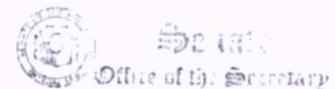


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE
S. No. 121

19 JUL -2 A8:55

Introduced by Senator Grace Poe

RECEIVED [Signature]

**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

At the very onset of no less than the 1987 Constitution of the Philippines ("Constitution"), it has been enshrined in one of the "State Policies" that "the State recognizes the vital role of communication and **information** in nation-building."¹ As a matter of fact, the last of the "State Policies" in the Constitution provides that "subject to reasonable conditions prescribed by law, the State adopts and implements a **policy of full public disclosure of all its transactions involving public interest.**"²

To further emphasize and guarantee the people's right to information, Section 7 of Article III (the "Bill of Rights") of the Constitution provides:

"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.**"

The above-cited constitutional right to information fosters public participation in nation-building, and arms the citizenry to detect and battle a very wide array of probable misdeeds and/or wrongdoings in the government, in the name of public accountability, which is the core of democratic governance.

Transparency is essential to accountability. Without transparency, citizens cannot access the information needed to collectively discern the fitness of public officials, elected otherwise, to hold public office. "Open dialogue can be effective

¹ Article II, Section 24 of the 1987 Constitution.

² Article II, Section 28 of the 1987 Constitution.

only to the extent that the citizenry is informed and thus able to formulate its will intelligently. Only when the participants in the discussion are aware of the issues and have access to information relating thereto can such bear fruit.”³

While the Supreme Court has consistently held that the right to information under the Bill of Rights is self-executory, it lacks the substantive and procedural details necessary for its effective and predictable implementation. The lack of implementing legislation bars the effective utilization of the right to information, thus stifling democratic politics and public accountability. This is in contrast to the seeming global trend favoring the implementation of the right to information as evidenced by the fact that 109 countries already have FOI laws as of 2018. The afore-mentioned number of countries with Freedom of Information (“FOI”) laws does not even include countries with FOI-related administrative issuances.

Fortunately, on 23 July 2016, President Rodrigo Roa Duterte (the “President”) signed and issued *Executive Order (“E.O.”) No. 2 entitled, “Operationalizing in the Executive Branch the People’s Constitutional Right to Information and the State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor”*.

The implementation of E.O. No. 2 in the executive branch had yielded to the following results as of 15 May 2018:

1. Uploading of FOI Manuals in websites: 100% compliance, or 190 out of 190, for National Government Agencies; 82% compliance, or 98 out of 120, for Government Owned and Controlled Corporations; 89% compliance, or 101 out of 113, for State Universities and Colleges; and 33% compliance, or 172 out of 508, for Local Water Districts;
2. Processing of 4,440 FOI requests to 271 government via the e-FOI portal www.foi.gov.ph; and
3. FOI information, education and communication campaign: 30 orientation sessions, 78 technical on-boarding workshops, 19 collaborative meetings, and 5 other successful events, among others.

Furthermore, in lieu of the issuance and/or implementation of E.O. No. 2, the Philippine Government had participated in international events furthering FOI such as in the Open Government Partnership (OGP) Summit in 2016, the International Conference of Information Commissioners (ICIC) in October 2017, the event on Making All Voices Count (MAVC) in November 2017, and the United Nations’ Workshop on Open Government SDG in 2017, among others.

³ Valmonte vs. Belmonte, G.R. No. 74930, 13 February 1989.

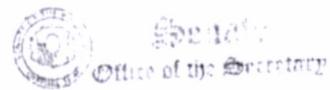
Despite the on-going success of the implementation of E.O. No. 2 in the executive branch, its implementors continue to push the Legislative Branch of the Government, or the Congress, to fast-track the enactment of an FOI Law to cover all branches of the Philippine Government, to provide for much-needed budget and personnel, to provide for an all-encompassing and uniform standard of procedure and FOI manuals applicable to the entirety of government agencies and instrumentalities, and criminal penalties and fines for FOI violations, among others – matters than can only be provided by a law enacted by the Congress.

