

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 2331

HOUSE OF REPRESENTATIVES

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Introduced by REPRESENTATIVE CARLOS O. COJUANGCO

EXPLANATORY NOTE

"The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to limitations as may be provided by law." – Article III, Section 7 of the 1987 Constitution. This protects the right the right to information.

Even with this Constitutional assurance and its affirmation in a number of Supreme Court decisions, we are aware of the excessive violation by a lot of government agencies of the right of Filipinos to access information of public interest and concern.

The main problem is lack of legislation. While the Supreme Court has upheld the constitutional right to information, its effective implementation has for the past two decades suffered from the lack of the necessary substantive and procedural details that only Congress can provide. As the Supreme Court lamented in *Chavez v. NHA* (G.R. No. 164527; August 15, 2007):

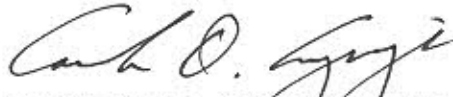
"It is unfortunate, however, that after almost twenty (20) years from birth of the 1987 Constitution, there is still no enabling law that provides the mechanics for the compulsory duty of government agencies to disclose information on government transactions. Hopefully, the desired enabling law will finally see the light of day when Congress decides to approve the proposed "Freedom of Access to Information Act."

This bill realizes the long delayed legislative responsibility of Congress by laying in place the following major features:

- An expansive scope in terms of government agencies as well as information covered. A narrow list of exceptions circumscribed by clearly stated public harm that we wish to avoid in withholding certain information;
- An opportunity and the right for citizens to counterbalance and override a recognized exception when there is greater public interest in information disclosure;
- A clear, uniform and speedy procedure for access to information;
- A provision implementing automatic disclosure of transactions of public concern as required by Section 28, Article II of the constitution;
- A system of accessible and speedy remedies for a citizen whose access to information has been denied;
- The institution of mechanisms to promote a culture of openness within government; and
- The introduction of clear administrative, criminal and civil liability for the violation of the right to information.

Freedom of information is an indispensable requirement for a democracy. It is main base to the effective exercise of equivalent rights such as the freedoms of speech, of the press, and of expression, as well as the right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making. Transparency in the public sector enables our people to engage in meaningful participation, promotes accountability, and mitigates corruption, which has long been a major obstacle to our country's development.

In view of the foregoing, early passage of this bill is therefore earnestly sought.


CARLOS O. COJUANGCO
 Representative

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SEVENTEENTH CONGRESS
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House Bill No. 2331

Introduced by REPRESENTATIVE CARLOS O. COJUANGCO

AN ACT
IMPLEMENTING THE PEOPLE'S RIGHT TO
INFORMATION AND THE CONSTITUTIONAL
POLICIES OF FULL PUBLIC DISCLOSURE AND
HONESTY IN THE PUBLIC SERVICE AND FOR
OTHER PURPOSES

*Be it enacted by the Senate and House of Representatives of the Philippines
in Congress assembled.*

1 **SECTION 1. Short Title.** - This Act shall be known as the "People's
2 Freedom of Information Act of 2016."

3 **SEC. 2. Declaration of Policy.** - The State recognizes the right of the
4 people to information on matters of public concern and adopts and
5 implements a policy of full public disclosure of all its transactions involving
6 public interest, subject to the procedures and limitations provided by this
7 Act. This right is meant to enhance the significant and widening role of the
8 citizenry in governmental decision-making as well as in checking abuse in
9 government.

10 Public officials and employees, in the performance of their duties
11 under this Act, as well as citizens in the exercise of their rights under this
12 Act, shall act with justice, give everyone his or her due, and observe honesty

1 and good faith. Public officials and employees as well as citizens shall
2 endeavor to handle information kept or obtained under this Act with due
3 care, to the end that inaccuracies and distortions are avoided.

4 **SEC. 3. Definition of Terms.** - As used in this Act:

5 (a) **"Information"** shall mean any record, document, paper, report,
6 letters, contract, minutes and transcripts of official meetings, maps,
7 books, photographs, data, research material, film, sound and video
8 recordings, magnetic or other tapes, electronic data, computer stored
9 data, or any other like or similar data or material recorded, stored or
10 archived in whatever form or format, which are made, received or
11 kept in or under the control and custody of any government agency
12 pursuant to law, executive order, rules and regulations, ordinance or in
13 connection with the performance or transaction of official business by
14 any government agency.

