

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

 Senate
Office of the Secretary

'22 JUL -7 P2 :30

SENATE
S. No. 100

BY 

Introduced by Senator Grace Poe

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 beginning of no less than the 1987 Constitution of the Philippines itself, 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 (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."

¹ Article II, Section 24 of the 1987 Constitution.

² Article II, Section 28 of the 1987 Constitution.

This constitutional right to information fosters public participation in nation-building, and arms the citizenry to detect and fight a 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 or otherwise, to hold public office. "Open dialogue can be effective 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 orderly 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 121 countries already have Freedom of Information (FOI) laws as of 2022.⁴ Said number does not include countries with FOI-related administrative issuances.

Fortunately, on 23 July 2016, President Rodrigo Roa Duterte 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:

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

⁴ Article19.org. Accessed at: <https://www.article19.org/right-to-information-around-the-world/> on 27 June 2022

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.

However, 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 to fast-track the enactment of an FOI Law to cover all branches of the Philippine Government, provide for much-needed budget and personnel, and 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. These are matters that 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, its swift passage is hereby earnestly sought.

Grace Poe
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AN ACT
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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 2022."

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, paper,
15 report, letters, contract, minutes and transcripts of official meetings, maps,
16 books, photographs, data, research material, film, audio and video
17 recordings, magnetic or other tapes, electronic data, computer stored data, or
18 other like or similar data or material of public concern recorded, stored or

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

5 b. *Official record/records* – shall refer to information, in final form produced or
6 received by a public officer or employee, or by a government agency in an
7 official capacity or pursuant to a public function or duty.

8 c. *Public record/records* – shall include information required by law, executive
9 orders, rules, or regulations to be entered, kept and made publicly available
10 by a government agency.

11 d. *Public service contractor* – shall be defined as a private entity that has a
12 dealing, contract or transaction of whatever form or kind with the government
13 or a government agency/office that utilizes public funds.

14 e. *Personal information* – shall refer to any information whether recorded in a
15 material form or not from which the identity of an individual is apparent or
16 can be reasonably and directly ascertained by the entity holding the
17 information or when put together with other information would directly and
18 certainly identify an individual.

19 f. *Sensitive personal information* – shall refer to personal information:

20 i. about an individual's race, ethnic origin, marital status, age, color and
21 religious, philosophical or political affiliations;

22 ii. about an individual's health, education, genetic or sexual life of a
23 person or to any proceeding for any offense committed or alleged to
24 have been committed by such person, the disposal of such
25 proceedings, or the sentence of any court in such proceedings;

26 iii. issued by government agencies peculiar to an individual which
27 includes, but not limited to, social security numbers previous or current
28 health records, licenses or its denials, suspension or revocation and tax
29 returns; and

30 iv. specifically established by an executive order or an act of Congress to
31 be kept classified.

32 g. *Personal Data* – refers to all types of personal information.

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

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

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

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

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

24 a. The information is specifically authorized to be kept confidential under
25 guidelines established by an Executive Order, and in fact properly classified
26 pursuant thereto: *Provided, That*:

27 1) The information directly relates to national security or defense and its
28 revelation may cause damage to the national security or internal and
29 external defense of the State; or

30 2) The information requested pertains to the foreign affairs of the
31 Republic of the Philippines, when its revelation shall unduly
32 weaken the negotiating position of the government in an ongoing

1 bilateral or multilateral negotiation or seriously jeopardize the
2 diplomatic relations of the Philippines with any state, or prejudice the
3 entrusting of information to the Republic of the Philippines on a basis
4 of confidence by the government of any other country or any
5 international organization: *Provided*, That sufficient information is
6 disclosed to afford reasonable public participation in government
7 decision-making on bilateral and multilateral agreements: *Provided*,
8 *further*, That the head of the department or agency having custody or
9 possession of such information, shall keep under continuing review all
10 classified information in his custody and may direct the declassification
11 review of such review as needed. Declassification of the information
12 shall be subject to the approval of the President.

