

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

22 JUL 28 P5:23

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Senate Bill No. 933

Introduced by Senator JOEL VILLANUEVA

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

EXPLANATORY NOTE

The 1987 Constitution guarantees the right of every Filipino to information on matters of public concern. Section 7 of the Bill of Rights states:

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

Jurisprudence has clarified key aspects of the right of the people to information on matters of public concern, particularly its nature and scope. As regards its nature, the Supreme Court has proclaimed that the right to information is not a private right but a public right, which may be asserted by any citizen. With respect to its enforceability, the Supreme Court in the case of *Legazpi vs. Civil Service Commission* has ruled that the Constitutional provisions on the right to information are self-executing. As to the scope of the guarantee, the right covers information which relates to matters of public concern.

Despite the Constitutional guarantee and the judicial affirmation of the right to information and full public disclosure, denial of access to information held by the government remains prevalent. This situation will be mitigated by a law which grants every Filipino citizen the right to access information on matters of public concern. This will complement the existing Constitutional guarantee, the current legal framework for

freedom of information under Executive Order No. 2, series of 2016, and relevant jurisprudence.

In view of this, this bill seeks to:

- (a) Put in place a uniform, speedy and effective means of enforcing the right to information on matters of public concern;
- (b) Provide clear administrative and criminal penalties for unlawful denial of the right to information on matters of public concern; and
- (c) Clarify further the scope of the guarantee by defining the coverage, exemptions, process of enforcing, and prescribing reasonable limitations to the right to information.

Accordingly, the proposed *"People's Freedom of Information (FOI) Act"* provides for proactive disclosure and obliges government authorities to publish or make accessible certain information to the public even without prior requests. For example, the bill requires the mandatory disclosure of Statement of Assets, Liabilities, and Net worth (SALN) of certain national officials. Likewise, the bill mandates that contracts involving an amount of at least Php50 million shall be uploaded online and in full before the signing to help prevent the consummation of disadvantageous contracts or agreements.

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

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

This bill prescribes that any Filipino who will request for information shall do so personally, by mail, electronic means, such as email or facsimile transmissions or orally, if a requesting party cannot make a written request because of illiteracy or disability.

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

This measure also institutionalizes penalties for non-compliance or for violation of the FOI law to truly uphold the people's right to information. Among the acts penalized include falsely denying or concealing the existence of information that is a proper subject for disclosure; claiming an exception under the FOI Law or the Constitution; and divulging or releasing information under covered exceptions and information that is altered, tampered or modified from the original contents of the document.

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

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

At present, more than 90 national FOI laws have been adopted across the world. In the Philippines, the proposed measure has been languishing in Congress for almost twenty (20) years.

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

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

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

The immediate passage of this measure is earnestly sought.


SENATOR JOEL VILLANUEVA

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SENATE

S. B. NO. 933

Introduced by Senator JOEL VILLANUEVA

**AN ACT IMPLEMENTING THE PEOPLE’S RIGHT TO
INFORMATION AND THE CONSTITUTIONAL POLICIES OF
FULL PUBLIC DISCLOSURE AND HONESTY IN THE PUBLIC
SERVICE, APPROPRIATING FUNDS THEREFOR AND FOR
OTHER PURPOSES**

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

1 **SECTION 1. Short Title.** – This Act shall be known as the “People’s
2 *Freedom of Information Act of 2022.*”
3

4 **SEC. 2. Declaration of Policy.** - The State recognizes the right of the
5 people to information on matters of public concern and adopts and implements
6 a policy of full public disclosure of all its transactions involving public interest,
7 subject to the procedures and limitations provided by this Act. It is likewise a
8 declared policy of the State to promote the meaningful and increased
9 participation of the people in government decision-making and public
10 accountability.
11

12 Public officials and employees, in the performance of their duties, as well
13 as citizens in the exercise of their rights, have the responsibility to handle
14 information kept or obtained under this Act fairly, lawfully, and with due regard
15 to the full protection of the right to privacy of individuals.
16

17 **SEC. 3. Definition of Terms.** - As used in this Act:
18

19 (a) **Information** shall mean any public and/or official record,
20 document, paper, report, letters, contract, minutes and transcripts
21 of official meetings, maps, books, photographs, data, research
22 material, film, audio and video recordings, magnetic or other tapes,

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electronic data, computer stored data, or other like or similar data or material of public concern recorded, stored or archived in whatever form or format, including offline or online, and any content thereof in parts, portion, or in whole, which are made, received or kept in or under the control and custody of any government agency pursuant to law, executive order, rules and regulations, ordinance or in connection with the performance or transaction of official business by any government agency.

