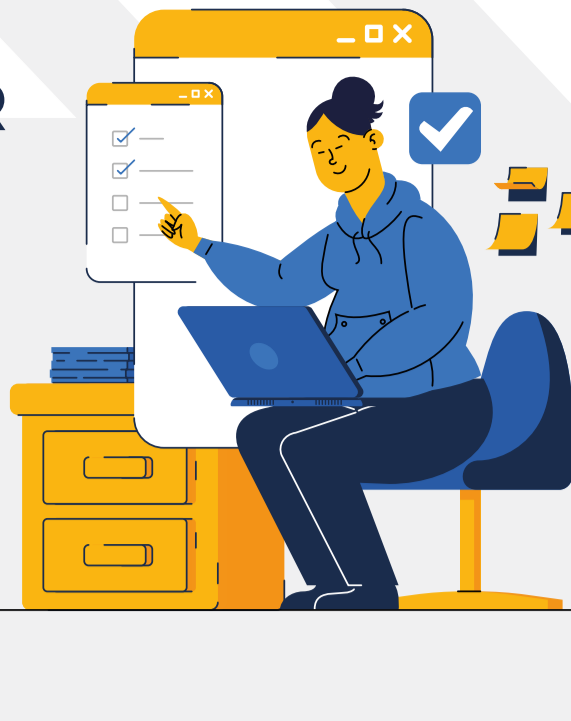


# REGULATION ON THE ROLE OF THE DATA PROTECTION OFFICER

On July 17, 2024, the National Data Protection Authority (ANPD) published Resolution CD/ANPD No. 18/2024, which approves the Regulation on the Role of the Data Protection Officer.

Through the Regulation, ANPD seeks to clarify the rules applicable to the appointment of the data protection officer, establishing parameters regarding their responsibilities and actions, in line with the provisions of the Brazilian General Data Protection Law (Law No. 13,709/2018 – LGPD).

b/luz has prepared this infographic to present, in a clear and objective manner, the main aspects of the Regulation.



## WHO IS THE DPO AND WHAT ARE THEIR FUNCTIONS?



- IN A COMPLEMENTARY WAY, THE DPO WILL ALSO BE RESPONSIBLE FOR ORIENTING AND PROVIDING ASSISTANCE TO DATA PROCESSING AGENTS IN THE FOLLOWING ACTIVITIES:**
- Record and communicate security incidents.
  - Record data processing activities.
  - Develop Data Protection Impact Assessments and implement internal mechanisms for supervision and mitigation of risks associated with the data processing activities.
  - Define security measures, technical and administrative, to protect personal data.
  - International data transfers.
  - Internal procedures and policies to ensure compliance with the LGPD and the regulations and guidelines from the ANPD.
  - Contractual instruments regulating the processing of personal data.
  - Guarantee that products and services respect the principles and adopt design standards compatible with the LGPD.

## CHARACTERISTICS

- Legal Entity OR  Natural Person
- Employee of the controller or processor OR  Third party hired for the provision of services

**PROFESSIONAL QUALIFICATIONS:**  
The company may establish the necessary professional qualifications for the performance of the duties by the DPO, observing:

- Knowledge related to data protection legislation
- Context, volume and risks of the data processing activities

- IN ADDITION, THE DPO:**
- Must be able to communicate clearly and accurately in the Portuguese language.
  - Will not need to register with any agency or entity, hold certifications, or have specific professional training.
  - Can accumulate functions or perform activities for more than one data controller, as long as it does not prevent the exercise of their duties or constitute a conflict of interest.

**RESPONSIBILITY OF THE DPO:**  
The performance of the activities and duties set forth in the Resolution does not confer upon the DPO any responsibility, before the ANPD, for the compliance of the processing activities carried out by the data controller.

- DUTIES OF DATA PROCESSING AGENTS:**
- The company must:
- provide the necessary means for the exercise of the duties by the DPO
  - request assistance and guidance from the DPO when performing activities and making strategic decisions regarding the processing of personal data
  - ensure that the DPO has the necessary technical autonomy to carry out their activities
  - ensure adequate means for data subjects to interact with the DPO and exercise their rights
  - ensure that the DPO has direct access to the highest-ranking individuals within the organization

## APPOINTMENT

The appointment of the DPO must be made by a formal act of the controller that meets the following requirements:

- Written, dated and signed document
- Must demonstrate the intention of the controller to designate the DPO
- Must indicate the manner of operation and the activities performed by the DPO

### LEGAL ENTITY OF PUBLIC LAW

They must indicate, preferably, stable servers or public employees with impeccable reputation.

### PROCESSOR

The indication for processor is optional. If it occurs, it will be understood as a good governance practice and may be considered as a mitigating factor in sanctioning processes.

### SMALL BUSINESSES

If exempt from appointing a DPO, they must designate a communication channel with data subjects and the ANPD.

### SUBSTITUTE DPO

In the absence of the DPO, the role should be performed by a formally designated substitute.

## AVAILABILITY OF THE DPO'S INFORMATION

The company must disclose and keep updated the identity and contact information of the DPO.

### WHAT TO DISCLOSE?

Identity of the DPO, with at least:

**Natural person DPO:** full name

**Legal entity acting as DPO:** business name or establishment title, as well as full name of the natural person in charge

**Contact information:** information related to the means of communication that enable the exercise of data subjects' rights before the controller and allow for receiving communications from the ANPD

### HOW TO DISCLOSE?

On the company's website, in a public, clear and objective manner, in a prominent and easily accessible location.

### AND IF THE COMPANY DOES NOT HAVE A WEBSITE?

It is necessary to disclose the information through other means, preferably those commonly used to contact the data subjects.

## CONFLICT OF INTEREST

The Regulation defines conflict of interest as:

Situation that may compromise, influence or improperly affect the objectivity and technical judgment in the performance of the duties of the DPO.

### THE CONFLICT OF INTEREST CAN BE CONFIGURED:

- among the tasks performed internally in a company or in the exercise of the activity of DPO in different companies; or
- with the accumulation of the activities of a DPO with others that involve strategic decision-making regarding the processing of personal data by the controller, except for operations involving personal data inherent to the tasks of the DPO

The DPO may accumulate functions and perform their activities for more than one data controller, as long as it is possible to fully meet their responsibilities related to each data controller and there is no conflict of interest.

### MEASURES THAT MUST BE TAKEN BY PROCESSING AGENTS IF A CONFLICT OF INTEREST IS IDENTIFIED:

- do not appoint the person to perform the function of DPO;
- implement measures to avoid conflicts of interest; or
- replace the person designated to perform the function of DPO.