- 13 b. The information consists of minutes or records of advice given or of opinions
14 expressed during decision-making or policy formulation including exchanges
15 when the chief executive was not present, if invoked by the chief executive to
16 be part of presidential communications privilege. Whenever disclosure would
17 significantly undermine the free and frank provision of advice or exchange of
18 views: *Provided*, That an executive order shall be issued specifying the
19 reasonable period after which information invoked to be privileged under this
20 paragraph shall be made accessible to the public;
- 21 c. The information requested pertains to internal and/or external defense, law
22 enforcement, and border control, when the disclosure thereof may:
- 23 1) Compromise or interfere with any legitimate military or law
24 enforcement operation; or
 - 25 2) Compromise or interfere with the legitimate prevention, detection or
26 suppression of criminal activity, or the legitimate implementation of
27 immigration controls and border security; or
 - 28 3) Lead to the disclosure of the identity of a confidential source, including
29 a government, or foreign agency or authority or any private institution
30 which furnished information on a confidential basis, and, in the case of
31 a record or information compiled by a law enforcement authority in the
32 course of an investigation or by an agency conducting a lawful national

- 1 security intelligence investigation, information furnished by a
2 confidential source; or
- 3 4) Disclose legitimate techniques and procedures for law enforcement
4 investigations or prosecutions, or would disclose legitimate guidelines
5 for law enforcement investigations or prosecutions if such disclosure
6 could reasonably be expected to risk circumvention of the law; or
7 5) Endanger the life or physical safety of any individual; or
8 6) Deprive a person of a right to a fair trial and impartial adjudication.
- 9 d. The information requested pertains to matters of human security, such as,
10 but not limited to, food, health, money and trade: *Provided*, That such
11 disclosure or premature disclosure will imperil our well-being or degrade the
12 quality of life of our people by causing unnecessary panic and conflict and
13 threatening to limit the range of policy choices available to the concerned
14 implementing and regulating agencies: *Provided, further*, That this exception
15 shall apply only until such time that the confidentiality requirement of the
16 action plan of said agency is no longer necessary in addressing the said
17 security issue;
- 18 e. The information requested pertains to the assistance of government to
19 overseas Filipino workers, including but not limited to their cases and records
20 on criminal and family cases; and information that could compromise or
21 weaken their case or position in any legal proceeding;
- 22 f. The information requested involves records of foreign diplomats on diplomatic
23 and consular missions, their arrival and departure, and other information that
24 could compromise their safety or that such information is considered
25 confidential by the Vienna Convention on Diplomatic Relations and the Vienna
26 Convention on Consular Relations;
- 27 g. The information requested are exempted under a treaty or bilateral
28 agreement to which the Philippines is a party;
- 29 h. The information requested consists of drafts of orders, resolutions, decisions,
30 memoranda or audit reports by any executive, administrative, regulatory,
31 constitutional, judicial or quasi-judicial body in the exercise of their regulatory,
32 audit and adjudicatory function. The revelation of which would impair the

- 1 impartiality of verdicts or otherwise obstruct the administration of justice;
- 2 i. The information requested is obtained by either House of Congress, or any
3 committee thereof, in executive session;
- 4 j. The information requested pertains to the personal and sensitive information of a
5 natural person other than the requesting party, and its disclosure would
6 constitute an unwarranted invasion of his or her personal privacy, or the
7 person is or was an official or employee of a government agency and the
8 information relates to his other public function or the person has consented,
9 in writing, to the disclosure of the information;
- 10 k. The information requested forms part of a public record but its disclosure
11 would expose the people concerned to acts of discrimination, unless such
12 information is first redacted by the concerned government agency;
- 13 l. The information requested pertains to trade secrets and commercial or
14 financial information obtained from a natural or juridical person other than
15 the requesting party, obtained in confidence or covered by privileged
16 communication, and/or filed with a government agency, whenever the
17 revelation thereof would prejudice the interests of such natural or juridical
18 person in trade, industrial, financial or commercial competition;
- 19 m. The information is required to be kept confidential by law or consists of
20 privileged information unless the person entitled to the privilege has waived
21 it;
- 22 n. The information requested is exempted from disclosure by the Constitution or
23 by law;
- 24 o. The information is of a nature that its premature disclosure would:
- 25 1) in the case of an agency that regulates or deals with currencies,
26 interest rates, securities, commodities, or financial institutions, be likely
27 to lead speculations in currencies, interest rates, securities, or
28 commodities market; or
- 29 2) in the case of other agencies, be likely to frustrate the effective
30 implementation of a proposed official action: *Provided*, That the
31 information shall be disclosed once the abovementioned dangers have
32 ceased.