In view of the foregoing, there should be no more questions or arguments against the enactment of an FOI law in the Philippines. This bill, which the Senate of the 16th Congress had approved on third reading after much deliberations and/or interpellation, has already considered and incorporated inputs and ideas of various stakeholders from the previous two (2) Congresses. Thus, swift passage of this Bill is hereby earnestly sought.



GRACE POE

EIGHTEENTH CONGRESS OF THE
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**AN ACT
IMPLEMENTING THE PEOPLE'S RIGHT TO INFORMATION AND THE
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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 Freedom of
2 Information Act of 2019."

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

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

13 Sec. 3. *Definition of Terms.* – As used in this Act:

14 (a) *Information* – shall mean any public and/or official record, document,
15 paper, report, letters, contract, minutes and transcripts of official
16 meetings, maps, books, photographs, data, research material, film,
17 audio and video recordings, magnetic or other tapes, electronic data,

1 computer stored data, or other like or similar data or material of public
2 concern recorded, stored or archived in whatever form or format,
3 which are made, received or kept in or under the control and custody
4 of any government agency pursuant to law, executive order, rules and
5 regulations, ordinance or in connection with the performance or
6 transaction of official business by any government agency.

- 7 (b) *Official record/records* – shall refer to information, in final form
8 produced or received by a public officer or employee, or by a
9 government agency in an official capacity or pursuant to a public
10 function or duty.
- 11 (c) *Public record/records* – shall include information required by law,
12 executive orders, rules, or regulations to be entered, kept and made
13 publicly available by a government agency.
- 14 (d) *Public service contractor* – shall be defined as a private entity that
15 has a dealing, contract or transaction of whatever form or kind with
16 the government or a government agency/office that utilizes public
17 funds.
- 18 (e) *Personal information* – shall refer to any information whether recorded
19 in a material form or not from which the identity of an individual is
20 apparent or can be reasonably and directly ascertained by the entity
21 holding the information or when put together with other information
22 would directly and certainly identify an individual.
- 23 (f) *Sensitive personal information* – shall refer to personal information:
24 (1) about an individual's race, ethnic origin, marital status, age,
25 color and religious, philosophical or political affiliations;
26 (2) about an individual's health, education, genetic or sexual life of
27 a person or to any proceeding for any offense committed or
28 alleged to have been committed by such person, the disposal of
29 such proceedings, or the sentence of any court in such
30 proceedings;
31 (3) issued by government agencies peculiar to an individual which
32 includes, but not limited to, social security numbers previous or

current health records, licenses or its denials, suspension or revocation and tax returns; and

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

(q) *Personal Data* – refers to all types of personal information.

(h) *Privileged Information* – refers to any and all forms of data, which, under the Rules of Court and other pertinent laws, constitute privileged communication.

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

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

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

29 Sec. 7. *Exceptions.* – Access to information shall be granted unless:

30 (a) The information is specifically authorized to be kept confidential under
31 guidelines established by an Executive Order, and in fact properly classified
32 pursuant thereto: *Provided*, That:

1 (1) The information directly relates to national security or defense and its
2 revelation may cause damage to the national security or internal and
3 external defense of the State; or
4 (2) The information requested pertains to the foreign affairs of the Republic of
5 the Philippines, when its revelation shall unduly weaken the
6 negotiating position of the government in an ongoing bilateral or
7 multilateral negotiation or seriously jeopardize the diplomatic relations of
8 the Philippines with any state, or prejudice the entrusting of information to
9 the Republic of the Philippines on a basis of confidence by the government
10 of any other country or any international organization: *Provided*, That
11 sufficient information is disclosed to afford reasonable public participation
12 in government decision-making on bilateral and multilateral agreements:
13 *Provided, further*, That the head of the department or agency having
14 custody or possession of such information, shall keep under continuing
15 review all classified information in his custody and may direct the
16 declassification review of such review as needed. Declassification of the
17 information shall be subject to the approval of the President.