15 (b) **"Official record/records"** shall refer to information produced or
16 received by a public officer or employee, or by a government agency
17 in an official capacity or pursuant to a public function or duty,
18 regardless of whether the information is in the draft, final or any other
19 stage or status.

20 (c) **"Public record/records"** shall include information required by law,
21 executive orders, rules, or regulations to be entered, kept and made
22 publicly available by a government agency.

23 **SEC. 4. Coverage.** - This Act shall cover all government agencies.
24 Government agency or agencies shall include the executive, legislative and
25 judicial branches as well as constitutional bodies of the Republic of the

Philippines including but not limited to the national government and all its agencies, departments, bureaus, offices and instrumentalities, constitutional commissions and constitutionally mandated bodies, local governments and all their agencies, regulatory agencies, chartered institutions, government-owned or controlled corporations, including wholly-owned or controlled subsidiaries, government financial institutions, state colleges and universities, the Armed Forces of the Philippines, the Philippine National Police, all offices in the Congress of the Philippines including the offices of Senators and Representatives, the Supreme Court and all lower courts established by law.

Public service contractors or any other entity shall make their records available to the public insofar as they are related to any contract or transactions that they have with the government or government agencies, *Provided*, that such contracts or transactions are of the highest public interest by reason of the amounts involved and the impact of the transaction to the public.

SEC. 5. Access to Information. - Every Filipino citizen has a right to and shall, on request, be given access to any record under the control of a government agency regardless of the physical form or format in which they are contained subject only to the exceptions enumerated in Section 7 of this Act.

SEC. 6. Presumption. - There shall be a legal presumption in favor of access to information. No request for information shall be denied unless it clearly falls under the exceptions provided under this Act.

SEC. 7. Exceptions. - Access to information shall be granted unless:

1 (a) The information is specifically authorized be kept secret under guidelines
2 established by an Executive Order, and in fact properly classified
3 pursuant thereto: *Provided*, that

4 (1) The information directly relates to national security or defense and
5 its revelation may cause serious damage to the national security or
6 internal and external defense of the State; or

7 (2) The information requested pertains to the foreign affairs of the
8 Republic of the Philippines, when its revelation shall unduly weaken
9 the negotiating position of the government in an ongoing bilateral or
10 multilateral negotiation or seriously jeopardize the diplomatic
11 relations of tile Philippines with any state, *Provided*, further, that the
12 Executive Order shall specify the reasonable period after which the
13 information shall be automatically declassified or subject to
14 mandatory declassification review, and that any reasonable doubt as to
15 classification and declassification shall be settled in favor of the right
16 to information;

17 (b) The information consist of records of minutes, advice given or opinions
18 expressed during decision-making or policy formulation, invoked by the
19 Chief Executive to be privileged by reason of the sensitivity of the
20 subject matter or by reason of the impairment of the Chief Executive's
21 deliberative process that would result from the disclosure thereof. Once
22 policy has been formulated and decisions made, minutes and research
23 data may be made available for disclosure unless they were made in
24 executive session;

1 (c) The information requested pertains to internal and/or external defense,
2 law enforcement, and border control, when the disclosure thereof may:

3 (1) Compromise or interfere with any legitimate military or law
4 enforcement operation, or

5 (2) Compromise or interfere with the legitimate prevention, detection or
6 suppression of criminal activity, or the legitimate implementation of
7 immigration controls and border security, or

8 (3) Lead to the disclosure of the identity of a confidential source,
9 including a government, or foreign agency or authority or any private
10 institution which furnished information on a confidential basis, and,
11 in the case of a record or information compiled by a law enforcement
12 authority in the course of an investigation or by an agency
13 conducting a lawful national security intelligence investigation,
14 information furnished by a confidential source, or

15 (4) Disclose legitimate techniques and procedures for law enforcement
16 investigations or prosecutions, or would disclose legitimate
17 guidelines for law enforcement investigations or prosecutions if such
18 disclosure could reasonably be expected to risk circumvention of the
19 law, or

20 (5) Endanger the life or physical safety of any individual, or

21 (6) Deprive a person of a right to a fair trial and impartial adjudication.

22 (d) The information requested consists of drafts of orders, resolutions,
23 decisions, memoranda or audit reports by any executive, administrative,
24 regulatory, constitutional, judicial or quasi-judicial body in the exercise
25 of their regulatory, audit and adjudicatory function.

(e) The information requested is obtained by either House of Congress, or any committee thereof, in executive session.

(f) The information requested pertains to the personal information of a natural person other than the requesting party, and its disclosure would constitute an unwarranted invasion of his or her personal privacy, unless it forms part of a public record, or the person is or was an official of a government agency and the information relates to his other public function or the person has consented, in writing, to the disclosure of the information.

