

EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session



SENATE

19 JUL 18 P1:22

S. B. NO. 606

RECEIVED

A handwritten signature in black ink, appearing to read "J. Villanueva".

Introduced by SENATOR JOEL VILLANUEVA

**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**

EXPLANATORY NOTE

The 1987 Constitution expressly guarantees the right of every Filipino to information on matters of public concern:

"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 such limitations as may be provided by law."

Jurisprudence has also clarified that the Constitutional provisions on the right to information are self-executing (*Legaspi vs. Civil Service Commission*, G.R. No. 72119, May 29, 1987).

Despite the Constitutional guarantee and the judicial affirmation of the right to information and full public disclosure, however, denial of access to information held by the government remains prevalent. Thus, there is a need to enact a law which seeks to strengthen the people's right to information on matters of public concern.

In view of this, this bill seeks to put in place a uniform, speedy and effective means of enforcing the right to information on matters of public concern. This bill also encourages proactive disclosure and obliges

government authorities to publish or make accessible certain information to the public even without prior requests. For example, this bill requires the mandatory disclosure of Statement of Assets, Liabilities, and Net worth (SALN) of certain national officials. In addition, this bill mandates that contracts involving an amount of at least Php50 Million shall be uploaded online and in full.

On the other hand, the bill also provides for limited and strictly construed exceptions to the right to information, such as matters of national security, trade secrets, and presidential privilege. It also guarantees the right to privacy of Filipino citizens and ensure that the disclosure of personal data under the custody of the State shall be done in accordance with the provisions of Republic Act No. 10173 or the Data Privacy Act of 2012. For that reason, information that could endanger the life of an individual or constitute a violation of a person's right to privacy is part of the seventeen (17) exceptions under this measure.

This proposal covers the whole of government, including government-owned and controlled corporations (GOCCs). It requires each government agency to produce a Freedom of Information Manual to guide and assist the public in the processes and procedures involved in requests for information. However, the absence of an FOI manual cannot be used as an excuse to deny the request for information on matters of public concern.

More importantly, this bill requires the concerned government agency to provide the requested information within 15 calendar days. The grounds for denial, together with the available remedies for appeal, shall also be communicated to the requesting party within 15 days. Furthermore, this bill mandates the use of plain language in official communication to make it easy to comprehend by the requester or intended audience.

This measure also institutionalizes penalties for non-compliance or for violation of the FOI law to truly uphold the people's right to information. Hence, this measure provides for criminal and not just administrative liabilities.

Among the acts penalized include falsely denying or concealing the existence of information that is a proper subject for disclosure; falsely claiming an exception under the FOI Law or the Constitution; and divulging or releasing information under covered exceptions and information that is altered, tampered or modified from the original contents of the document.

Finally, the measure creates a system of incentives and rewards to boost compliance of government agencies. The funds necessary to effectively implement this measure shall be included in the General Appropriations Act.

The right to information on matters of public concern is an integral part of the fundamental right of freedom of expression, as recognized by Resolution 59 of the UN General Assembly adopted in 1946, as well as by Article 19 of the Universal Declaration of Human Rights (1948).

At present, more than 90 national FOI laws have been adopted across the world. In the Philippines, the proposed measure has been languishing in Congress for the past 15 years.

Access to accurate information which the government holds will encourage public participation in making important decisions, policies and laws. Furthermore, a free flow of accurate and reliable information held by the government enhances economic performance. The availability of information on official rules, policies, programs, and resource allocation enables the private sector to make sound long-term economic decisions.

Honest disclosure of policy can facilitate doing business in the country, boost private sector investments, and generate more jobs for Filipinos. For example, a mechanism for better data and information management which is publicly accessible will benefit employers and investors who want to set-up a business in the country to efficiently locate the availability of skilled workers by type of skills, sector, and geographical location.

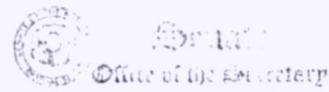
Indeed, freedom of access to information on matters of public interest advances not only democratic ideals but also economic efficiency and competitiveness.

The immediate passage of this bill is earnestly sought.



SENATOR JOEL VILLANUEVA

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AN ACT IMPLEMENTING THE PEOPLE'S RIGHT TO INFORMATION
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DISCLOSURE AND HONESTY IN THE PUBLIC
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*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."

3
4 **SEC. 2. Declaration of Policy.** – The State recognizes the right of the people
5 to information on matters of public concern and adopts and implements a
6 policy of full public disclosure of all its transactions involving public interest,
7 subject to the procedures and limitation provided by the Act. It is likewise a
8 declared policy of the State to promote the meaningful and increased
9 participation of the people in government decision-making and public
10 accountability.

11 Public officials and employees, in the performance of their duties under this
12 Act, as well as citizens in the exercise of their rights under this Act, shall
13 handle information kept or obtained under this Act fairly, lawfully, and with due
14 regard to the full protection of the right to privacy of individuals.

15
16 **SEC. 3. Definition of Terms.** – As used in this Act:
17

18
19 (a) "Information" shall mean any part, portion, or the whole of any public
20 and/or official record, document, paper, report, letters, contract, minutes and
21 transcripts of official meetings, maps, books, photographs, data, research
22 material, film, audio and video recordings, magnetic or other tapes, electronic
23 data, computer stored data, or other like or similar data or material of public

1 concern recorded, stored or archived in whatever form or format, and any
2 content thereof in parts, portion, or in whole, which are made, received or kept
3 in or under the control and custody of any government agency pursuant to
4 law, executive order, rules and regulations, ordinance or in connection with
5 the performance or transaction of official business by any government
6 agency.