- (b) **Information of Public Concern** shall refer to all and any information that a concerned citizen may lawfully request of any government agency.
- (c) **Official record/records** shall refer to information, in final form produced or received by a public officer or employee, or by a government agency in an official capacity or pursuant to a public function or duty.
- (d) **Public record/records** shall include information required by law, executive orders, rules, or regulations to be entered, kept and made publicly available by a government agency.
- (e) **Public service contractor** shall refer to a private entity that has a dealing, contract or transaction of whatever nature with the government or a government agency/office that utilizes public funds.
- (f) **Personal information** shall refer to any information, whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information or when put together with other information would directly and certainly identify an individual.
- (g) **Sensitive personal information** shall refer to personal information:
 - (1) about an individual's race, ethnic origin, marital status, age, color and religious, philosophical or political affiliations;
 - (2) about an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;
 - (3) issued by government agencies peculiar to an individual, which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation and tax returns; and

- 1 (4) specifically established by an executive order or an act of
- 2 Congress to be kept classified.
- 3
- 4 (h) **Personal data** refers to all types of personal information.
- 5
- 6 (i) **Privileged information** refers to any and all forms of data, which,
- 7 under the Rules of Court and other pertinent laws constitute
- 8 privileged communication.
- 9

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

22
23 **SEC. 5. Access to Information.** - Every Filipino citizen has a right to,
24 and shall, on request, be given access to any information of public concern,
25 official records, public records, and to documents and papers pertaining to
26 official acts, transactions, or decisions, or data under the control of a
27 government agency regardless of the physical form or format in which they are
28 contained, subject only to the exceptions enumerated in Section 7 of this Act.

29
30 **SEC. 6. Presumption.** - There shall be a legal presumption in favor of
31 access to information. No request for information shall be denied unless it
32 clearly falls under the exceptions provided under this Act. Accordingly, the
33 government agency shall have the burden of proof of showing by clear and
34 convincing evidence that the information requested is exempted from the
35 disclosure by this Act.

36
37 **SEC. 7. Exceptions.** - Access to information shall be granted unless:

- 38
- 39 (a) The information is specifically authorized to be kept confidential
- 40 and/or classified by authority of another law or under guidelines
- 41 established by an Executive Order, and in fact properly classified
- 42 pursuant thereto: *Provided*, That:
 - 43
 - 44 (1) The information directly relates to national security or defense,
 - 45 and its revelation may cause damage to the national security
 - 46 or internal and external defense of the State; or
 - 47
 - 48 (2) The information requested pertains to the foreign affairs of the
 - 49 Republic of the Philippines, when its revelation shall unduly
 - 50 weaken the negotiating position of the government in an

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

- (b) The information consists of minutes or records of advice given or of opinions expressed during decision-making or policy formulation including exchanges when the chief executive was not present, only if invoked by the chief executive to be part of presidential communications privilege. Whenever disclosure would significantly undermine the free and frank provision of advice or exchange of views: *Provided*, That an executive order shall be issued specifying the reasonable period after which information invoked to be privileged under this paragraph shall be made accessible to the public;
- (c) The information requested pertains to internal and/or external defense, law enforcement, and border control, when the disclosure thereof may:
 - (1) Compromise or interfere with any legitimate military or law enforcement operation, or
 - (2) Compromise or interfere with the legitimate prevention, detection or suppression of criminal activity, or the legitimate implementation of 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