- 1 p. The information has already been made accessible as provided in Sections
2 8(a), 9, 11 and 14 of this Act; and
- 3 q. The information requested pertains to information about the ongoing
4 evaluation or review of bids or proposals undertaken by the bidding or review
5 committee prior to an official recommendation by the government.

6 For paragraphs (c) to (q) of this section, the determination whether any of
7 these grounds shall apply shall be the responsibility of the head of office of the
8 government agency in custody or control of the information, or any responsible
9 central or field officer/s duly designated by him: *Provided, That:*

- 10 1) The exceptions are strictly construed;
- 11 2) The exceptions are not used to cover-up a crime, or any unlawful activity;
- 12 3) The President, the Supreme Court, the Senate, the House of Representatives,
13 and the Constitutional Commissions with a majority vote of the body in
14 accordance with their own rules of procedure when applicable may waive an
15 exception with respect to information in the custody of offices under their
16 respective supervision or control, when they deem that there is an overriding
17 public interest in disclosure;
- 18 4) The exceptions do not constitute authority to withhold information from, or
19 limit the availability of records to congress, or any of its committees;
- 20 5) The exceptions do not constitute an authority of the executive branch of a
21 local government unit to withhold information from its legislative body;
- 22 6) Whenever the information requested is part of a record, whose other parts
23 are covered by an exception, but may be reasonably severed from a record,
24 the responding official shall communicate the information not covered by the
25 exception to the requester; and
- 26 7) The exceptions set forth in this section may be overcome if the requester is
27 able to prove before a court of competent jurisdiction that the public interest
28 in the disclosure of information outweighs the public interest in keeping the
29 information secret or confidential;

30 All exempted information under this Section shall be mandatorily reviewed
31 after every three (3) years by the head of office or agency in custody or control of

1 the information for reclassification and possible disclosure. Provided, that such
2 information to be disclosed by an agency under the executive branch shall be
3 subject to the approval of the President.

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

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

- 8 i. President;
- 9 ii. Vice-President;
- 10 iii. Members of the Cabinet;
- 11 iv. Members of Congress;
- 12 v. Justices of Supreme Court;
- 13 vi. Members of Constitutional Commissions and other constitutional
14 offices; and
- 15 vii. Officers of the armed forces with general or flag rank.

16 b. All agencies of all branches of government shall upload on their websites,
17 which shall be updated monthly, a register of the following public interest
18 transactions, documents or records, including:

- 19 i. Annual Budget of Government Agencies;
- 20 ii. Itemized Monthly Collections and Disbursement;
- 21 iii. Summary of Income and Expenditures;
- 22 iv. Component of the IRA Utilization;
- 23 v. Annual Procurement Plan and Procurement List;
- 24 vi. An updated plantilla of positions and vacant positions with
25 qualifications/ requirements in their organizations that need to be
26 filled-up;
- 27 vii. Items to Bid;
- 28 viii. Bid Results on Civil Works, and Goods and Services;
- 29 ix. Abstract of Bids as Calculated;
- 30 x. Procurement contracts entered into by a government agency;
- 31 xi. Construction or concession agreements or contracts entered into by a
32 government agency with any domestic or foreign person or entity;