(g) The information requested pertains to trade secrets and commercial or financial information obtained from a natural or juridical person other than the requesting party, obtained in confidence or covered by privileged communication, and/or filed with a government agency, whenever the revelation thereof would prejudice the interests of such natural or juridical person in trade, industrial, financial or commercial competition.

(h) The information is classified as privileged communications in legal proceedings by law or by the Rules of Court.

(i) The information requested is exempted from disclosure by law or by the Constitution, in addition to those provided in this section.

(j) The information is of a nature that its premature disclosure would:

(1) in the case of an agency that regulates or deals with currencies, interest rates, securities, commodities, or financial institutions, be likely to lead speculations in currencies, interest rates, securities, or commodities market; or

1 (2) in the case of other agencies, be likely to frustrate the effective
2 implementation of a proposed official action: *Provided*, that the
3 information shall be disclosed once the abovementioned dangers have
4 ceased.

5 (k) The information has already been made accessible as provided in Section
6 14 of this Act.

7 For paragraphs (c) to (k) of this section, the determination whether any of
8 these grounds shall apply shall be the responsibility of the head of office of
9 the government agency in custody or control of the information, or any
10 responsible central or field officers duly designated by him. *Provided*, that:

11 (1) The exceptions are strictly construed;

12 (2) The exceptions are not used to cover-up a crime, wrong-doing, graft,
13 or corruption;

14 (3) The President, the Supreme Court, the Senate, the House of
15 Representatives, and the Constitutional Commissions may waive an
16 exception with respect to information in the custody of offices under
17 their respective supervision or control, when they deem that there is
18 an overriding public interest in disclosure;

19 (4) The exceptions do not constitute authority to withhold information
20 from Congress, nor authority for the executive branch of a local
21 government unit to withhold information from the legislative body of
22 such local government unit;

23 (5) Whenever the information requested is part of a record, whose other
24 parts are covered by an exception, but may be reasonably severed

1 from a record, the responding official shall communicate the
2 information not covered by the exception to the requester; and

3 (6) The exceptions set forth in this section may be overcome if the
4 requester is able to prove before the Ombudsman or a court of
5 competent jurisdiction that the public interest in the disclosure of
6 information outweighs the public interest in keeping the information
7 secret or confidential.

8 **SEC. 8. Mandatory Disclosure of Information. –**

9 (a) In fulfillment of Article XI, Section 17 of the Constitution, the following
10 national officials shall disclose to the public their Statement of Assets,
11 Liabilities, and Net Worth (SALN) on an annual basis in their official
12 website:

13 (1) President;

14 (2) Vice-President;

15 (3) Members of the Cabinet;

16 (4) Members of Congress;

17 (5) Justices of Supreme Court;

18 (6) Members of Constitutional Commissions and other constitutional
19 offices;

20 (7) Officers of the armed forces with general or flag rank.

21 (b) All agencies of all branches of government shall upload on their
22 websites, which shall be updated monthly, a register of the following
23 public interest transactions, documents or records, including:

24 (1) Annual Budget of Government Agencies;

25 (2) Itemized Monthly Collections and Disbursement;

- (3) Summary of Income and Expenditures;
- (4) Component of the IRA Utilization;
- (5) Annual Procurement Plan and Procurement List;
- (6) An updated plantilla of positions and vacant positions with qualifications/requirements in their organizations that need to be filled-up;
- (7) Items to Bid;
- (8) Bid Results on Civil Works, and Goods and Services;
- (9) Abstract of Bids as Calculated;
- (10) Procurement contracts entered into by a government agency;
- (11) Construction or concession agreements or contracts entered into by a government agency with any domestic or foreign person or entity;
- (12) Private sector participation agreements or contracts in infrastructure and development projects under Republic Act No. 6957, as amended by Republic Act No. 7718, authorizing the financing, construction, operation and maintenance of infrastructure projects;
- (13) Public funding extended to any private entity;
- (14) Bilateral or multilateral agreements and treaties in trade, economic partnership, investments, cooperation and similar binding commitments;
- (15) Licenses, permits or agreements granted by any government agency to any person or entity for the extraction and/or utilization of natural resources and a list of the grantees;

(16) Guarantees given by any government agency to government-owned or -controlled corporations and to private corporations, persons or entities;

(17) Loans from domestic and foreign financial institutions;

(18) Loans, grants, development assistance, technical assistance, and programs entered into by a government agency with official bilateral or multilateral agencies, as well as with private aid agencies or institutions; and

(19) Compromise agreements entered into by a government agency with any person or entity.