- 1 investigations or prosecutions if such disclosure could
2 reasonably be expected to risk circumvention of the law, or
3
4 (5) Endanger the life or physical safety of any individual, or
5
6 (6) Deprive a person of a right to a fair trial and impartial
7 adjudication;
8
9 (d) The information requested pertains to matters of human security,
10 such as, but not limited to, food, health, money and trade:
11 *Provided*, That such disclosure or premature disclosure will imperil
12 the well-being or degrade the quality of life of people by causing
13 unnecessary panic and conflict and threatening to limit the range
14 of policy choices available to the concerned implementing and
15 regulating agencies: *Provided, further*, That this exception shall
16 apply only until such time that the confidentiality requirement of the
17 action plan of said agency is no longer necessary in addressing
18 the said security issue;
19
20 (e) The information requested pertains to the assistance of
21 government to overseas Filipino workers, including, but not limited
22 to, their cases and records on criminal and family cases; and
23 information that could compromise or weaken their case or
24 position in any legal proceeding;
25
26 (f) The information requested involves records of foreign diplomats
27 on diplomatic and consular missions, their arrival and departure,
28 and other information that could compromise their safety or that
29 such information is considered confidential by the Vienna
30 Convention on Diplomatic Relations and the Vienna Convention
31 on Consular Relations;
32
33 (g) The information requested are exempted under a treaty or bilateral
34 agreement to which the Philippines is a party;
35
36 (h) The information requested consists of drafts of orders, resolutions,
37 decisions, memoranda or audit reports by any executive,
38 administrative, regulatory, constitutional, judicial or quasi-judicial
39 body in the exercise of their regulatory, audit and adjudicatory
40 function; *Provided*, That the revelation of which would impair the
41 impartiality of verdicts or otherwise obstruct the administration of
42 justice;
43
44 (i) The information requested is obtained by either House of
45 Congress, or any committee thereof, in executive session;
46
47 (j) The information requested pertains to the personal and sensitive
48 information of a natural person other than the requesting party,
49 and its disclosure would constitute an unwarranted invasion of his
50 or her personal privacy, unless it forms part of a public record, and

- 1 the person is or was an official or employee of a government
2 agency and the information relates to his/her public function and
3 the person has consented, in writing, to the disclosure of the
4 information. To the extent required to prevent an unwarranted
5 invasion of privacy, an agency may redact such personal data from
6 a record made available to the public;
7
- 8 (k) The information requested forms part of a public record but its
9 disclosure would expose the people concerned to acts of
10 discrimination, unless such information is first redacted by the
11 concerned government agency;
12
- 13 (l) The information requested pertains to trade secrets and
14 commercial or financial information obtained from a natural or
15 juridical person other than the requesting party, obtained in
16 confidence or covered by privileged communication, and/or filed
17 with a government agency, whenever the revelation thereof would
18 prejudice the interests of such natural or juridical person in trade,
19 industrial, financial or commercial competition. This includes
20 information protected under the Anti-Money Laundering Act, as
21 amended, and the bank secrecy laws;
22
- 23 (m) The information is required to be kept confidential by law or
24 consists of privileged information unless the person entitled to the
25 privilege has waived it in writing;
26
- 27 (n) The information requested is exempted from disclosure by the
28 Constitution;
29
- 30 (o) The information is of a nature that its premature disclosure would:
31
- 32 (1) in the case of an agency that regulates or deals with
33 currencies, interest rates, securities, commodities, or
34 financial institutions, be likely to lead to speculations in
35 currencies, interest rates, securities, or commodities market;
36 or
37
- 38 (2) in the case of other agencies, be likely to frustrate the
39 effective implementation of a proposed official action:
40 *Provided*, That the information shall be disclosed once the
41 abovementioned dangers have ceased;
42
- 43 (p) The information has already been made accessible as provided in
44 Sections 8(a), 9, 11 and 14 of this Act; and
45
- 46 (q) The information requested pertains to information about the
47 ongoing evaluation or review of bids or proposals undertaken by
48 the bidding or review committee prior to an official
49 recommendation by the government.
50