- 1 xii. Private sector participation agreements or contracts in infrastructure
2 and development projects under Republic Act No. 6957, as amended
3 by Republic Act No. 7718, authorizing the financing, construction,
4 operation and maintenance of infrastructure projects;
- 5 xiii. Public funding extended to any private entity;
- 6 xiv. Bilateral or multilateral agreements and treaties in trade, economic
7 partnership, investments, cooperation and similar binding
8 commitments;
- 9 xv. Licenses, permits or agreements granted by any government agency to
10 any person or entity for the extraction and/or utilization of natural
11 resources and a list of the grantees;
- 12 xvi. Guarantees given by any government agency to government-owned or
13 controlled corporations and to private corporations, persons or entities;
- 14 xvii. Loans from domestic and foreign financial institutions;
- 15 xviii. Loans, grants, development assistance, technical assistance, and
16 programs entered into by a government agency with official bilateral or
17 multilateral agencies, as well as with private aid agencies or
18 institutions; and
- 19 xix. Compromise agreements entered into by a government agency with
20 any person or entity.

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

29 Sec. 9. *Openness and Transparency in Government Agencies.* – Each
30 government agency shall make available upon the request of any citizen at no cost
31 and in an accessible form, consistent with the provisions of Republic Act No. 9485,
32 or the Anti-Red Tape Act of 2007, and through their website, timely, true, accurate

1 and updated key information including, but not limited to:

- 2 a. A description of its mandate, structure, powers, functions, duties and
3 decision-making processes;
- 4 b. A description of the frontline services it delivers and the procedure and length
5 of time by which they may be availed of;
- 6 c. The names of its key officials, their powers, functions and responsibilities, and
7 their profiles and curriculum vitae;
- 8 d. Audited financial statements, and budget and expenditure records;
- 9 e. Statements of assets, liabilities and net worth of all public officials with Salary
10 Grade 27 and above or heads of office;
- 11 f. Monthly income including allowances and sources of income of all public
12 officials with Salary Grade 27 and above and heads of office;
- 13 g. Work programs, development plans, investment plans, projects, performance
14 targets and accomplishments, and budgets, revenue allotments and
15 expenditures;
- 16 h. Important rules and regulations, orders or decisions: *Provided*, That they be
17 published within fifteen (15) calendar days from promulgation;
- 18 i. Rules of procedure, descriptions of forms available or the places at which
19 forms may be obtained, and instructions as to the scope and contents of all
20 papers, reports, or examinations;
- 21 j. Substantive rules of general applicability adopted as authorized by law,
22 and statements of general policy or interpretations of general applicability
23 formulated and adopted by the agency, including subsequent amendments;
- 24 k. Current and important database and statistics that it generates;
- 25 l. Bidding processes, deadlines and requirements;
- 26 m. Mechanisms or procedures by which the public may participate in or
27 otherwise influence the formulation of policy or the exercise of its powers;
28 and
- 29 n. Any disclaimer that shall announce true and correct information relative to a
30 matter of public concern that has been the subject of untruthful or inaccurate
31 publication in media.

32 All government agencies shall over time endeavor and build the capacity and

1 practice to upload in full all other contracts, agreements, or treaties covered under
2 this section, in particular those that are of the highest public interest by reason of
3 the amounts involved and the impact of the transaction to the public.

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

- 7 a. Disclosure of public records involving personal data shall be guided by the
8 principle of transparency, legitimate purpose, and proportionality;
- 9 b. A government agency must ensure that personal and sensitive information in
10 its custody or under its control is disclosed only as permitted under this Act;
- 11 c. A government agency must protect personal data in its custody or under its
12 control in accordance with the provisions of the Data Privacy Act of 2012, its
13 implementing rules and regulations, and issuances by the National Privacy
14 Commission; and
- 15 d. An employee, officer or official of a government agency who has access,
16 whether authorized or unauthorized, to personal and sensitive information in
17 the custody of the agency, must not disclose that information except as
18 authorized under this Act.