7
8 (b) "Information of Public Concern" shall refer to all and any information that a
9 concerned citizen may lawfully request of any government agency.

10
11 (c) "Official record/records" shall refer to information, in final form produced or
12 received by a public officer or employee, or by a government agency in an
13 official capacity or pursuant to a public function or duty.

14
15 (d) "Public record/records" shall include information required by law, executive
16 orders, rules, or regulations to be entered, kept and made publicly
17 available by a government agency.

18
19 (e) "Public service contractor" shall be defined as a private entity that has a
20 dealing, contract or transaction of whatever nature with the government or a
21 government agency/office that utilizes public funds.

22
23 (f) "Personal information" shall refer to any information whether recorded in a
24 material form or not from which the identity of an individual is apparent or can
25 be reasonably and directly ascertained by the entity holding the information or
26 when put together with other information would directly and certainly identify
27 an individual.

28
29 (g) "Sensitive personal information" shall refer to personal information:

30
31 (1) about an individual's race, ethnic origin, marital status, age, color and
32 religious, philosophical or political affiliations;

33
34 (2) about an individual's health, education, genetic or to any proceeding
35 for any offense committed or alleged to have been committed by such
36 person, the disposal of such proceedings, or the sentence of any
37 court in such proceedings;

38
39 (3) issued by government agencies peculiar to an individual which
40 includes, but not limited to, social security numbers previous or
41 current health records, licenses or its denials, suspension or
42 revocation and tax returns; and

43
44 (4) specifically established by an executive order or an act of Congress to
45 be kept classified.

46
47 (g) "Personal data" refers to all types of personal information.

1 (h) "Privileged information" refers to any and all forms of data, which, under
2 the Rules of Court and other pertinent laws constitute privileged
3 communication.

4

5 **SEC. 4. Coverage.** – This Act shall cover all government agencies.
6 Government agency or agencies shall include the executive, legislative and
7 judicial branches as well as constitutional bodies of the Republic of the
8 Philippines including, but not limited to, the national government and all its
9 agencies, departments, bureaus, offices and instrumentalities, constitutional
10 commissions and constitutionally mandated bodies, local governments and all
11 their agencies, regulatory agencies, chartered institutions, government-owned
12 or -controlled corporations (GOCCs), including government financial
13 institutions (GFIs), government instrumentalities with corporate powers
14 (GICP), government corporate entities (GCE), and non-chartered GOCCs,
15 state universities and colleges (SUCs), and state-run technical vocational
16 institutions (STVIs).

17

18 **SEC. 5. Access to Information.** – Every Filipino citizen has a right and shall,
19 on request, be given access to any information of public concern under the
20 control of a government agency regardless of the physical form or format in
21 which they are contained subject only to the exceptions enumerated in
22 Section 7 of this Act.

23

24 **SEC. 6. Presumption.** – There shall be a legal presumption in favor of
25 access to information. No request for information shall be denied unless it
26 clearly falls under the exceptions provided under this Act. Accordingly,
27 government agency shall have the burden of proof of showing by clear and
28 convincing evidence that the information requested is exempted from the
29 disclosure by this Act.

30

31 **SEC. 7. Exceptions.** – Access to information shall be granted unless:

32

33 (a) The information is specifically authorized to be kept confidential and/or
34 privileged under guidelines established by law or an Executive Order
35 consistent with the Constitution, and in fact properly classified pursuant
36 thereto: *Provided, That*

37

38 (1) The information directly relates to national security or defense and its
39 revelation may cause damage to the national security or internal and
40 external defense of the State; or

41

42 (2) The information requested pertains to the foreign affairs of the
43 Republic of the Philippines, when its revelation shall unduly weaken
44 the negotiating position of the government in an ongoing bilateral or
45 multilateral negotiation or seriously jeopardize the diplomatic relations
46 of the Philippines with any state, or prejudice the entrusting of
47 information to the Republic of the Philippines on a basis of confidence
48 by the government of any other country or any international
49 organization: *Provided, That* sufficient information is disclosed to
50 afford reasonable public participation in government decision-making

1 on bilateral and multilateral agreements: *Provided, further,* That the
2 head of the department or agency having custody or possession of
3 such information, shall keep under continuing review all classified
4 information in his custody and may direct the declassification review of
5 such information as needed. Declassification of the information shall
6 be subject to the approval of the President;

7

8 (b) The information consists of minutes or records of advice given or of
9 opinions expressed during decision-making or policy formulation including
10 exchanges when the chief executive was not present, only if invoked by the
11 chief executive to be part of presidential communications privilege. Whenever
12 disclosure would significantly undermine the free and frank provision of advice
13 or exchange of views: *Provided,* That an executive order shall be issued
14 specifying the reasonable period after which information invoked to be
15 privileged under this paragraph shall be made accessible to the public.