The register shall contain a brief description of the transaction involved, including, but not limited to: the nature and object of the transaction, the parties and amounts involved, the key steps undertaken towards its conclusion, and the relevant dates provided that contracts and agreements involving an amount of at least Fifty Million Pesos (Php 50,000,000.00) shall be uploaded in full on the website of the concerned government agency or the Official Gazette online. A covered record shall be enrolled in the register not later than thirty (30) working days from its perfection or issuance.

SEC. 9. Openness and Transparency in Government Agencies. –

Each government agency shall regularly publish, print and disseminate at no cost to the public and in an accessible form, consistent with the provisions of Republic Act No. 9485, or the Anti-Red Tape Act of 2007, and through their website, timely, true, accurate and updated key information including, but not limited to:

- (1) A description of its mandate, structure, powers, functions, duties and decision- making processes;
- (2) A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
- (3) The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
- (4) Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;
- (5) Important rules and regulations, orders or decisions: *Provided*, that they be published within fifteen (15) calendar days from promulgation;
- (6) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;
- (7) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency, including subsequent amendments;
- (8) Current and important database and statistics tl,at it generates;
- (9) Bidding processes and requirements; and
- (10) Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.

1 All government agencies shall over time endeavor and build the
2 capacity and practice to upload in full all other contracts, agreements, or
3 treaties covered under this section, in particular those that are of the highest
4 public interest by reason of the amounts involved and the impact of the
5 transaction to the public.

6 **SEC. 10. Protection of Privacy.** – While providing for access to
7 information in public records, this Act also affords full protection of the
8 right to privacy of individuals, as follows:

9 (a) A government agency must ensure that personal information in its
10 custody or under its control is disclosed only as permitted under
11 this Act;

12 (b) A government agency must protect personal information in its
13 custody or under its control by making reasonable security
14 arrangements against such risks as unauthorized access, collection,
15 use, disclosure, or disposal;

16 (c) An employee, officer or director of a government agency who has
17 access, whether authorized or unauthorized, to personal
18 information in the custody of the agency, must not disclose that
19 information except as authorized under this Act.

20 **SEC. 11. Freedom of Information Manual.** –

21 (a) For the effective implementation of this Act, all government agencies
22 shall prepare a Freedom of Information Manual, indicating the following:

23 (1) The location and contact information of the head, regional,
24 provincial and field offices, and other established places where the
25 public can obtain government information or submit requests;

- (2) The types of information it generates, produces, holds and/or publishes;
- (3) A description of its record-keeping system;
- (4) The person or office responsible for receiving requests for information;
- (5) The procedure for the filing of requests personally, by mail, or through the identified electronic means;
- (6) The standard forms for the submission of request and for the proper acknowledgment of the request;
- (7) The process for the disposition of the request, including the routing of the request to the person or office with the duty to act on the request, the decision making process, and the grant or denial of access and its implementation;
- (8) The procedure for the administrative appeal of any denial for access to information;
- (9) The schedule of fees;
- (10) The process and procedure for the mandatory disclosure of information under Section 8 of this Act: *Provided*, That, should the agency lack the capacity to fully comply therewith, a brief description of its plan to facilitate compliance within three (3) years from the approval of this Act; and
- (11) Such other information, taking into consideration the unique characteristics of an agency, that will help facilitate the effective implementation of this Act.

(b) The foregoing information shall also be posted in its website and bulletin boards, and shall be regularly updated;

(c) In no case shall the absence of the aforementioned Manual be a reason for the denial of any request for information made in accordance with this Act.

(d) The heads of each of the departments and agencies may designate liaison units or Committees who shall coordinate with the other units of the agency in implementing this Act. The composition, functions and duties of these liaison units or Committees shall be included in the FOI Manual.

SEC. 12. Procedure of Access. –

(a) Any person who wishes to obtain information shall submit, free of charge, a request to the government agency concerned personally, by mail, or through electronic means. A person who is unable, because of illiteracy or due to being a person with disability, to make a written request for information may make an oral request, and the public official who receives the oral request shall reduce it to writing, and include his name and position within the government agency, and give a copy thereof to the person who made the request. The request shall state the name and preferred contact information of the requesting party, and reasonably describe the information required, the reason for the request of the information and the preferred means by which the government agency shall communicate such information to the requesting party: *Provided*, that the stated reason shall not be used as a ground to deny the request or to refuse the acceptance of the request, unless such reason is contrary to law. If the request is submitted personally, the requesting

1 party shall show his current identification card issued by any government
2 agency, or government or private employer or school, or a community
3 tax certificate. If the request is submitted by mail or through electronic
4 means, the requesting party may submit a photostatic or electronically
5 scanned copy of the identification, or other convenient means as
6 determined by the agency.