19 Sec. 11. *Freedom of Information Manual.* – For the effective implementation
20 of this Act, all government agencies shall prepare a Freedom of Information Manual,
21 within six (6) months from the effectivity of this Act indicating the following:

- 22 a. The location and contact information of the head, regional, provincial and
23 field offices, and other established places where the public can obtain
24 government information or submit requests;
- 25 b. The types of information it generates, produces, holds and/or publishes;
- 26 c. A description of its record-keeping system;
- 27 d. The person or office responsible for receiving requests for information;
- 28 e. The procedure for the filing of requests personally, by mail, or through the
29 identified electronic means;
- 30 f. The standard forms for the submission of request and for the proper
31 acknowledgment of the request;
- 32 g. The process for the disposition of the request, including the routing of the

1 request to the person or office with the duty to act on the request, the
2 decision making process, and the grant or denial of access and its
3 implementation;

4 h. The procedure for the administrative appeal of any denial for access to
5 information;

6 i. The schedule of fees;

7 j. The process and procedure for the mandatory disclosure of information under
8 Section 8 of this Act: *Provided, That*, should the agency lack the capacity to
9 fully comply therewith, a brief description of its plan to facilitate compliance
10 within three (3) years from the approval of this Act; and

11 k. Such other information, taking into consideration the unique characteristics of
12 an agency, that will help facilitate the effective implementation of this Act.
13 The foregoing information shall also be posted in its website and bulletin
14 boards, and shall be regularly updated.

15 In no case shall the absence of the aforementioned manual be a reason for
16 the denial of any request for information made in accordance with this Act.

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

21 *Sec. 12. Procedure of Access. –*

22 a. Any person who wishes to obtain information shall submit, free of charge, a
23 request to the government agency concerned personally, by mail, or through
24 electronic means. A person who is unable, because of illiteracy or due to
25 being a person with disability, to make a written request for information may
26 make an oral request, and the public official who receives the oral request
27 shall reduce it to writing, and include his name and position within the
28 government agency, and give a copy thereof to the person who made the
29 request. The request shall state the name and preferred contact information
30 of the requesting party, and reasonably describe the information required, the
31 reason for the request of the information and the preferred means by which
32 the government agency shall communicate such information to the requesting

1 party: *Provided*, That the stated reason shall not be used as a ground to deny
2 the request or to refuse the acceptance of the request, unless such reason is
3 contrary to law. If the request is submitted personally, the requesting party
4 shall show his current identification card issued by any government agency,
5 or government or private employer or school, or a community tax certificate.
6 If the request is submitted by mail or through electronic means, the
7 requesting party may submit a photostatic or electronically scanned copy of
8 verifiable identification, or other convenient means as determined by the
9 agency.

- 10 b. The public official receiving the request shall provide reasonable assistance,
11 free of charge, to enable all requesters and particularly those with special
12 needs, to comply with the request requirements under this section.
- 13 c. The request shall be stamped by the government agency, indicating the date
14 and time of receipt and the name, rank, title and position of the receiving
15 public officer or employee with the corresponding signature, and a copy
16 thereof furnished to the requesting party. In case the request is submitted by
17 electronic means, the government agency shall provide for an equivalent
18 means by which the requirements of this paragraph shall be met. Each
19 government agency shall establish a system to trace the status of all requests
20 for information received by it.
- 21 d. The request may indicate the requesting party's preferred mode and means
22 of receiving the information requested, provided that the mode and means
23 are reasonable, taking into consideration equipment normally available to the
24 concerned government agency.
- 25 e. A government agency may communicate the information requested in a form
26 other than the preferred means whenever the agency has no capability in
27 communicating the information in the preferred format, or such preferred
28 means would unreasonably interfere with the effective operation of the
29 agency or be detrimental to the preservation of the record.
- 30 f. The government agency shall comply with such request as soon as
31 practicable, and in any case within fifteen (15) working days from the receipt
32 thereof. The period may be extended whenever the information requested

1 requires a search of the government agency's field or satellite offices,
2 examination of voluminous records, the occurrence of fortuitous events or
3 other analogous cases.

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

9 h. Once a decision is made to grant the request, the person making the request
10 shall be notified of such and shall pay the required access and processing
11 fees.

