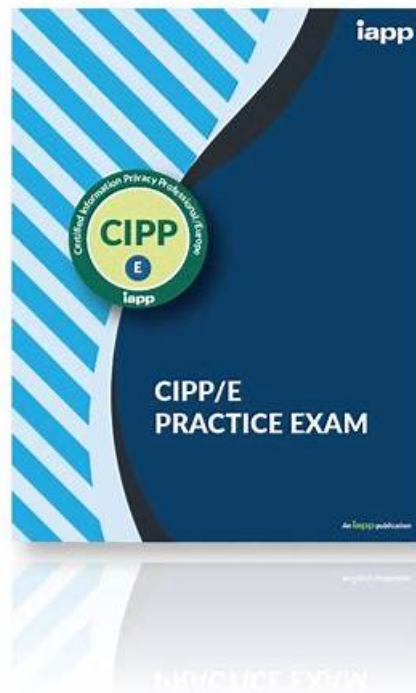


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## IAPP Certified Information Privacy Professional/Europe (CIPP/E) Sample Questions (Q265-Q270):

### NEW QUESTION # 265

Why is advisable to avoid consent as a legal basis for an employer to process employee data?

- A. Data protection laws do not apply to processing of employee data.
- **B. Consent may not be valid if the employee feels compelled to provide it.**
- C. An employer might have difficulty obtaining consent from every employee.
- D. Employee data can only be processed if there is an approval from the data protection officer.

**Answer: B**

Explanation:

According to the GDPR, consent must be freely given, specific, informed and unambiguous<sup>1</sup>. However, in the context of employment, there is often an imbalance of power between the employer and the employee, which may affect the validity of consent. The employee may feel pressured or coerced to give consent, or may not be able to withdraw it without negative consequences. Therefore, consent is not a reliable or appropriate legal basis for processing employee data in most cases<sup>23</sup>. The employer should consider other lawful bases, such as contractual necessity, legal obligation, legitimate interests or specific conditions for special category data<sup>45</sup>. References: 1 Art. 4 (11) GDPR - Definitions - General Data Protection Regulation (GDPR)<sup>2</sup> Can my employer require me to give my consent to use my personal data? | European Commission. 3 When is consent appropriate? | ICO. 4 Art. 6 (1) GDPR - Lawfulness of processing - General Data Protection Regulation (GDPR)<sup>5</sup> Art. 9 (2) GDPR - Processing of special categories of personal data - General Data Protection Regulation (GDPR).

## NEW QUESTION # 266

### SCENARIO

Please use the following to answer the next question:

Joe started the Gummy Bear Company in 2000 from his home in Vermont, USA. Today, it is a multi-billion-dollar candy company operating in every continent. All of the company's IT servers are located in Vermont. This year Joe hires his son Ben to join the company and head up Project Big, which is a major marketing strategy to triple gross revenue in just 5 years. Ben graduated with a PhD in computer software from a top university. Ben decided to join his father's company, but is also secretly working on launching a new global online dating website company called Ben Knows Best.

Ben is aware that the Gummy Bear Company has millions of customers and believes that many of them might also be interested in finding their perfect match. For Project Big, Ben redesigns the company's online web portal and requires customers in the European Union and elsewhere to provide additional personal information in order to remain a customer. Project Ben begins collecting data about customers' philosophical beliefs, political opinions and marital status.

If a customer identifies as single, Ben then copies all of that customer's personal data onto a separate database for Ben Knows Best. Ben believes that he is not doing anything wrong, because he explicitly asks each customer to give their consent by requiring them to check a box before accepting their information. As Project Big is an important project, the company also hires a first year college student named Sam, who is studying computer science to help Ben out.

Ben calls out and Sam comes across the Ben Knows Best database. Sam is planning on going to Ireland over Spring Break with 10 of his friends, so he copies all of the customer information of people that reside in Ireland so that he and his friends can contact people when they are in Ireland.

Joe also hires his best friend's daughter, Alice, who just graduated from law school in the U.S., to be the company's new General Counsel. Alice has heard about the GDPR, so she does some research on it. Alice approaches Joe and informs him that she has drafted up Binding Corporate Rules for everyone in the company to follow, as it is important for the company to have in place a legal mechanism to transfer data internally from the company's operations in the European Union to the U.S.

Joe believes that Alice is doing a great job, and informs her that she will also be in-charge of handling a major lawsuit that has been brought against the company in federal court in the U.S. To prepare for the lawsuit, Alice instructs the company's IT department to make copies of the computer hard drives from the entire global sales team, including the European Union, and send everything to her so that she can review everyone's information. Alice believes that Joe will be happy that she did the first level review, as it will save the company a lot of money that would otherwise be paid to its outside law firm.