16

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

- 19
- 20 (1) Compromise or interfere with any legitimate military or law
21 enforcement operation, or
- 22
- 23 (2) Compromise or interfere with the legitimate prevention, detection or
24 suppression of criminal activity, or the legitimate implementation of
25 immigration controls and border security, or
- 26
- 27 (3) Lead to the disclosure of the identity of a confidential source,
28 including a government, or foreign agency or authority or any private
29 institution which furnished information on a confidential basis, and, in
30 the case of a record or information compiled by a law enforcement
31 authority in the course of an investigation or by an agency conducting
32 a lawful national security intelligence investigation, information
33 furnished by a confidential source, or
- 34
- 35 (4) Disclose legitimate techniques and procedures for law enforcement
36 investigations or prosecutions, or would disclose legitimate guidelines
37 for law enforcement investigations or prosecutions if such disclosure
38 could reasonably be expected to risk circumvention of the law, or
- 39
- 40 (5) Endanger the life or physical safety of any individual, or
- 41
- 42 (6) Deprive a person of a right to a fair trial and impartial adjudication.

43

44 (d) The information requested pertains to matters of human security, such as,
45 but not limited to, food, health, money and trade: *Provided,* That such
46 disclosure or premature disclosure will imperil well-being or degrade the
47 quality of life of people by causing unnecessary panic and conflict and
48 threatening to limit the range of policy choices available to the concerned
49 implementing and regulating agencies: *Provided, further,* That this exception
50 shall apply only until such time that the confidentiality requirement of the

1 action plan of said agency is no longer necessary in addressing the said
2 security issue;

3
4 (e) The information requested pertains to the assistance of government to
5 overseas Filipino workers, including but not limited, to their cases and records
6 on criminal and family cases, and information that could compromise or
7 weaken their case or position in any legal proceeding;

8
9 (f) The information requested involves records of foreign diplomats on
10 diplomatic and consular missions, their arrival and departure, and other
11 information that could compromise their safety or that such information is
12 considered confidential by the Vienna Convention on Diplomatic Relations
13 and the Vienna Convention on Consular Relations;

14
15 (g) The information requested are exempted under a treaty or bilateral
16 agreement to which the Philippines is a party;

17
18 (h) The information requested consists of drafts of orders, resolutions,
19 decisions, memoranda or audit reports by any executive, administrative,
20 regulatory, constitutional, judicial or quasi-judicial body in the exercise of their
21 regulatory, audit and adjudicatory function: *Provided*, That the revelation of
22 the information would impair the impartiality of verdicts or otherwise obstruct
23 the administration of justice;

24
25 (i) The information requested is obtained by either House of Congress, or any
26 committee thereof, in executive session;

27
28 (j) The information requested pertains to the personal and sensitive
29 information of a natural person other than the requesting party, and its
30 disclosure would constitute an unwarranted invasion of his or her personal
31 privacy, unless it forms part of a public record, and the person is or was an
32 official or employee of a government agency and the information relates to his
33 public function and the person has consented, in writing, to the disclosure of
34 the information. To the extent required to prevent an unwarranted invasion of
35 privacy, an agency may redact such personal data from a record made
36 available to the public;

37
38 (k) The information requested forms part of a public record but its
39 disclosure would expose the people concerned to acts of discrimination,
40 unless such information is first redacted by the concerned government
41 agency;

42
43 (l) The information requested pertains to trade secrets and commercial or
44 financial information obtained from a natural or juridical person other than the
45 requesting party, obtained in confidence or covered by privileged
46 communication, and/or filed with a government agency, whenever the
47 revelation thereof would prejudice the interests of such natural or juridical
48 person in trade, industrial, financial or commercial competition. This includes
49 information protected under the Anti-Money Laundering Law, as amended,
50 bank secrecy laws and other laws;

(m) The information is required to be kept confidential by law or consists of privileged information unless the person entitled to the privilege has waived it;

(n) The information requested is exempted from disclosure by the Constitution or by law;

(o) 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, likely lead to speculations in currencies, interest rates, securities, or commodities market; or

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

(p) The information has already been made accessible as provided in Sections 8(a), 9, 11 and 14 of this Act.

(q) The information requested pertains to information about the ongoing evaluation or review of bids or proposals undertaken by the bidding or review committee prior to an official recommendation by the government.

For paragraphs (c) to (q) of this section, the determination whether any of these grounds shall apply shall be the responsibility of the head of office of the government agency in custody or control of the information, or any responsible central or field officer/s duly designated by him, without prejudice to Section 6 above: *Provided*, That:

(1) The exceptions are strictly construed;

(2) The exceptions are not used to cover-up a crime, or any unlawful activity;

(3) The President, the Supreme Court, the Senate, the House of Representatives, and the Constitutional Commissions with a majority vote of the body in accordance with their own rules of procedure when applicable may waive an exception with respect to information in the custody of offices under their respective supervision or control, when they deem that there is an overriding public interest in disclosure;

(4) The exceptions do not constitute authority to withhold information from, or limit the availability of records to congress, or any of its committees;

- 1 (5) The exceptions do not constitute an authority of the executive
2 branch of a local government unit to withhold information from its
3 legislative body;
- 4 (6) Whenever the information requested is part of a record, whose
5 other parts are covered by an exception, but may be reasonably
6 severed from a record, the responding official shall communicate
7 the information not covered by the exception to the requester; and
- 8 (7) The exceptions set forth in this section may be overcome if the
9 requester is able to prove before a court of competent jurisdiction
10 that the public interest in the disclosure of information outweighs the
11 public interest in keeping the information secret or confidential.
- 12 All exempted information under this Section shall be mandatorily reviewed
13 every three (3) years by the head of office or agency in custody or control of
14 the information for reclassification and possible disclosure. *Provided*, That
15 such information to be disclosed by an agency under the executive branch
16 shall be subject to the approval of the President.