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

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

- 28 (1) Compromise or interfere with any legitimate military or law enforcement
29 operation, or
30 (2) Compromise or interfere with the legitimate prevention, detection or
31 suppression of criminal activity, or the legitimate implementation of
32 immigration controls and border security, or

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

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

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

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

(d) The information requested pertains to matters of human security, such but not limited to, food, health, money and trade: *Provided*, That such disclosure or premature disclosure will imperil our well-being or degrade the quality of our people by causing unnecessary panic and conflict and threatening to the range of policy choices available to the concerned implementing and operating agencies: *Provided, further*, That this exception shall apply only until the time that the confidentiality requirement of the action plan of said agency is no longer necessary in addressing the said security issue.

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

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

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

1 (h) The information requested consists of drafts of orders, resolutions,
2 decisions, memoranda or audit reports by any executive, administrative, regulatory,
3 constitutional, judicial or quasi-judicial body in the exercise of their regulatory, audit
4 and adjudicatory function. The revelation of which would impair the impartiality of
5 verdicts or otherwise obstruct the administration of justice.

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

8 (j) The information requested pertains to the personal and sensitive information
9 of a natural person other than the requesting party, and its disclosure would
10 constitute an unwarranted invasion of his or her personal privacy, or the person is or
11 was an official or employee of a government agency and the information relates to
12 his other public function or the person has consented, in writing, to the disclosure of
13 the information.

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

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

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

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

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

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

(2) in the case of other agencies, be likely to 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.

7 (q) The information requested pertains to information about the ongoing
8 evaluation or review of bids or proposals undertaken by the bidding or review
9 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: Provided, That:

14 (1) The exceptions are strictly construed;

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

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

24 (5) The exceptions do not constitute an authority of the executive branch of a
25 local government unit to withhold information from its legislative body.

26 (6) Whenever the information requested is part of a record, whose other
27 parts are covered by an exception, but may be reasonably severed from a

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

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

7 All exempted information under this Section shall be mandatorily reviewed
8 after every three (3) years by the head of office or agency in custody or control of
9 the information for reclassification and possible disclosure. Provided, that such
10 information to be disclosed by an agency under the executive branch shall be
11 subject to the approval of the President.

12 *Sec. 8. Mandatory Disclosure of Information. –*

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

- 16 (1) President;
17 (2) Vice-President;
18 (3) Members of the Cabinet;
19 (4) Members of Congress;
20 (5) Justices of Supreme Court;
21 (6) Members of Constitutional Commissions and other constitutional
22 offices,
23 (7) Officers of the armed forces with general or flag rank.

24
25 (b) All agencies of all branches of government shall upload on their
26 websites, which shall be updated monthly, a register of the following public interest
27 transactions, documents or records, including:

- 28 (1) Annual Budget of Government Agencies;
29 (2) Itemized Monthly Collections and Disbursement;
30 (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

1 any person or entity.

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

10 Sec. 9. *Openness and Transparency in Government Agencies.* – Each
11 government agency shall make available upon the request of any citizen at no cost
12 and in an accessible form, consistent with the provisions of Republic Act No. 9485,
13 or the Anti-Red Tape Act of 2007, and through their website, timely, true, accurate
14 and updated key information including, but not limited to:

15 (1) A description of its mandate, structure, powers, functions, duties and
16 decision-making processes;

17 (2) A description of the frontline services it delivers and the procedure and
18 length of time by which they may be availed of;

19 (3) The names of its key officials, their powers, functions and responsibilities,
20 and their profiles and curriculum vitae;

21 (4) Audited financial statements, and budget and expenditure records;

22 (5) Statements of assets, liabilities and net worth of all public officials with
23 Salary Grade 27 and above or heads of office;

24 (6) Monthly income including allowances and sources of income of all public
25 officials with Salary Grade 27 and above and heads of office;

26 (7) Work programs, development plans, investment plans, projects,
27 performance targets and accomplishments, and budgets, revenue allotments and
28 expenditures;

29 (8) Important rules and regulations, orders or decisions: *Provided*, That they
30 be published within fifteen (15) calendar days from promulgation;

31 (9) Rules of procedure, descriptions of forms available or the places at which
32 forms may be obtained, and instructions as to the scope and contents of all papers,

1 reports, or examinations;

2 (10) Substantive rules of general applicability adopted as authorized by
3 law, and statements of general policy or interpretations of general applicability
4 formulated and adopted by the agency, including subsequent amendments;

(11) Current and important database and statistics that it generates;

(12) Bidding processes, deadlines and requirements; and

(13) Mechanisms or procedures by which the public may participate in or advise

influence the formulation of policy or the exercise of its powers.