7 (b) The public official receiving the request shall provide reasonable
8 assistance, free of charge, to enable all requesters and particularly those
9 with special needs, to comply with the request requirements under this
10 section.

11 (c) The request shall be stamped by the government agency, indicating the
12 date and time of receipt and the name, rank, title and position of the
13 receiving public officer or employee with the corresponding signature,
14 and a copy thereof furnished to the requesting party. In case the request is
15 submitted by electronic means, the government agency shall provide for
16 an equivalent means by which the requirements of this paragraph shall be
17 met. Each government agency shall establish a system to trace the status
18 of all requests for information received by it.

19 (d) The request may indicate the requesting party's preferred mode and
20 means of receiving the information requested, provided that the mode
21 and means are reasonable, taking into consideration equipment normally
22 available to the concerned government agency.

23 (e) A government agency may communicate the information requested in a
24 form other than the preferred means whenever the agency has no
25 capability in communicating the information in the preferred format, or

1 such preferred means would unreasonably interfere with the effective
2 operation of the agency or be detrimental to the preservation of the
3 record.

4 (f) The government agency shall comply with such request as soon as
5 practicable, and in any case within fifteen (15) working days from the
6 receipt thereof. The period may be extended whenever the information
7 requested requires a search of the government agency's field or satellite
8 offices, examination of voluminous records, the occurrence of fortuitous
9 events or other analogous cases.

10 (g) The government agency shall, in writing or through electronic means,
11 notify the person making the request of the extension, setting forth the
12 reasons for such extension and the date when the information shall be
13 made available, which in no case shall result in an extension of more than
14 twenty (20) working days.

15 (h) Once a decision is made to grant the request, the person making the
16 request shall be notified of such and shall pay the required access and
17 processing fees.

18 If the information is not held by the government agency to which the
19 request was made, it shall notify the requester that it does not hold the
20 information, and indicate to the requester which agency holds the record, if
21 known. Whenever practicable, the agency receiving the request may also
22 cause the transfer of the request to the appropriate agency that holds the
23 information: *Provided*, that the period to comply with the request under this
24 section shall begin to run only upon the receipt of the agency to which the
25 request is transferred.

1 **SEC. 13. Access and Processing Fees.** - Government agencies may
2 charge a reasonable fee to reimburse the actual cost of reproduction, copying
3 or transcription and the communication of the information requested. An
4 agency may waive the fees whenever it is satisfied that the requester is an
5 indigent, or that the cost of reproduction is negligible, or that it is pursuant to
6 a program for proactive disclosure.

7 **SEC. 14. Exemption from Compliance.** - The government agency is
8 excused from complying with a subsequent identical or substantially similar
9 request from the same requesting party where it has previously complied
10 with a request for information unless a reasonable interval has lapsed
11 between compliance with the previous request and the making of the current
12 request: *Provided*, that the government agency complies with Section 15 of
13 this Act.

14 **SEC. 15. Notice of Denial.** - If the government agency decides to
15 deny the request, in whole or in part, it shall, as soon as practicable, and in
16 any case within fifteen (15) calendar days from the receipt of the request,
17 notify the person making the request of such denial in writing or through
18 electronic means. The notice shall clearly set forth the ground or grounds for
19 denial and the circumstances on which the denial is based, and indicate
20 available rights of reconsideration or appeal. Failure to notify the person
21 making the request of the denial, or of the extension, shall be deemed a
22 denial of the request for access to information.

23 **SEC. 16. Remedies in Cases of Denial of Request for**
24 **Information.-**

25 (a) In all government agencies other than the judicial branch:

1 (1) Every denial of any request for access to information may be
2 appealed to the person or office next higher in authority of the same
3 agency, following the procedure mentioned in Section 11 (a)(8) of this
4 Act. *Provided*, that the written appeal must be filed by the same
5 person making the request within fifteen (15) calendar days from the
6 notice of denial. The appeal shall be decided by the person or office
7 next higher in authority of the same agency within five (5) working
8 days from filing of said written appeal. Failure of the government
9 agency to decide within the aforestated period shall constitute denial
10 of the appeal.