12 If the information is not held by the government agency to which the request
13 was made, it shall notify the requester that it does not hold the information, and
14 indicate to the requester which agency holds the record, if known. Whenever
15 practicable, the agency receiving the request may also cause the transfer of the
16 request to the appropriate agency that holds the information: *Provided*, That the
17 period to comply with the request under this section shall begin to run only upon the
18 receipt of the agency to which the request is transferred.

19 *Sec. 13. Access and Processing Fees.* – Government agencies may charge a
20 reasonable fee which shall in no case exceed the actual cost of reproduction,
21 copying or transcription and the communication of the information requested. An
22 agency may waive the fees whenever it is satisfied that the requester is an indigent,
23 or that the cost of reproduction is negligible, or that it is pursuant to a program for
24 proactive disclosure.

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

31 *Sec. 15. Notice of Denial.* – If the government agency decides to deny the
32 request, in whole or in part, it shall, as soon as practicable, and in any case within

1 fifteen (15) calendar days from the receipt of the request, notify the person making
2 the request of such denial in writing or through electronic means. The notice shall
3 clearly set forth the ground or grounds for denial and the circumstances on which
4 the denial is based, and indicate available rights of reconsideration or appeal. Failure
5 to notify the person making the request of the denial, or of the extension, shall be
6 deemed a denial of the request for access to information.

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

8 a. In all government agencies other than the judicial branch:

9 i. Every denial of any request for access to information may be appealed
10 to the person or office next higher in authority of the same agency,
11 following the procedure mentioned in Section 11 (h) of this Act:
12 *Provided,* That the written appeal must be filed by the same person
13 making the request within fifteen (15) calendar days from the notice of
14 denial. The appeal shall be decided by the person or office next higher
15 in authority of the same agency within five (5) working days from filing
16 of said written appeal. Failure of the government agency to decide
17 within the aforesated period shall constitute denial of the appeal.

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

28 No damages shall be assessed against the respondent unless it is proven that
29 the respondent acted with malice, bad faith or negligence. Subject to the provisions
30 of existing laws and the issuances of the Supreme Court, all courts shall give
31 preference to the hearing and disposition of petitions for *mandamus* filed pursuant
32 to the provisions of this Act. The court hearing the case is empowered to receive

1 the information subject of a claim of exception under Section 7 herein and examine
2 them in camera to determine the sufficiency of the factual and legal basis of such
3 claim, when such sufficiency cannot be reasonably determined through evidence and
4 circumstances apart from the information.

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

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

9 d. The remedies available under this Act shall be cumulative and subject to the
10 rule of exhaustion of administrative remedies. The provisions of Republic Act
11 No. 9285, otherwise known as the Alternative Dispute Resolution Act of 2004,
12 shall not apply to cases filed pursuant to this section.

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

16 *Sec. 17. Keeping of Records. –*

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

- 1 b. Government agencies shall identify specific and classes of official records in
2 their custody or control that have continuing historical, administrative,
3 informational, legal, evidentiary, or research value for preservation by such
4 agencies or their legitimate successors, or for transfer to the National
5 Archives of the Philippines. In addition, the National Archives of the
6 Philippines shall likewise identify specific and classes of official records that it
7 shall require agencies to preserve and transfer to it.
- 8 c. In addition to the specific and classes of official records identified for
9 preservation under letter (b) of this section, the following shall not be
10 destroyed:
- 11 1. Records pertaining to loans obtained or guaranteed by the
12 government;
 - 13 2. Records of government contracts;
 - 14 3. The declaration under oath of the assets, liabilities and net worth of
15 public officers and employees, as required by law; and
 - 16 4. Records of official investigations pertaining to allegations of graft and
17 corruption of public officers.
- 18 d. Government agencies shall prepare, following standards and period
19 promulgated pursuant to Republic Act No. 9470 or the National Archives of
20 the Philippines Act of 2007, a records management program that includes the
21 following:
- 22 i. A records maintenance system for the creation, selection, classification,
23 indexing and filing of official records that facilitate the easy
24 identification, retrieval and communication of information to the public;
 - 25 ii. A records maintenance, archival and disposition schedule providing a
26 listing of records under current use, for retention by the agency, for
27 transfer to the National Archives, or for destruction: *Provided, That*
28 destruction of the official records may be implemented only upon
29 approval of the National Archives of the Philippines; and
 - 30 iii. A specification of the roles and responsibilities of agency personnel in
31 the implementation of such system and schedule.
- 32 e. In addition to its function as repository of all rules and regulations issued by