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

- 6
- 7 (a) The exceptions are strictly construed;
- 8
- 9 (b) The exceptions are not used to cover-up a crime, or any unlawful
10 activity;
- 11
- 12 (c) The President, the Supreme Court, the Senate, the House of
13 Representatives, and the Constitutional Commissions, with a
14 majority vote of their respective bodies, in accordance with their
15 own rules of procedure, when applicable, may waive an exception
16 with respect to information in the custody of offices under their
17 respective supervision or control, when they deem that there is an
18 overriding public interest in the disclosure;
- 19
- 20 (d) The exceptions do not constitute authority to withhold information
21 from, or limit the availability of records to Congress, or any of its
22 committees;
- 23
- 24 (e) The exceptions do not constitute an authority of the executive
25 branch of a local government unit to withhold information from its
26 legislative body;
- 27
- 28 (f) Whenever the information requested is part of a record, whose
29 other parts are covered by an exception, but may be reasonably
30 severed from a record, the responding official shall communicate
31 the information not covered by the exception to the requester; and
32
- 33 (g) The exceptions set forth in this section may be overcome if the
34 requester is able to prove before a court of competent jurisdiction
35 that the public interest in the disclosure of information outweighs
36 the public interest in keeping the information secret or confidential.
37

38 All exempted information under this Section shall be mandatorily
39 reviewed every three (3) years by the head of office or agency in custody or
40 control of the information for reclassification and possible disclosure; *Provided*,
41 That such information to be disclosed by an agency under the executive branch
42 shall be subject to the approval of the President.

43

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

45

- 46 (a) In fulfillment of Article XI, Section 17 of the Constitution, the
47 following national officials shall disclose to the public their
48 Statement of Assets, Liabilities, and Net worth (SALN) on an
49 annual basis on their official website or the Official Gazette online:
50

- 1 (1) President;
- 2
- 3 (2) Vice-President;
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- 5 (3) Members of the Cabinet;
- 6
- 7 (4) Members of Congress;
- 8
- 9 (5) Justices of Supreme Court;
- 10
- 11 (6) Members of Constitutional Commissions and other
- 12 constitutional offices; and
- 13
- 14 (7) Officers of the armed forces with general or flag rank.
- 15
- 16 (b) All agencies of all branches of government shall upload on their
- 17 websites, which shall be updated monthly, a register of the
- 18 following public interest transactions, documents, or records,
- 19 including:
- 20
- 21 (1) Annual Budget of Government Agencies;
- 22
- 23 (2) Itemized Monthly Collections and Disbursements;
- 24
- 25 (3) Summary of Income and Expenditures;
- 26
- 27 (4) Component of the National Tax Allotment Utilization, if
- 28 applicable;
- 29
- 30 (5) Annual Procurement Plan and Procurement List;
- 31
- 32 (6) An updated plantilla of positions and vacant positions with
- 33 qualifications/requirements in their organizations that need to
- 34 be filled-up;
- 35
- 36 (7) Items to bid;
- 37
- 38 (8) Bid results on civil works, and goods and services;
- 39
- 40 (9) Abstract of bids as calculated;
- 41
- 42 (10) Procurement contracts entered into by a government agency;
- 43
- 44 (11) Construction or concession agreements or contracts entered
- 45 into by a government agency with any domestic or foreign
- 46 person or entity;
- 47
- 48 (12) Private sector participation agreements or contracts in
- 49 infrastructure and development projects under Republic Act
- 50 No. 6957, as amended by Republic Act No. 7718, otherwise

1 known as the Build-Operate-Transfer (BOT) Law, authorizing
2 the financing, construction, operation and maintenance of
3 infrastructure projects;

4
5 (13) Public funding extended to any private entity;

6
7 (14) Bilateral or multilateral agreements and treaties in trade,
8 economic partnership, investments, cooperation and similar
9 binding commitments;

10
11 (15) Licenses, permits or agreements granted by any government
12 agency to any person or entity for the extraction and/or
13 utilization of natural resources and a list of the grantees;

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

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19 (17) Loans from domestic and foreign financial institutions;

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

25
26 (19) Compromise agreements entered into by a government
27 agency with any person or entity;

28
29 (20) Scholarships, vouchers, and other similar grants issued by
30 relevant government agencies; and

31
32 (21) Alien Employment Permits (AEPs) and Special Work Permits
33 (SWPs) issued to foreigners.