11 (2) Upon denial of the appeal with the government agency, the requesting
12 party may file a verified petition for *mandamus* in the proper court,
13 alleging the facts with certainty and praying that judgment be
14 rendered ordering the respondent, immediately or at some other time
15 to be specified by the court, to disclose the requested information.
16 Any action for administrative and/or criminal liability arising from the
17 same act or omission, if any, shall be filed with the Office of the
18 Ombudsman.

19 No damages shall be assessed against the respondent unless it is
20 proven that the respondent acted with malice, bad faith or negligence.

21 The procedure for such petition shall be summary in nature. The court
22 hearing the case is empowered to receive the information subject of a
23 claim of exception under Section 7 herein and examine then in camera
24 to determine the sufficiency of the factual and legal basis of such

claim, when such sufficiency cannot be reasonably determined through evidence and circumstances apart from the information.

(b) In the Judicial Branch, the judiciary shall be governed by such remedies as promulgated by the Supreme Court.

(c) The remedies provided in this section are without prejudice to any other administrative, civil or criminal action covering the same act.

(d) The remedies available under this Act shall be cumulative and subject to the rule of exhaustion of administrative remedies.

(e) The provisions of Republic Act No. 9285, otherwise known as the Alternative Dispute Resolution Act of 2004, shall not apply to cases filed pursuant to this section.

(i) In case the requesting party has limited or no financial capacity, the Public Attorney's Office shall be mandated to provide legal assistance to the requester in availing of the remedies provided under this Act.

SEC. 17. Keeping of Records. -

(a) Government agencies shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation or records of their organization, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, activities, communications and documents received or filed with them and the data generated or collected. These shall include working files such as drafts or notes, whenever these have been circulated within the agency for official purpose such as for discussion, comment or approval or when these contain unique information that can substantially contribute to a proper understanding of the agency organization, policies, transactions,

1 decisions, resolutions, enactments, actions, procedures, operations, and
2 activities;

3 (b) Government agencies shall identify specific and classes of official
4 records in their custody or control that have continuing historical,
5 administrative, informational, legal, evidentiary, or research value for
6 preservation by such agencies or their legitimate successors, or for
7 transfer to the National Archives of the Philippines. In addition, the
8 National Archives of the Philippines shall likewise identify specific and
9 classes of official records that it shall require agencies to preserve and
10 transfer to it.

11 (c) In addition to the specific and classes of official records identified for
12 preservation under letter (b) of this Section, the following shall not be
13 destroyed:

14 (1) Records pertaining to loans obtained or guaranteed by the
15 government;

16 (2) Records of government contracts;

17 (3) The declaration under oath of the assets, liabilities and net worth
18 of public officers and employees, as required by law; and

19 (4) Records of official investigations pertaining to allegations of graft
20 and corruption of public officers.

21 (d) Government agencies shall prepare, following standards and period
22 promulgated pursuant to Republic Act No. 9470 or the National Archives
23 of the Philippines Act 2007 records management program that includes
24 the following:

1 (1) A records maintenance system for the creation, selection,
2 classification, indexing and filing of official records that facilitate
3 the easy identification, retrieval and communication of
4 information to the public;

5 (2) A records maintenance, archival and disposition schedule
6 providing a listing of records under current use, for retention by
7 the agency, for transfer to the National Archives, or for
8 destruction: *Provided*, That destruction of the official records may
9 be implemented only upon approval of the National Archives of
10 the Philippines; and

11 (3) A specification of the roles and responsibilities of agency
12 personnel in the implementation of such system and schedule.

13 (e) In addition to its function as repository of all mles and regulations issued
14 by agencies as provided under Book VII, Chapter II of the Administrative
15 Code of 1987, the University of the Philippines Law Center shall, in
16 coordination with the Office of the President which has exclusive
17 editorial and printing jurisdiction over the Official Gazette, and with
18 other relevant agencies, maintain a database, and publish the same in
19 print in the Official Gazette or in digital or online form, the following:

20 (1) All laws of the Philippines and their amendments, from the period
21 of the Philippine Commission to the present;

22 (2) AU presidential issuances from November 15, 1935 to the present,
23 including but not limited, to executive orders, presidential
24 proclamations, administrative orders, memorandum circulars,
25 general orders, and other similar issuances;

1 (3) A database of all appointments and designations made by the
2 President of the Philippines; and

3 (4) Opinions of the Secretary of Justice.

4 **SEC. 18. Publication in the Official Gazette.** - For purposes of
5 mandatory disclosure as provided in Section 8 of this Act, online publication
6 in the Official Gazette website shall be considered official publication
7 provided there shall be a timestamp in the said document.