(14) Any disclaimer that shall announce true and correct information relative matter of public concern that has been the subject of untruthful or inaccurate information in media.

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

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

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

(b) A government agency must ensure that personal and sensitive information in its custody or under its control is disclosed only as permitted under this Act;

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

(d) An employee, officer or official of a government agency who has access, whether authorized or unauthorized, to personal and sensitive information in the custody of the agency, must not disclose that information except as authorized under this Act.

Sec. 11. Freedom of Information Manual. –

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

- (1) The location and contact information of the head, regional, provincial and field offices, and other established places where the 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.
 - (12) The foregoing information shall also be posted in its website and bulletin boards, and shall be regularly updated;
 - (13) In no case shall the absence of the aforementioned Manual be a

1 reason for the denial of any request for information made in
2 accordance with this Act.

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

8 Sec. 12. *Procedure of Access.* –

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

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

30 (c) The request shall be stamped by the government agency, indicating
31 the date and time of receipt and the name, rank, title and position of the receiving
32 public officer or employee with the corresponding signature, and a copy thereof

1 furnished to the requesting party. In case the request is submitted by electronic
2 means, the government agency shall provide for an equivalent means by which the
3 requirements of this paragraph shall be met. Each government agency shall
4 establish a system to trace the status of all requests for information received by it.

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

9 (e) A government agency may communicate the information requested in
10 a form other than the preferred means whenever the agency has no capability in
11 communicating the information in the preferred format, or such preferred means
12 would unreasonably interfere with the effective operation of the agency or be
13 detrimental to the preservation of the record.

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

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

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 processing
25 fees.

26 If the information is not held by the government agency to which the request
27 was made, it shall notify the requester that it does not hold the information, and
28 indicate to the requester which agency holds the record, if known. Whenever
29 practicable, the agency receiving the request may also cause the transfer of the
30 request to the appropriate agency that holds the information: *Provided*, That the
31 period to 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.

1 Sec. 13. *Access and Processing Fees.* – Government agencies may charge a
2 reasonable fee which shall in no case exceed the actual cost of reproduction,
3 copying 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 indigent,
5 or that the cost of reproduction is negligible, or that it is pursuant to a program for
6 proactive disclosure.

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

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

21 Sec. 16. *Remedies in Cases of Denial of Request for Information.* –

22 (a) In all government agencies other than the judicial branch:
23 (1) Every denial of any request for access to information may be appealed
24 to the person or office next higher in authority of the same agency,
25 following the procedure mentioned in Section 11 (a)(8) of this Act:
26 *Provided*, That the written appeal must be filed by the same person
27 making the request within fifteen (15) calendar days from the notice of
28 denial. The appeal shall be decided by the person or office next higher
29 in authority of the same agency within five (5) working days from filing
30 of said written appeal. Failure of the government agency to decide
31 within the aforestated period shall constitute denial of the appeal.

(2) Upon denial of the appeal with the government agency, the requesting party may file a verified petition for *mandamus* in the proper court, alleging the facts with certainty and praying that judgment be rendered ordering the respondent, immediately or at some other time to be specified by the court, to disclose the requested information. Unless restrained or enjoined, the decision of the court shall be immediately executory without prejudice to review in accordance with the Rules of Court. Any action for administrative and/or criminal liability arising from the same act or omission, if any, shall be filed with the Office of the Ombudsman.

No damages shall be assessed against the respondent unless it is proven that the respondent acted with malice, bad faith or negligence. Subject to the provisions of existing laws and the issuances of the Supreme Court, all courts shall give preference to the hearing and disposition of petitions for *mandamus* filed pursuant to the provisions of this Act. The court hearing the case is empowered to receive the information subject of a claim of exception under Section 7 herein and examine them in camera 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.

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.