20 **SEC. 8. Mandatory Disclosure of Information. -**

21 (a) In fulfillment of Article XI, Section 17 of the Constitution, the following
22 national officials shall disclose to the public their Statement of Assets,
23 Liabilities, and Net worth (SALN) on an annual basis in their official website or
24 the Official Gazette online, notwithstanding the provisions of the Data Privacy
25 Act of 2012:

- 26 (1) President;
27 (2) Vice-President;
28 (3) Members of the Cabinet;
29 (4) Members of Congress;
30 (5) Justices of Supreme Court;
31 (6) Members of Constitutional Commissions and other constitutional
32 offices;
33 (7) Officers of the armed forces with general or flag rank.

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

- 37 (1) Annual Budget of Government Agencies;

- 1 (2) Itemized Monthly Collections and Disbursement;
- 2
- 3 (3) Summary of Income and Expenditures;
- 4
- 5 (4) Component of the IRA Utilization;
- 6
- 7 (5) Annual Procurement Plan and Procurement List;
- 8
- 9 (6) An updated plantilla of positions and vacant positions with
10 qualifications/ requirements in their organizations that need to be
11 filled- up;
- 12
- 13 (7) Items to Bid;
- 14
- 15 (8) Bid Results on Civil Works, and Goods and Services;
- 16
- 17 (9) Abstract of Bids as Calculated;
- 18
- 19 (10) Procurement contracts entered into by a government agency;
- 20
- 21 (11) Construction or concession agreements or contracts entered into by
22 a government agency with any domestic or foreign person or entity;
- 23
- 24 (12) Private sector participation agreements or contracts in infrastructure
25 and development projects under Republic Act No. 6957, as
26 amended by Republic Act No. 7718, authorizing the financing,
27 construction, operation and maintenance of infrastructure projects;
- 28
- 29 (13) Public funding extended to any private entity;
- 30
- 31 (14) Bilateral or multilateral agreements and treaties in trade, economic
32 partnership, investments, cooperation and similar binding
33 commitments;
- 34
- 35 (15) Licenses, permits or agreements granted by any government
36 agency to any person or entity for the extraction and/or utilization of
37 natural resources and a list of the grantees;
- 38
- 39 (16) Guarantees given by any government agency to government-
40 owned or controlled corporations and to private corporations,
41 persons or entities;
- 42
- 43 (17) Loans from domestic and foreign financial institutions;
- 44
- 45 (18) Loans, grants, development assistance, technical assistance, and
46 programs entered into by a government agency with official bilateral
47 or multilateral agencies, as well as with private aid agencies or
48 institutions;

- 1
2 (19) Compromise agreements entered into by a government agency with
3 any person or entity;
4
5 (20) Scholarships and vouchers issued by relevant government
6 agencies; and
7
8 (21) Alien Employment Permits (AEPs) and other work permits issued to
9 foreigners, subject to the requirements of the Data Privacy Act of
10 2012.

11
12 The register shall contain a brief description of the transaction involved
13 including, but not limited to, the nature and object of the transaction, the
14 parties and amounts involved, the key steps undertaken towards its
15 conclusion, and the relevant dates; *Provided*, That contracts and agreements
16 involving an amount of at least Fifty Million Pesos (Php50,000,000.00) shall
17 be uploaded in full on the website of the concerned government agency or the
18 Official Gazette online. A covered record shall be enrolled in the register not
19 later than thirty (30) working days from its perfection or issuance.
20

21 **SEC. 9. Openness and Transparency in Government Agencies.** – Each
22 government agency shall make available upon the request of any citizen at no
23 cost and in an accessible form, consistent with the provisions of Republic Act
24 No. 9485, or the Anti-Red Tape Act of 2007 and Republic Act No. 11032, or
25 the Ease of Doing Business and Efficient Government Service Delivery Act of
26 2018, and through their website, timely, true, complete, accurate and updated
27 key information including, but not limited to:

- 28
29 (1) A description of its mandate, structure, powers, functions, duties and
30 decision-making processes;
31
32 (2) A description of the frontline services it delivers and the procedure
33 and length of time by which they may be availed of;
34
35 (3) The names of its key officials, their powers, functions and
36 responsibilities, and their profiles;
37
38 (4) Audited financial statements, and budget and expenditure records;
39
40 (5) Statements of assets, liabilities and net worth of all public officials
41 with Salary Grade 27 and above or heads of office;
42
43 (6) Monthly income including allowances and sources of income of all
44 public officials with Salary Grade 27 and above and heads of office;
45 *Provided*, That names of minor children, if any, may be redacted;
46
47 (7) Work programs, development plans, investment plans, projects,
48 performance targets and accomplishments, and budgets,
49 revenue allotments and expenditures;

- 1
2 (8) Important rules and regulations, orders or decisions: *Provided*, That
3 they be published within fifteen (15) calendar days from promulgation;
4
5 (9) Rules of procedure, descriptions of forms available or the places at
6 which forms may be obtained, and instructions as to the scope and
7 contents of all papers, reports, or examinations;
8
9 (10) Substantive rules of general applicability adopted as authorized by
10 law, and statements of general policy or interpretations of general
11 applicability formulated and adopted by the agency, including
12 subsequent amendments;
13
14 (11) Current and important database and statistics that it generates;
15
16 (12) Bidding processes, deadlines and requirements;
17
18 (13) Mechanisms or procedures by which the public may participate in or
19 otherwise influence the formulation of policy or the exercise of its
20 powers; and
21
22 (14) Any disclaimer that shall announce true and correct information
23 relative to a matter of public concern that has been the subject of
24 untruthful or inaccurate publication in media.