1 agencies as provided under Book VII, Chapter II of the Administrative Code of
2 1987, the University of the Philippines Law Center shall, in coordination with
3 the Office of the President which has exclusive editorial and printing
4 jurisdiction over the *Official Gazette*, and with other relevant agencies,
5 maintain a database, and publish the same in print in the *Official Gazette* or in
6 digital or online form, the following:

- 7 1. All laws of the Philippines and their amendments, from the period of
8 the Philippine Commission to the present;
- 9 2. All presidential issuances from November 15, 1935 to the present
10 including, but not limited, to executive orders, presidential
11 proclamations, administrative orders, memorandum circulars, general
12 orders, and other similar issuances;
- 13 3. A database of all appointments and designations made by the
14 President of the Philippines; and
- 15 4. Opinions of the Secretary of Justice.

16 Sec. 18. *Publication in the Official Gazette.* – For purposes of mandatory
17 disclosure as provided in Section 8 of this Act, online publication in the *Official*
18 *Gazette* website shall be considered official publication provided there shall be a
19 timestamp in the said document.

20 For purposes of compliance with Article 2 of the Civil Code of the Philippines,
21 publication of the following in the online version of the *Official Gazette*, with the
22 corresponding timestamps on the document, shall be considered as official
23 publication:

- 24 a. All legislative acts and resolutions of a public nature of the Congress of the
25 Philippines;
- 26 b. All executive and administrative orders and proclamations of general
27 application;
- 28 c. Decisions or abstracts of decisions of the Supreme Court and the Court of
29 Appeals or other courts of similar rank, as may be deemed by said courts of
30 sufficient importance to be so published;
- 31 d. Such documents or classes of documents as the President shall determine
32 from time to time to have general application or which he may authorize to

1 be published. However, other documents or classes of documents as may be
2 required to be published by law, such as petitions and/or legal notices in
3 connection with land titles, naturalization or special proceedings shall continue
4 to be published in the print version of the *Official Gazette* or in any
5 newspaper of general circulation for purposes of compliance with the
6 publication requirement.

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

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

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

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

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

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

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

- 15 a. The acts enumerated in this sub-section shall be tantamount to grave
16 administrative offenses and shall constitute grounds for administrative and
17 disciplinary sanction against any public official or employee who willfully and
18 knowingly commits the following:
 - 19 i. Refusal to promptly forward the request under Section 12 of this Act to
20 the public officer within the same office or agency responsible for
21 officially acting on the request when such is the direct cause of the
22 failure to disclose the information within the periods required by this
23 Act;
 - 24 ii. Failure to act on the request within the periods required by this Act;
 - 25 iii. Refusal to comply with the decision of his immediate supervisor, or of
26 any court ordering the release of information;
 - 27 iv. Approval of policies, rules and regulations clearly contrary to the
28 provisions of this Act, and which policies, rules and regulations are the
29 direct cause of the denial of a request for information;
 - 30 v. Failure to upload information required to be posted on an agency's
31 website within the period provided under Section 19: *Provided, That*

1 the head of agency or any other officer or employee tasked to perform
2 said uploading shall be held liable.

- 3 b. The preceding subsection does not bar filing of appropriate administrative
4 cases other than those grave offenses enumerated above.