(e) 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. -

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

16 (b) Government agencies shall identify specific and classes of official
17 records in their custody or control that have continuing historical, administrative,
18 informational, legal, evidentiary, or research value for preservation by such agencies
19 or their legitimate successors, or for transfer to the National Archives of the
20 Philippines. In addition, the National Archives of the Philippines shall likewise identify
21 specific and classes of official records that it shall require agencies to preserve and
22 transfer to it.

23 (c) In addition to the specific and classes of official records identified for
24 preservation under letter (b) of this section, the following shall not be destroyed:

- 25 (1) Records pertaining to loans obtained or guaranteed by the
26 government;
- 27 (2) Records of government contracts;
- 28 (3) The declaration under oath of the assets, liabilities and net
29 worth of public officers and employees, as required by law; and
- 30 (4) Records of official investigations pertaining to allegations of
31 graft and corruption of public officers.

32 (d) Government agencies shall prepare, following standards and period

1 promulgated pursuant to Republic Act No. 9470 or the National Archives of the
2 Philippines Act of 2007, a records management program that includes the following:

- 3 i. A records maintenance system for the creation, selection,
4 classification, indexing and filing of official records that facilitate
5 the easy identification, retrieval and communication of
6 information to the public;
- 7 ii. A records maintenance, archival and disposition schedule
8 providing a listing of records under current use, for retention by
9 the agency, for transfer to the National Archives, or for
10 destruction: *Provided*, That destruction of the official records
11 may be implemented only upon approval of the National
12 Archives of the Philippines; and
- 13 iii. A specification of the roles and responsibilities of agency
14 personnel in the implementation of such system and schedule.

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

- 22 (1) All laws of the Philippines and their amendments, from the period of
23 the Philippine Commission to the present;
- 24 (2) All presidential issuances from November 15, 1935 to the present
25 including, but not limited, to executive orders, presidential
26 proclamations, administrative orders, memorandum circulars, general
27 orders, and other similar issuances;
- 28 (3) A database of all appointments and designations made by the
29 President of the Philippines; and
- 30 (4) Opinions of the Secretary of Justice.

31 Sec. 18. *Publication in the Official Gazette.* – For purposes of mandatory
32 disclosure as provided in Section 8 of this Act, online publication in the *Official*

1 *Gazette* website shall be considered official publication provided there shall be a
2 timestamp in the said document.

3 For purposes of compliance with Article 2 of the Civil Code of the Philippines,
4 publication of the following in the online version of the *Official Gazette*, with the
5 corresponding timestamps on the document, shall be considered as official
6 publication:

- 7 (a) All legislative acts and resolutions of a public nature of the Congress of
8 the Philippines;
- 9 (b) All executive and administrative orders and proclamations of general
10 application;
- 11 (c) Decisions or abstracts of decisions of the Supreme Court and the Court
12 of Appeals or other courts of similar rank, as may be deemed by said
13 courts of sufficient importance to be so published;
- 14 (d) Such documents or classes of documents as the President shall
15 determine from time to time to have general application or which he
16 may authorize to be published. However, other documents or classes
17 of documents as may be required to be published by law, such as
18 petitions and/or legal notices in connection with land titles,
19 naturalization or special proceedings shall continue to be published in
20 the print version of the *Official Gazette* or in any newspaper of general
21 circulation for purposes of compliance with the publication
22 requirement.

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

32 In the performance of its monitoring function of government websites and

1 portals, the DICT shall endeavor to continuously develop, improve and update its
2 information technology system taking into consideration usability and practical
3 accessibility of government documents by the public.

4 The DICT shall be responsible for setting the standards for the file formats to
5 be used by the political subdivisions of the State. All national and local government
6 agencies including GOCCs with or without original charter in the publication of
7 government public information in accordance with the provisions of this Act.

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

12 Sec. 20. *Use of Plain Language.* – Every government agency shall endeavor to
13 use plain language in their communications orders, compliance, requirements or
14 instructions issued to implement the provisions of this Act. The government agencies
15 shall translate key information into major Filipino languages and present them in
16 popular form and means.