34
35 The register shall contain a brief description of the transaction involved
36 including, but not limited to, the nature and object of the transaction, the parties
37 and amounts involved, the key steps undertaken towards its conclusion, and
38 the relevant dates: *Provided*, That contracts and agreements involving an
39 amount of at least Fifty million pesos (P50,000,000.00) shall be uploaded in full
40 on the website of the concerned government agency or the Official Gazette
41 online. A covered record shall be enrolled in the register not later than thirty
42 (30) working days from its perfection or issuance.

43
44 **SEC. 9. Openness and Transparency in Government Agencies. –**

45 Each government agency shall make available upon the request of any citizen
46 at no cost and in an accessible form, consistent with the provisions of Republic
47 Act No. 9485, as amended by Republic Act No. 11032, or the "Ease of Doing
48 Business and Efficient Government Service Delivery Act of 2018," and through
49 their website, timely, true, complete, accurate and updated key information
50 including, but not limited to:

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

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

6 **SEC. 10. *Protection of Privacy.*** – While providing for access to
7 information in public records, this Act also affords full protection of the right to
8 privacy of individuals, as follows:
9

- 10 (a) Disclosure of public records involving personal data shall be
11 guided by the principle of transparency, existence of legitimate
12 purpose, and proportionality;
13
- 14 (b) A government agency must ensure that personal data in its
15 custody or under its control is disclosed only as permitted under
16 this Act;
17
- 18 (c) A government agency must protect personal data in its custody or
19 under its control in accordance with the provisions of the Data
20 Privacy Act of 2012, its implementing rules and regulations, and
21 issuances by the National Privacy Commission; and
22
- 23 (d) An employee, officer or official of a government agency who has
24 access, whether authorized or unauthorized, to personal data in
25 the custody of the agency, has the duty to keep the personal data
26 confidential except as authorized under this Act.
27

28 **SEC. 11. *Freedom of Information Manual.*** –
29

- 30 (a) For the effective implementation of this Act, all government
31 agencies shall prepare a Freedom of Information Manual within six
32 (6) months from the effectivity of this Act, indicating the following:
33
- 34 (1) The location and contact information of the head, regional,
35 provincial and field offices, and other established places
36 where the public can obtain government information or submit
37 requests;
38
- 39 (2) The types of information it generates, produces, holds and/or
40 publishes;
41
- 42 (3) A description of its record-keeping system;
43
- 44 (4) The person or office responsible for receiving requests for
45 information;
46
- 47 (5) The procedure for the filing of requests personally, by mail, or
48 through the identified electronic means;
49

- 1 (6) The standard forms for the submission of request and for the
2 proper acknowledgment of the request;
3
4 (7) The process for the disposition of the request, including the
5 routing of the request to the person or office with the duty to
6 act on the request, the decision making process, and the grant
7 or denial of access and its implementation;
8
9 (8) The procedure for the administrative appeal of any denial for
10 access to information;
11
12 (9) The schedule of fees;
13
14 (10) The process and procedure for the mandatory disclosure of
15 information under Section 8 of this Act: *Provided*, That, should
16 the agency lack the capacity to fully comply therewith, a brief
17 description of its plan to facilitate compliance within three (3)
18 years from the approval of this Act; and
19
20 (11) Such other information, taking into consideration the unique
21 characteristics of an agency, that will help facilitate the
22 effective implementation of this Act.
23
24 (b) The foregoing information shall also be posted in its website and
25 bulletin boards, and shall be regularly updated. In no case shall the
26 absence of the aforementioned Manual be a reason for the denial
27 of any request for information made in accordance with this Act.
28
29 (c) The heads of each of the departments and agencies may designate
30 liaison units or Committees who shall coordinate with the other
31 units of the agency in implementing this Act. The composition,
32 functions and duties of these liaison units or Committees shall be
33 included in the FOI Manual.
34