25 All government agencies, shall over time, endeavor and build the capacity and
26 practice to upload in full all other contracts, agreements, or treaties covered
27 under this Section, in particular those that are of the highest public interest by
28 reason of the amounts involved and the impact of the transaction to the
29 public.

30
31 **SEC. 10. Protection of Privacy.** – While providing for access to information
32 in public records, this Act also affords full protection of the right to privacy of
33 individuals, as follows:

34
35 (a) Disclosure of public records involving personal data shall be guided by the
36 principle of transparency, legitimate purpose, and proportionality;

37
38 (b) A government agency must ensure that personal data in its custody or
39 under its control is disclosed only as permitted under this Act;

40
41 (c) A government agency must protect personal data in its custody or under
42 its control in accordance with the provisions of the Data Privacy Act of 2012,
43 its implementing rules and regulations, and issuances by the National Privacy
44 Commission; and

45
46 (d) An employee, officer or official of a government agency who has access,
47 whether authorized or unauthorized, to personal data in the custody of the

1 agency, has the duty to keep the personal data confidential except as
2 authorized under this Act.

3

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

5

6 (a) For the effective implementation of this Act, all government agencies shall
7 prepare a Freedom of Information Manual, within six (6) months from the
8 effectivity of this Act indicating the following:

- 9
- 10 (1) The location and contact information of the head, regional, provincial
11 and field offices, and other established places where the public can
12 obtain government information or submit requests;
- 13
- 14 (2) The types of information it generates, produces, holds and/or
15 publishes;
- 16
- 17 (3) A description of its record-keeping system;
- 18
- 19 (4) The person or office responsible for receiving requests for
20 information;
- 21
- 22 (5) The procedure for the filing of requests personally, by mail, or through
23 the identified electronic means;
- 24
- 25 (6) The standard forms for the submission of request and for the proper
26 acknowledgment of the request;
- 27
- 28 (7) The process for the disposition of the request, including the routing of
29 the request to the person or office with the duty to act on the request,
30 the decision making process, and the grant or denial of access and its
31 implementation;
- 32
- 33 (8) The procedure for the administrative appeal of any denial for access
34 to information;
- 35
- 36 (9) The schedule of fees;
- 37
- 38 (10) The process and procedure for the mandatory disclosure of
39 information under Section 8 of this Act: *Provided*, That, should the
40 agency lack the capacity to fully comply therewith, a brief description
41 of its plan to facilitate compliance within three (3) years from the
42 approval of this Act; and
- 43
- 44 (11) Such other information, taking into consideration the unique
45 characteristics of an agency that will help facilitate the effective
46 implementation of this Act;
- 47

1 The foregoing information shall also be posted in its website and bulletin
2 boards, and shall be regularly updated; Provided, That the absence of the
3 Manual as provided under this Section shall not be a reason for the denial of
4 any request for information made in accordance with this Act.
5

6 For the proper implementation of this Act, the heads of each of the
7 departments and agencies may designate liaison units or Committees who
8 shall coordinate with other agencies in implementing this Act. The
9 composition, functions and duties of these liaison units or Committees shall
10 be included in the FOI Manual.

11

12 **SEC. 12. Procedure of Access. –**

13

14 (a) Any person who wishes to obtain information shall submit, free of charge,
15 a request to the government agency concerned personally, by mail, or
16 through electronic means. A person who is unable to make a written request
17 for information, because of illiteracy or disability, may make an oral request,
18 and the public official who receives the oral request shall reduce it in writing,
19 and include his name and position within the government agency, and give a
20 copy thereof to the requesting party. The request shall state the name and
21 preferred contact information of the requesting party, and reasonably describe
22 the information required, the reason for the request of the information and the
23 preferred means by which the government agency shall communicate such
24 information to the requesting party: *Provided*, That the stated reason shall not
25 be used as a ground to deny the request or to refuse the acceptance of the
26 request, unless such reason is contrary to law, public order or public policy. If
27 the request is submitted personally, the requesting party shall show his
28 current identification card issued by any government agency or government or
29 private employer or school, or a community tax certificate. If the request is
30 submitted by mail or through electronic means, the requesting party may
31 submit a photostatic or electronically scanned copy of verifiable identification,
32 or other convenient means as determined by the agency.

33

34 (b) The public official receiving the request shall provide reasonable
35 assistance, free of charge, to enable all requesters and particularly those with
36 special needs, to comply with the requirements under this Section.

37

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

46

47 (d) The request may indicate the requesting party's preferred mode and
48 means of receiving the information requested, provided that the mode and

1 means are reasonable, taking into consideration equipment normally available
2 to the concerned government agency.

3
4 (c) A government agency may communicate the information requested in
5 a form other than the preferred means whenever the agency has no capability
6 in communicating the information in the preferred format, or such preferred
7 means would unreasonably interfere with the effective operation of the agency
8 or be detrimental to the preservation of the record.

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

16
17 (g) The government agency shall, in writing or through electronic means,
18 notify the person making the request of the extension, setting forth the
19 reasons for such extension and the date when the information shall be made
20 available, which in no case shall result in an extension of more than twenty
21 (20) working days.

22
23 (h) Once a decision is made to grant the request, the person making the
24 request shall be notified of such and shall pay the required access and
25 processing fees.

