Portugal.

3.1 SPAIN.

There are no specific regulations that regulate access to data exclusively in the field of Physical Education. Therefore, the applicable regulation is Organic Law 3/2018 (LOPDGDD).

Any public or private educational center that processes personal data of students or teachers must comply with the GDPR and the LOPDGDD. Data generated in teaching activities, including from subjects such as Physical Education (e.g. health, assessment, images, performance data or video cameras), is considered personal data when it identifies a natural person.

3.2 PORTUGAL.

Similar to the Spanish case, in Portugal there are no specific regulations governing access to Physical Education data. Therefore, Law no. 58/2019 (Execution of the GDPR) applies and the guidelines of the Comissão Nacional de Proteção de Dados (CNPD) are followed.

Portuguese data protection law applies to all processing of personal data within educational institutions, similar to the Spanish framework. Portuguese educational institutions (including Physical Education activities) that collect and process personal data must comply with the requirements of the GDPR and L58/2019.

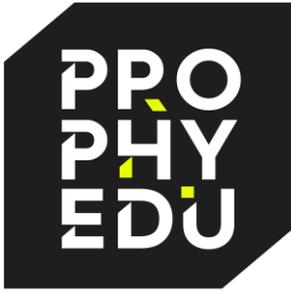
The personal data of the holders are processed exclusively in the context of enrolment in the subject of Physical Education, for the exclusive purpose of assessing the physical fitness and monitoring the motor competence of the pupils within the framework of the curricular development of Physical Education (in accordance with Decree-Law no. 55/2018, of 6 July, and Order No. 6605-A/2021, of 6 July).

4 Legislative summary Chile and Brazil.

4.1 CHILE

In Chile there is no sectoral law exclusively for "access to data in Physical Education" as an isolated discipline: the current regulations are of a general nature on the protection and processing of personal data applicable to all types of data, including those generated in educational contexts.

Chile has a general framework for the protection of personal data that includes the right of access to data and is applicable to all areas, including education and activities such as Physical Education, although there is no specific sectoral educational standard.



The regulatory axis today is constituted by the new Law No. 21,719 on the Protection of Personal Data (which will fully enter into force in December 2026) together with the previous legislation (Law 19,628) and constitutional principles of privacy. Law 21.710 aligns with international standards such as the European GDPR, creating the Personal Data Protection Agency, strengthening the rights of data subjects (access, rectification, deletion, portability) and establishing stricter obligations for companies and the State, including security measures, breach notification and a sanctions regime.

4.2 BRAZIL

There is no sectoral law focused exclusively on "Access to data in Physical Education" or on education in general in Brazil: the general regulation on the protection and processing of personal data applies to all sectors, including education.

The main legal instrument that regulates the access and processing of personal data – including data generated or managed in education or training activities – is the LGPD (Lei no. 13.709/2018). The Autoridade Nacional de Proteção de Dados (ANPD) supervises and regulates the application of the LGPD throughout the Brazilian territory.

In addition to the LGPD, there are other general and sectoral regulations that interact with education and access to information:

- The Law on Access to Information (LAI – Law No. 12.527/2011) applies when dealing with data held by public bodies (subject to limitations for confidentiality and personal data).
- The Brazilian Civil Framework for Internet Rights (Law No. 12.965/2014) and its regulatory decree apply when the processing involves a digital environment, records and online services.
- The Statute of the Child and Adolescent (ECA – Law No. 8.069/1990) is relevant because a large part of the school population is under 18 years of age, which increases institutional responsibility in the custody and use of data.

These regulations do not "replace" the LGPD (Brazil's General Data Protection Law), but are part of the regulatory ecosystem.