35 **SEC. 12. Procedure of Access. –**
36

- 37 (a) Any person who wishes to obtain information shall submit, free of
38 charge, a request to the government agency concerned personally,
39 by mail, or through electronic means. A person who is unable to
40 make a written request for information, because of illiteracy or
41 disability, may make an oral request, and the public official who
42 receives the oral request shall reduce it to writing, and include
43 his/her name and position within the government agency, and give
44 a copy thereof to the requesting party. The request shall state the
45 name and preferred contact information of the requesting party, and
46 reasonably describe the information being requested, the reason
47 for the request of the information, and the preferred means by
48 which the government agency shall communicate the information
49 to the requesting party: *Provided*, That the stated reason shall not
50 be used as a ground to deny the request or to refuse the

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acceptance of the request, unless such reason is contrary to law, public order or public policy. If the request is submitted personally, the requesting party shall show his/her valid identification card issued by any government agency, or in the absence thereof, government or private employer or school, or a community tax certificate. If the request is submitted by mail or through electronic means, the requesting party may submit a photostatic or electronically scanned copy of verifiable identification, or other convenient means as determined by the agency.

- (b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable all requesters and particularly those with special needs, to comply with the requirements under this Section.
- (c) The request shall be stamped by the government agency, indicating the date and time of receipt and the name, rank, title and position of the receiving public officer or employee with his/her corresponding signature, and a copy thereof furnished to the requesting party. In case the request is submitted by electronic means, the government agency shall provide for an equivalent means by which the requirements of this paragraph shall be met. Each government agency shall establish a system to trace the status of all requests for information received by it.
- (d) The request may indicate the requesting party's preferred mode and means of receiving the information requested, provided that the mode and means are reasonable, taking into consideration the equipment normally available to the concerned government agency.
- (d) A government agency may communicate the information requested in a form other than the preferred means whenever the agency has no capability in communicating the information in the preferred format, or such preferred means would unreasonably interfere with the effective operation of the agency or be detrimental to the preservation of the record.
- (e) The government agency shall comply with such request as soon as practicable, and in any case within fifteen (15) working days from the receipt thereof. The period may be extended whenever the information requested requires a search of the government agency's field or satellite offices, examination of voluminous records, the occurrence of fortuitous events or other analogous cases.
- (f) The government agency shall, in writing or through electronic means, notify the person making the request of the extension, setting forth the reasons for such extension and the date when the

1 information shall be made available, which in no case shall result
2 in an extension of more than twenty (20) working days.
3

4 (g) Once a decision is made to grant the request, the person making
5 the request shall be notified of such and shall pay the required
6 access and processing fees.
7

8 (h) If the information is not held by the government agency to which
9 the request was made, it shall notify the requesting party that it does
10 not hold the information, and inform him/her of the correct agency
11 that holds the record, if known. Whenever practicable, the agency
12 receiving the request shall transfer the request to the appropriate
13 agency that holds the information: *Provided*, That the period to
14 comply with the request under this Section shall begin to run only
15 upon the receipt of the agency to which the request is transferred.
16

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

25 **SEC. 14. Exemption from Compliance.** - A government agency is
26 excused from complying with a subsequent identical or substantially similar
27 request from the same requesting party if both requests will require the agency
28 to provide the same information to the requesting party, unless a reasonable
29 interval has lapsed between compliance with the previous request and the
30 making of the current request: *Provided*, That the government agency complies
31 with Section 15 of this Act.
32

33 **SEC. 15. Notice of Denial.** - If the government agency decides to deny
34 the request, in whole or in part, it shall, as soon as practicable, and in any case
35 within fifteen (15) calendar days from the receipt of the request, notify the
36 person making the request of such denial in writing or through electronic
37 means. The notice shall clearly set forth the ground or grounds for denial and
38 the circumstances under which the denial is based, and indicate the available
39 rights of reconsideration or appeal. Failure to notify the person making the
40 request of the denial, or of the extension, shall be deemed a denial of the
41 request for access to information.
42