26 If the information is not held by the government agency to which the request
27 was made, it shall notify the requester of this fact, and indicate to the
28 requester which agency holds the record, if known. Whenever practicable, the
29 agency receiving the request may also cause the transfer of the request to the
30 appropriate agency that holds the information: Provided, That the period to
31 comply with the request under this Section shall begin to run only upon the
32 receipt of the agency to which the request is transferred.

33
34 **SEC. 13. Access and Processing Fees.** – Government agencies may
35 charge a reasonable fee which shall in no case exceed the actual cost of
36 reproduction, copying or transcription and the communication of the
37 information requested. An agency may waive the fees whenever it is satisfied
38 that the requester is an indigent, or that the cost of reproduction is negligible,
39 or that it is pursuant to a program for proactive disclosure.

40
41 **SEC. 14. Exemption from Compliance.** – A government agency is excused
42 from complying with a subsequent identical or substantially similar request
43 from the same requesting party if both requests will require the agency to
44 provide the same information to the requesting party, unless a reasonable
45 interval has lapsed between compliance with the previous request and the
46 making of the current request: *Provided*, That the government agency
47 complies with Section 15 of this Act.

48
49

1 **SEC. 15. Notice of Denial.** – If the government agency decides to deny the
2 request, in whole or in part, it shall, as soon as practicable, and in any case
3 within fifteen (15) calendar days from the receipt of the request, notify the
4 person making the request of such denial in writing or through electronic
5 means. The notice shall clearly set forth the ground or grounds for denial and
6 the circumstances on which the denial is based, and indicate available rights
7 of reconsideration or appeal. Failure to notify the person making the request
8 of the denial, or of the extension, shall be deemed a denial of the request for
9 access to information.

11 SEC. 16. Remedies in Cases of Denial of Request for Information. –

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

- 15 (1) Every denial of any request for access to information may be
16 appealed to the person or office next higher in authority of the same
17 agency, following the procedure mentioned in Section 11 (a)(8) of this
18 Act: *Provided*, That the written appeal must be filed by the same
19 person making the request within fifteen (15) calendar days from the
20 notice of denial. The appeal shall be decided within five (5) working
21 days from filing of said written appeal; otherwise, the appeal shall be
22 deemed granted.

23

24 (2) Upon denial of the appeal with the government agency, the requesting
25 party may file a verified petition for mandamus in the proper court,
26 alleging the facts with certainty and praying that judgment be rendered
27 ordering the respondent, immediately or at some other time to be
28 specified by the court, to disclose the requested information. Unless
29 restrained or enjoined, the decision of the court shall be immediately
30 executory without prejudice to review in accordance with the Rules of
31 Court. Any action for administrative and/or criminal liability arising from
32 the same act or omission, if any, shall be filed with the Office of the
33 Ombudsman. No damages shall be assessed against the respondent
34 unless it is proven that the respondent acted with malice, bad faith or
35 negligence. Subject to the provisions of existing laws and the
36 issuances of the Supreme Court, all courts shall give preference to the
37 hearing and disposition of petitions for mandamus filed pursuant to the
38 provisions of this Act. The court hearing the case is empowered to
39 receive the information subject of a claim of exception under Section 7
40 herein and examine them in camera to determine the sufficiency of the
41 factual and legal basis of such claim, when such sufficiency cannot be
42 reasonably determined through evidence and circumstances apart
43 from the information.

44

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

47

48 (c) The remedies provided in this Section are without prejudice to any other

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

3
4 The provisions of Republic Act No. 9285, otherwise known as the Alternative
5 Dispute Resolution Act of 2004, shall not apply to cases filed pursuant to this
6 Section.

7
8 (e) In case the requesting party has limited or no financial capacity, the Public
9 Attorney's Office shall be mandated to provide legal assistance to the
10 requester in availing of the remedies provided under this Act.

11
12 **SEC. 17. Keeping of Records. –**

13
14 (a) Government agencies shall create and/or maintain in appropriate formats,
15 accurate and reasonably complete documentation or records of their
16 organization, policies, transactions, decisions, resolutions, enactments,
17 actions, procedures, operations, activities, communications and documents
18 received or filed with them and the data generated or collected. These shall
19 include working files such as drafts or notes, whenever these have been
20 circulated within the agency for official purpose such as for discussion,
21 comment or approval or when these contain unique information that can
22 substantially contribute to a proper understanding of the agency organization,
23 policies, transactions, decisions, resolutions, enactments, actions,
24 procedures, operations, and activities. This likewise include information
25 submitted by public service contractors to the government agency concerned
26 such as receipts, identities of the suppliers, purchase orders, cash vouchers,
27 related agreements with other private entities, and other documents related to
28 the execution or the implementation of their transactions or contracts with the
29 government agency involved;

30
31 (b) Government agencies shall identify specific and classes of official
32 records in their custody or control that have continuing historical,
33 administrative, informational, legal, evidentiary, or research value for
34 preservation by such agencies or their legitimate successors, or for transfer to
35 the National Archives of the Philippines. In addition, the National Archives of
36 the Philippines shall likewise identify specific and classes of official records
37 that it shall require agencies to preserve and transfer to it;

38
39 (c) In addition to the specific and classes of official records identified for
40 preservation under letter (b) of this Section, the following shall not be
41 destroyed:

- 42
43 (1) Records pertaining to loans obtained or guaranteed by the
44 government;
45 (2) Records of government contracts;
46 (3) The declaration under oath of the assets, liabilities and net worth of
47 public officers and employees, as required by law; and
48 (4) Records of official investigations pertaining to allegations of graft
49 and corruption of public officers.