5 *Sec. 22. Criminal Offenses and Penalties.* – The penalty of imprisonment of
6 not less than one (1) month but not more than six (6) months and a fine ranging
7 from Ten Thousand Pesos (P10,000.00) to One Hundred Thousand Pesos
8 (P100,000.00) shall be imposed upon:

- 9 a. Any public official or employee who falsely denies or conceals the existence of
10 information that is a proper subject for disclosure under this Act;
11 b. Any public official or employee who destroys, or causes to be destroyed,
12 information and/or documents being requested under this Act, for the
13 purpose of frustrating the requesting party's access thereto;
14 c. Any public officer or employee responsible for officially acting on the request,
15 who shall claim an exception under Section 7 of this Act, or under the
16 Constitution, when such claim is manifestly devoid of factual basis;
17 d. Any individual who divulged or released information covered under Section 7
18 of this Act;
19 e. Any public officer or employee who divulged or released information that is
20 altered, tampered or modified to the extent that the released information
21 materially differs from the original contents of the document: *Provided,* That
22 altering or modifying a document for the purpose of severing an exempt
23 information from non-exempt information in a single document shall not be
24 punishable under this subsection; and
25 f. The responsible officers of the public service contractor and the signatories to
26 the contract or any document evidencing transaction with the government or
27 government agency who fail to submit the necessary documents/papers.

28 If the violation committed in this Act is induced and assisted by a private individual or
29 a corporation, partnership or any kind of judicial entity, the penalty provided herein shall
30 be imposed on its executive officer and/or other officials responsible therefor: *Provided,*

1 That they shall suffer, in addition to the penalties provided herein, the automatic revocation
2 of their license to operate.

3 Any public official or employee who willfully destroys, or causes to be
4 destroyed, or sells, information and/or documents being requested under this Act,
5 for the purpose of frustrating the requesting party's access thereto shall suffer a fine
6 of not less than Five hundred thousand pesos (P500,000.00) but not more than One
7 million pesos (P1,000,000.00) or a penalty of five (5) years but not more than fifteen
8 (15) years, or both, as provided in Republic Act No. 9470 of the National Archives
9 Act.

10 *Sec. 23. Denial in Good Faith Not a Ground for Liability.* – A denial in good
11 faith of a request made pursuant to the provisions of this Act shall not constitute
12 grounds for administrative, civil or criminal liability. In cases of denial of the request,
13 the public official, officer or employee involved must prove that he/she acted in good
14 faith by specifying the ground relied upon for the denial.

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

18 *Sec. 25. Integration of Freedom of Information (FOI) and Good Governance*
19 *in Elementary and Secondary Curriculum.* – To ensure a well-informed generations
20 of citizens, the right to information, the principles of accountability and transparency,
21 democracy and leadership, and good governance shall be integrated in such subjects
22 as Heyograpiya, Kasaysayan at Sibika (HEKASI) and Araling Panlipunan in the
23 elementary level and in such subjects as Social Studies and Makabayan or its
24 equivalent subjects in high school level. The Department of Education in
25 coordination with the Civil Service Commission and other relevant offices shall
26 prepare the necessary modules and teaching programs consistent with the
27 objectives of this Act.

28 *Sec. 26. Reports on FOI.* – All government agencies shall be required to
29 submit annual reports on the number of requests for information received and
30 processed, of appeals made from the denial thereof, and such other information as
31 provided in this Act. The said report may be integrated in the agencies' main Annual

1 Report and its posting and publication in their respective websites shall be
2 considered as sufficient compliance.

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

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

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

15 *Sec. 30. Repealing Clause.* – All laws, decrees, executive orders, rules and
16 regulations, issuances or any part thereof inconsistent with the provisions of this Act,
17 including Sections 18, 24 and 25 of Executive Order No. 292 in relation to Article 2
18 of Republic Act No. 386, Memorandum Circular No. 78 dated 14 August 1964
19 (Promulgating Rules Governing Security of Classified Matter in Government Offices),
20 as amended, and Section 3, Rule IV of the Rules Implementing Republic Act No.
21 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees),
22 are deemed repealed: *Provided,* That Memorandum Circular No. 78 shall be deemed
23 repealed after one (1) year from the effectivity of this Act or upon issuance of the
24 Executive Order in Section 7(a) whichever comes first.

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

Approved,