8 For purposes of compliance with Article 2 of the Civil Code of the
9 Philippines, publication of the following in the online version of the Official
10 Gazette, with the corresponding timestamps on the document, shall be
11 considered as official publication:

12 (a) All important legislative acts and resolutions of a public nature of
13 the Congress of the Philippines;

14 (b) All executive and administrative orders and proclamations of
15 general application;

16 (c) Decisions or abstracts of decisions of the Supreme Court and the
17 Court of Appeals or other courts of similar rank, as may be
18 deemed by said courts of sufficient importance to be so published;

19 (d) Such documents or classes of documents as the President shall
20 determine from time to time to have general application or which
21 he may authorize to be published. However, other documents or
22 classes of documents as may be required to be published by law,
23 such as petitions and/or legal notices in connection with land
24 titles, naturalization or special proceedings shall continue to be
25 published in the print version of the Official Gazette or in any

1 newspaper of general circulation for purposes of compliance with
2 the publication requirement.

3 **SEC. 19. Capacity-Building, Promotion of Best Practices and**
4 **Continuous Updating of Appropriate Information Technology and FOI.**

5 - All government agencies must ensure that they have a compliant website
6 within two (2) years from the date of effectivity of this Act. The National
7 Computer Center shall monitor all government agency websites and render
8 the appropriate support including capacity-building program and
9 coordination with another appropriate agency, utilizing alternative
10 mechanism and seeking the assistance of private relevant and willing
11 volunteer groups to ensure full compliance with the requirements of this Act.

12 In the performance of its monitoring function of government websites
13 and portals, the National Computer Center shall endeavor to continuously
14 develop, improve and update its information technology system taking into
15 consideration usability and practical accessibility of government documents
16 by the public.

17 Every government agency shall ensure the provision of adequate
18 training for its officials to improve awareness of the people's right to
19 information and the provisions of this Act, and to keep updated as to best
20 practices in relation to information disclosure, records maintenance and
21 archiving.

22 **SEC. 20. Use of Plain Language.** - Every government agency shall
23 endeavor to use plain language in their communications orders, compliance,
24 requirements or instructions issued to implement the provisions of this Act.

1 The government agencies shall translate key information into major Filipino
2 languages and present them in popular form and means.

3 (1) To carry out the provision of this Act, the Civil Service
4 Commission (CSC) is designated to issue guidelines on the use of
5 plain language to suit the needs of the requesting party;

6 (2) The CSC shall provide the necessary training to employees of each
7 government agency in using plain language in public documents;

8 (3) All departments, agencies and instrumentalities of the national
9 government, including government-owned or controlled
10 corporations, local government units and state colleges and
11 universities shall designate an official responsible for
12 implementing the plain language; and

13 (4) Website contents, including, but not limited to financial data,
14 notices and other technical and legal documents, of government
15 agencies must also be written in plain language to ensure that these
16 information are easy to read, understand and use.

17 **SEC 21. Administrative Offenses and Penalties. -**

18 (a) The acts enumerated in this sub-section shall be tantamount to grave
19 administrative offenses and shall constitute grounds for administrative
20 and disciplinary sanction against any public official or employee who
21 willfully and knowingly commits the following:

22 (1) Refusal to promptly forward the request under Section 12 of this
23 Act to the public officer within the same office or agency
24 responsible for officially acting on the request when such is the

1 direct cause of the failure to disclose the information within the
2 periods required by this Act;

3 (2) Failure to act on the request within the periods required by this
4 Act;

5 (3) Refusal to comply with the decision of his immediate supervisor,
6 the Ombudsman, or of any court ordering the release of
7 information;

8 (4) Approval of policies, rules and regulations clearly contrary to the
9 provisions of this Act, and which policies, rules and regulations are
10 the direct cause of the denial of a request for information.

11 (b) The preceding subsection does not bar filing of appropriate
12 administrative cases other than those grave offenses enumerated above.

13 **SEC 22. Criminal Offenses and Penalties.** - The penalty of
14 imprisonment of not less than one (1) month but not more than six (6)
15 months and a fine ranging from Ten Thousand Pesos (Php 10,000.00) to One
16 Hundred Thousand Pesos (Php 100,000.00) shall be imposed upon:

17 (a) Any public official or employee who falsely denies or conceals the
18 existence of information that is a proper subject for disclosure
19 under this Act.