1 (d) Government agencies shall prepare, following standards and period
2 promulgated pursuant to Republic Act No. 9470 or the National Archives of
3 the Philippines Act of 2007, a records management program that includes the
4 following:

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

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

15
16 (3) A specification of the roles and responsibilities of agency personnel
17 in the implementation of such system and schedule.

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

26
27 (1) All laws of the Philippines and their amendments, from the period of
28 the Philippine Commission to the present;

29
30 (2) All presidential issuances from November 15, 1935 to the present
31 including, but not limited, to executive orders, presidential
32 proclamations, administrative orders, memorandum circulars,
33 general orders, and other similar issuances;

34
35 (3) A database of all appointments and designations made by the
36 President of the Philippines; and

37
38 (4) Opinions of the Secretary of Justice.

39
40 **SEC. 18. Publication in the Official Gazette.** — For purposes of mandatory
41 disclosure as provided in Section 8 of this Act, online publication in the Official
42 Gazette website shall be considered official publication; *Provided*, That all
43 documents published therein shall have a valid timestamp to be considered
44 as official publication as provided under this Section.

45
46 For purposes of compliance with Article 2 of the Civil Code of the Philippines,
47 publication of the following in the online version of the Official Gazette, with
48 the corresponding timestamps on the document, shall be considered as
49 official publication:

5 (b) All executive and administrative orders and proclamations of general
6 application;

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

12 (d) Such documents or classes of documents as the President shall determine
13 from time to time to have general application or which he may authorize to be
14 published. However, other documents or classes of documents as may be
15 required to be published by law, such as petitions and/or legal notices in
16 connection with land titles, naturalization or special proceedings shall continue
17 to be published in the print version of the Official Gazette or in any newspaper
18 of general circulation for purposes of compliance with the publication
19 requirement.

SEC. 19. Capacity-Building, Promotion of Best Practices and Continuous Updating of Appropriate Information Technology and FOI. – All government agencies must ensure that they have a compliant website within two (2) years from the date of effectivity of this Act. The Department of Information and Communications Technology (DICT) shall monitor all government agency websites and render the appropriate support including capacity-building program and coordination with another appropriate agency, utilizing alternative mechanism and seeking the assistance of private relevant and willing volunteer groups to ensure full compliance with the requirements of this Act.

In the performance of its monitoring function of government websites and portals, the DICT shall endeavor to continuously develop, improve and update its information technology system taking into consideration usability and practical accessibility of government documents by the public.

37 The DICT shall be responsible for setting the standards for the file formats to
38 be used by the political subdivisions of the State, including all national and
39 local government agencies including GOCCs with or without an original
40 charter, in the publication of government public information in accordance with
41 the provisions of this Act.

43 Every government agency shall ensure the provision of adequate training for
44 its officials to improve awareness of the people's right to information and the
45 provisions of this Act, and to keep updated on the best practices in relation to
46 information disclosure, records maintenance and archiving.

SEC. 20. Use of Plain Language. – Every government agency shall endeavor to use plain language in their orders, compliance, requirements or instructions issued to implement the provisions of this Act. The government

1 agencies shall, as far as practicable, translate key information into the Filipino
2 language and other major languages in the Philippines and present them in
3 popular form and means.

- 4
- 5 (1) To carry out the provision of this Act, the Civil Service Commission
6 (CSC) is designated to issue guidelines on the use of plain language
7 in all government agencies to suit the needs of the requesting party;
- 8
- 9 (2) The CSC shall provide the necessary training to employees of each
10 government agency in using plain language in public documents;
- 11
- 12 (3) All departments, agencies and instrumentalities of the national
13 government, including government-owned or -controlled corporations,
14 local government units and state colleges and universities shall
15 designate an official responsible for implementing the plain language
16 requirement under this Act; and
- 17
- 18 (4) Website contents including, but not limited to, financial data, notices
19 and other technical and legal documents, of government agencies
20 shall also be written in plain language to ensure relevant information
21 is easy to read, understand and use.
- 22

23 **SEC. 21. Administrative Offenses and Penalties. –**

24

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

- 29
- 30 (1) Refusal to promptly forward the request under Section 12 of this Act to
31 the public officer within the same office or agency responsible for
32 officially acting on the request when such is the direct cause of the
33 failure to disclose the information within the periods required by this
34 Act;
- 35
- 36 (2) Failure to act on the request within the periods required by this Act;
- 37
- 38 (3) Refusal to comply with the decision of his immediate supervisor, or of
39 any court ordering the release of information;
- 40
- 41 (4) Approval of policies, rules and regulations clearly contrary to the
42 provisions of this Act, and which policies, rules and regulations are the
43 direct cause of the denial of a request for information;
- 44
- 45 (5) Failure to upload information required to be posted on an agency's
46 website within the period provided under Section 19: *Provided*, That
47 the head of agency or any other officer or employee tasked to perform
48 said uploading shall be held liable.
- 49

1 (b) For the avoidance of doubt, the preceding subsection shall not bar the
2 filing of appropriate administrative cases, other than the grave offenses
3 enumerated above.

4
5 **SEC. 22. Criminal Offenses and Penalties.** — The penalty of imprisonment
6 of not less than one (1) month but not more than six (6) months and a fine
7 ranging from Ten Thousand Pesos (Php10,000.00) to One Hundred
8 Thousand Pesos (Php100,000.00) shall be imposed upon:

9
10 (a) Any public official or employee who falsely denies or conceals the
11 existence of information that is a proper subject for disclosure under this Act.