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

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

22 (3) All departments, agencies and instrumentalities of the national
23 government, including government-owned or -controlled corporations, local
24 government units and state colleges and universities shall designate an official
25 responsible for implementing the plain language; and

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

30 Sec. 21. *Administrative Offenses and Penalties.* –

31 (a) The acts enumerated in this sub-section shall be tantamount to grave
32 administrative offenses and shall constitute grounds for administrative and

1 disciplinary sanction against any public official or employee who willfully and
2 knowingly commits the following:

- 3 (1) Refusal to promptly forward the request under Section 12 of this Act to
4 the public officer within the same office or agency responsible for
5 officially acting on the request when such is the direct cause of the
6 failure to disclose the information within the periods required by this
7 Act;
 - 8 (2) Failure to act on the request within the periods required by this Act;
 - 9 (3) Refusal to comply with the decision of his immediate supervisor, or of
10 any court ordering the release of information;
 - 11 (4) Approval of policies, rules and regulations clearly contrary to the
12 provisions of this Act, and which policies, rules and regulations are the
13 direct cause of the denial of a request for information;
 - 14 (5) Failure to upload information required to be posted on an agency's
15 website within the period provided under Section 19: *Provided*, That
16 the head of agency or any other officer or employee tasked to perform
17 said uploading shall be held liable.
- 18 (b) The preceding subsection does not bar filing of appropriate
19 administrative cases other than those grave offenses enumerated above.

20 Sec. 22. *Criminal Offenses and Penalties.* – The penalty of imprisonment of
21 not less than one (1) month but not more than six (6) months and a fine ranging
22 from Ten Thousand Pesos (Php10,000.00) to One Hundred Thousand Pesos
23 (Php100,000.00) shall be imposed upon:

- 24 (a) Any public official or employee who falsely denies or conceals the
25 existence of information that is a proper subject for disclosure under
26 this Act.
- 27 (b) Any public official or employee who destroys, or causes to be
28 destroyed, information and/or documents being requested under this
29 Act, for the purpose of frustrating the requesting party's access
30 thereto.
- 31 (c) Any public officer or employee responsible for officially acting on the
32 request, who shall claim an exception under Section 7 of this Act, or

under the Constitution, when such claim is manifestly devoid of factual basis.

(d) Any individual who divulged or released information covered under Section 7 of this Act.

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

(f) The responsible officers of the public service contractor and the signatories to the contract or any document evidencing transaction with the government or government agency who fail to submit the necessary documents/papers

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

Any public official or employee who willfully destroys, or causes to be destroyed, or sells, information and/or documents being requested under this Act, for the purpose of frustrating the requesting party's access thereto shall suffer a fine of not less than five hundred thousand pesos (Php 500,000.00) but not more than one million pesos (Php 1,000,000.00) or a penalty of five (5) years but not more than fifteen (15) years, or both, as provided in Republic Act No. 9470 of the National Archives Act.

Sec. 23. *Denial in Good Faith Not a Ground for Liability.* – A denial in good faith of a request made pursuant to the provisions of this Act shall not constitute grounds for administrative, civil or criminal liability. In cases of denial of the

1 request, the public official, officer or employee involved must prove that he/she
2 acted in good faith by specifying the ground relied upon for the denial.

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

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

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

22 *Sec. 27. System of Incentives and Rewards.* – A system of special incentives
23 and rewards is hereby established to be given to appropriate government agency or
24 agencies that initiated and displayed compliance and full participation in the
25 meaningful implementation of this Act. The incentives and rewards may include,
26 but not limited to, social projects, grants-in-aid, national recognition, and similar
27 entitlements.

28 *Sec. 28. Appropriations.* – The amount necessary to carry out the provisions
29 of this Act shall be charged against the agencies' current budget and shall thereafter
30 be included in the annual General Appropriations Act.

31 *Sec. 29. Separability Clause.* – If any section or part of this Act is held
32 unconstitutional or invalid, the other sections or provisions not otherwise affected

1 shall remain in full force and effect.

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

12 Sec. 31. *Effectivity.* – This Act shall take effect fifteen (15) days after its
13 publication in at least two (2) national newspapers of general circulation, whichever
14 comes earlier.

Approved,