20 (b) Any public official or employee who destroys, or causes to be
21 destroyed, information and/or documents being requested under
22 this Act, for the purpose of frustrating the requesting party's access
23 thereto.

24 (c) Any individual who knowingly directed, induced or caused the
25 commission of the foregoing acts shall be liable as principal by

1 inducement in the prosecution of public officials or employees
2 under this section.

3 (d) Any public officer or employee responsible for officially acting on
4 the request, who shall claim an exception under Section 7 of this
5 Act, or under the Constitution, when such claim is manifestly
6 devoid of factual basis.

7 (e) Any public officer or employee who divulged or released
8 information covered under Section 7 of this Act.

9 (f) Any public officer or employee who divulged or released
10 information that is altered, tampered or modified to the extent that
11 the released information materially differs from the original
12 contents of the document; *Provided*, that altering or modifying a
13 document for the purpose of severing an exempt information from
14 non-exempt information in a single document shall not be
15 punishable under this subsection.

16 If the violation committed in this Act is induced and assisted by a
17 private individual or a corporation, partnership or any kind of judicial entity,
18 the penalty provided herein shall be imposed on its executive officer and/or
19 other officials responsible therefor. *Provided*, that they shall suffer, in
20 addition to the penalties provided herein, the automatic revocation of their
21 license to operate.

22 **SEC. 23. Mere Denial in Good Faith Not a Ground for Liability. -**

23 A mere denial in good faith of a request made pursuant to the provisions of
24 this Act shall not constitute grounds for administrative, civil or criminal
25 liability.

1 **SEC. 24. Act Not a Bar to Claim of Right to Information Under**
2 **the Constitution.** - No provision of this Act shall be interpreted as a bar to
3 any claim of the right to information under Article III, Section 7 of the 1987
4 Constitution .

5 **SEC. 25. Integration of Freedom of Information (FOI) and Good**
6 **Governance in Elementary and Secondary Curriculum.** - To ensure a
7 well-informed generations of citizens, the right to information, the principles
8 of accountability and transparency, democracy and leadership, and good
9 governance shall be integrated in such subjects as Heyograpiya, Kasaysayan
10 at Sibika (HEKASI) and Araling Panlipunan in the elementary level and in
11 such subjects as Social Studies and Makabayan or its equivalent subjects in
12 high school level. The Department of Education in coordination with the
13 Civil Service Commission and other relevant offices shall prepare the
14 necessary modules and teaching programs consistent with the objectives of
15 this Act.

16 **SEC. 26. Reports on FOI.** - All government agencies shall be
17 required to submit annual reports on the number of requests for information
18 received and processed, of appeals 25 made from the denial thereof, and
19 such other information as provided in this Act. The said report may be
20 integrated in the agencies' main Annual Report and its posting and
21 publication in their respective websites shall be considered as sufficient
22 compliance.

23 **SEC. 27. System of Incentives and Rewards.** - A system of special
24 incentives and rewards is hereby established to be given to appropriate
25 government agency or agencies that initiated and displayed compliance and

1 full participation in the meaningful implementation of this Act. The
2 incentives and rewards may include but not limited to social projects, grants-
3 in-aid, national recognition, and similar entitlements.

4 **SEC. 28. Appropriations.** - The amount necessary to carry out the
5 provisions of this Act shall be charged against the agencies' current budget
6 and shall thereafter be included in the annual General Appropriations Act.

7 **SEC. 29. Separability Clause.** - If any section or part of this Act is
8 held unconstitutional or invalid, the other sections or provisions not
9 otherwise affected shall remain in full force and effect.

10 **SEC. 30. Repealing Clause.** - All laws, decrees, executive orders,
11 rules and regulations, issuances or any part thereof inconsistent with the
12 provisions of this Act, including Sections 18, 24 and 25 of Executive Order
13 No. 292 in relation to Article 2 of Republic Act No. 386, Memorandum
14 Circular No. 78 dated 14 August 1964 (Promulgating Rules Governing
15 Security of Classified Matter in Government Offices), as amended, and
16 Section 3, Rule IV of the Rules Implementing Republic Act No. 6713 (Code
17 of Conduct and Ethical Standards for Public Officials and Employees), are
18 deemed repealed: *Provided*, that Memorandum Circular No. 78 shall be
19 deemed repealed after one (1) year from the effectivity of this Act or upon
20 issuance of the Executive Order in Section 7(a) whichever comes first.

21 **SEC. 31. Effectivity.** - This Act shall take effect fifteen (15) days
22 after its publication in at least two (2) national newspapers of general
23 circulation, whichever comes earlier.

Approved,