As a result of Sam's actions, the Gummy Bear Company potentially violated Articles 33 and 34 of the GDPR and will be required to do what?

- A. Analyze and evaluate all of its breach notification obligations.
- B. Notify all of its customers that reside in the European Union.
- **C. Notify its Data Protection Authority about the data breach.**
- D. Analyze and evaluate the liability for customers in Ireland.

**Answer: C**

## NEW QUESTION # 267

Company X has entrusted the processing of their payroll data to Provider Y.

Provider Y stores this encrypted data on its server.

The IT department of Provider Y finds out that someone managed to hack into the system and take a copy of the data from its server.

In this scenario, whom does Provider Y have the obligation to notify?

- A. The supervisory authority
- **B. Law enforcement**
- C. The public
- D. Company X

**Answer: B**

## **NEW QUESTION # 268**

### **SCENARIO**

Please use the following to answer the next question:

Anna and Frank both work at Granchester University. Anna is a lawyer responsible for data protection, while Frank is a lecturer in the engineering department. The University maintains a number of types of records:

Student records, including names, student numbers, home addresses, pre-university information, university attendance and performance records, details of special educational needs and financial information.

Staff records, including autobiographical materials (such as curricula, professional contact files, student evaluations and other relevant teaching files).

Alumni records, including birthplaces, years of birth, dates of matriculation and conferrals of degrees. These records are available to former students after registering through Granchester's Alumni portal. Department for Education records, showing how certain demographic groups (such as first-generation students) could be expected, on average, to progress. These records do not contain names or identification numbers.

Under their security policy, the University encrypts all of its personal data records in transit and at rest.

In order to improve his teaching, Frank wants to investigate how his engineering students perform in relation to Department for Education expectations. He has attended one of Anna's data protection training courses and knows that he should use no more personal data than necessary to accomplish his goal. He creates a program that will only export some student data: previous schools attended, grades originally obtained, grades currently obtained and first time university attended. He wants to keep the records at the individual student level. Mindful of Anna's training, Frank runs the student numbers through an algorithm to transform them into different reference numbers. He uses the same algorithm on each occasion so that he can update each record over time.

One of Anna's tasks is to complete the record of processing activities, as required by the GDPR. After receiving her email reminder, as required by the GDPR. After receiving her email reminder, Frank informs Anna about his performance database.

Ann explains to Frank that, as well as minimizing personal data, the University has to check that this new use of existing data is permissible. She also suspects that, under the GDPR, a risk analysis may have to be carried out before the data processing can take place. Anna arranges to discuss this further with Frank after she has done some additional research.

Frank wants to be able to work on his analysis in his spare time, so he transfers it to his home laptop (which is not encrypted).

Unfortunately, when Frank takes the laptop into the University he loses it on the train. Frank has to see Anna that day to discuss compatible processing. He knows that he needs to report security incidents, so he decides to tell Anna about his lost laptop at the same time.

Anna will find that a risk analysis is NOT necessary in this situation as long as?

- A. The algorithms that Frank uses for the processing are technologically sound
- B. The data subjects are no longer current students of Frank's
- **C. The data subjects gave their unambiguous consent for the original processing**
- D. The processing will not negatively affect the rights of the data subjects

**Answer: C**

## **NEW QUESTION # 269**

MagicClean is a web-based service located in the United States that matches home cleaning services to customers. It offers its services exclusively in the United States. It uses a processor located in France to optimize its data. Is MagicClean subject to the GDPR?

- **A. No, because MagicClean is not offering services to EU data subjects.**
- B. No, because MagicClean is located in the United States only.
- C. Yes, because MagicClean is processing data in the EU
- D. Yes, because MagicClean's data processing agreement with the French processor is an establishment in the EU

**Answer: A**

Explanation:

According to Article 3 of the GDPR, the regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the EU, regardless of whether the processing takes place in the EU or not. The regulation also applies to the processing of personal data of data subjects who are in the EU by a controller or processor not established in the EU, where the processing activities are related to the offering of goods or services to such data subjects in the EU or the monitoring of their behaviour as far as their behaviour takes place within the EU. In this case, MagicClean is a controller not established in the EU, and it does not offer services to EU data subjects or monitor their behaviour. Therefore, MagicClean is not subject to the GDPR, even if it uses a processor located in France to optimize its data. The location of the processor does not determine the applicability of the GDPR, but the context of the activities of the controller or the processor and the relationship with the data subjects. Reference:

Article 3 of the GDPR

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## NEW QUESTION # 270

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