12
13 (b) Any public officer or employee responsible for officially acting on the
14 request, who shall claim an exception under Section 7 of this Act, or under the
15 Constitution, when such claim is manifestly devoid of factual basis.

16
17 (c) Any individual who divulged or released information covered under Section
18 7 of this Act.

19
20 (d) Any public officer or employee who divulged or released information that is
21 altered, tampered or modified to the extent that the released information
22 materially differs from the original contents of the document: *Provided*, That
23 altering or modifying a document for the purpose of severing an exempt
24 information from non-exempt information in a single document shall not be
25 punishable under this subsection.

26
27 (e) The responsible officers of the public service contractor and the
28 signatories to the contract or any document evidencing transaction with the
29 government or government agency who fail to submit the necessary
30 documents/papers.

31
32 Any individual who knowingly directed, induced or caused the commission of
33 the foregoing acts shall be liable as principal by inducement in the prosecution
34 of public officials or employees under this Section.

35
36 If the violation committed in this Act is induced and assisted by a private
37 individual or a corporation, partnership or any kind of judicial entity, the
38 penalty provided herein shall be imposed on its executive officer and/or other
39 officials responsible therefor: *Provided*, That they shall suffer, in addition to
40 the penalties provided herein, the automatic revocation of their license to
41 operate.

42
43 Any public official or employee who willfully destroys, or causes to be
44 destroyed, or sells, information and/or documents being requested under this
45 Act, for the purpose of frustrating the requesting party's access thereto shall
46 suffer a fine of not less than Five Hundred Thousand Pesos (Php500,000.00)
47 but not more than One Million Pesos (Php1,000,000.00) or a penalty of five
48 (5) years but not more than fifteen (15) years, or both, at the discretion of the
49 Court.

50

- 1 **SEC. 23. Denial in Good Faith Not a Ground for Liability.** – A denial in
2 good faith of a request made pursuant to the provisions of this Act shall not
3 constitute grounds for administrative, civil or criminal liability. In case of denial
4 of the request, the public official, officer or employee involved must prove that
5 he/she acted in good faith by specifying the ground/s relied upon for the
6 denial.
7
- 8 **SEC. 24. Act Not a Bar to Claim of Right to Information Under the
9 Constitution.** – No provision of this Act shall be interpreted as a bar to any
10 claim of the right to information under Article III, Section 7 of the Constitution.
11
- 12 **SEC. 25. Integration of Freedom of Information (FOI) and Good
13 Governance in the Curriculum.** – To ensure a well-informed generation of
14 citizens, the right to information, the principles of accountability and
15 transparency, democracy and leadership, and good governance shall be
16 integrated in subjects, such as Heyograpiya, Kasaysayan at Sibika (HEKASI)
17 and Araling Panlipunan in the elementary level and in subjects such as Social
18 Studies and Makabayan or its equivalent subjects in the high school level.
19
- 20 The Technical Education and Skills Development Authority (TESDA) and the
21 Commission on Higher Education (CHED) shall likewise integrate lessons on
22 the right to information, the principles of accountability and transparency,
23 democracy and leadership, and good governance in their training modules or
24 curriculum.
25
- 26 The Department of Education, TESDA and CHED, in coordination with the
27 Civil Service Commission and other relevant offices, shall prepare the
28 necessary modules and teaching programs consistent with the objectives of
29 this Act.
30
- 31 **SEC. 26. Reports on FOI.** – All government agencies shall be required to
32 submit annual reports on the number of requests for information received and
33 processed, of appeals made from the denial thereof, and such other
34 information as provided in this Act. The said report may be integrated in the
35 agencies' main Annual Reports; *Provided*, That the posting and publication of
36 this information in the respective websites of the concerned agencies shall be
37 considered sufficient compliance.
38
- 39 **SEC. 27. System of Incentives and Rewards.** – A system of special
40 incentives and rewards is hereby established to be given to appropriate
41 government agency or agencies that initiated and displayed compliance and
42 full participation in the meaningful and effective implementation of this Act.
43 The incentives and rewards may include, but shall not be limited to, social
44 projects, grants-in-aid, national recognition, and similar entitlements.
45
- 46 **SEC. 28. Appropriations.** – The amount necessary to carry out the
47 provisions of this Act shall be charged against the agencies' current budget
48 and shall thereafter be included in the annual General Appropriations Act.
49

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

4
5 **SEC. 30. Repealing Clause.** – All laws, decrees, executive orders, rules and
6 regulations, issuances or any part thereof inconsistent with the provisions of
7 this Act, including Sections 18, 24 and 25 of Executive Order No. 292 in
8 relation to Article 2 of Republic Act No. 386, Memorandum Circular No. 78
9 dated 14 August 1964 (Promulgating Rules Governing Security of Classified
10 Matter in Government Offices), as amended, and Section 3, Rule IV of the
11 Rules Implementing Republic Act No. 6713 (Code of Conduct and Ethical
12 Standards for Public Officials and Employees), are deemed repealed
13 accordingly: *Provided*, That Memorandum Circular No. 78 shall be deemed
14 repealed after one (1) year from the effectivity of this Act or upon issuance of
15 the Executive Order in Section 7(a) whichever comes first.

16
17 **SEC. 31. Effectivity.** - This Act shall take effect fifteen (15) days after its
18 publication in the Official Gazette or in at least two (2) national newspapers of
19 general circulation.

20 **Approved,**
21
22