43 **SEC. 16. Remedies in Cases of Denial of Request for Information.** -
44

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

46
47 (1) Every denial of any request for access to information may be
48 appealed to the person or office next higher in authority of the
49 same agency, following the procedure mentioned in Section
50 11(a)(8) of this Act: *Provided*, That the written appeal must be

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filed by the same person making the request within fifteen (15) calendar days from the notice of denial. The appeal shall be decided by the person or office next higher in authority of the same agency within five (5) working days from filing of said written appeal. Failure of the government agency to decide within the aforementioned 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 person, via videoconference or other similar means, 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 remedies and procedures in case of denial shall be governed by such rules and regulations as may be 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 is an indigent or has no financial capacity, the Public Attorney's Office shall provide legal assistance

1 to the requesting party in availing of the remedies provided under
2 this Act.

3
4 **SEC. 17. Keeping of Records. -**

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

25
26 (b) Government agencies shall identify specific and classes of official
27 records in their custody or control that have continuing historical,
28 administrative, informational, legal, evidentiary, or research value
29 for preservation by such agencies or their legitimate successors,
30 or for transfer to the National Archives of the Philippines. In
31 addition, the National Archives of the Philippines shall likewise
32 identify specific and classes of official records that it shall require
33 agencies to preserve and transfer to it.

34
35 (c) In addition to the specific and classes of official records identified
36 for preservation under letter (b) of this Section, the following shall
37 not be destroyed:

38
39 (1) Records pertaining to loans obtained or guaranteed by the
40 government;

41
42 (2) Records of government contracts;

43
44 (3) The declaration under oath of the assets, liabilities and net
45 worth of public officers and employees, as required by law;
46 and

47
48 (4) Records of official investigations pertaining to allegations of
49 graft and corruption of public officers.
50

- 1 (d) Government agencies shall prepare, following standards and
2 period promulgated pursuant to Republic Act No. 9470 or the
3 National Archives of the Philippines Act of 2007, an archival and
4 records management program that includes the following:
5
6 (1) A records maintenance system for the creation, selection,
7 classification, indexing and filing of official records that
8 facilitate the easy identification, retrieval and communication
9 of information to the public;
10
11 (2) A records maintenance, archival and disposition schedule
12 providing a listing of records under current use, for retention
13 by the agency, for transfer to the National Archives, or for
14 destruction: *Provided*, That destruction of the official records
15 may be implemented only upon approval of the National
16 Archives of the Philippines; and
17
18 (3) A specification of the roles and responsibilities of agency
19 personnel in the implementation of such system and
20 schedule.
21
22 (e) In addition to its function as repository of all rules and regulations
23 issued by agencies as provided under Book VII, Chapter II of the
24 Administrative Code of 1987, the University of the Philippines Law
25 Center shall, in coordination with the Office of the President which
26 has exclusive editorial and printing jurisdiction over the Official
27 Gazette, and with other relevant agencies, maintain a database,
28 and publish the same in print in the Official Gazette or in digital or
29 online form, the following:
30
31 (1) All laws of the Philippines and their amendments, from the
32 period of the Philippine Commission to the present;
33
34 (2) All presidential issuances from November 15, 1935 to the
35 present including, but not limited, to executive orders,
36 presidential proclamations, administrative orders,
37 memorandum circulars, general orders, and other similar
38 issuances;
39
40 (3) A database of all appointments and designations made by
41 the President of the Philippines; and
42
43 (4) Opinions of the Secretary of Justice.
44

45 **SEC. 18. *Publication in the Official Gazette.*** — For purposes of
46 mandatory disclosure as provided in Section 8 of this Act, online publication in
47 the Official Gazette website shall be considered official publication: *Provided*,
48 That there shall be a timestamp in the said document.
49

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

- 6 (a) All legislative acts and resolutions of a public nature of the
7 Congress of the Philippines;
8
- 9 (b) All executive and administrative orders and proclamations of
10 general application;
11
- 12 (c) Decisions or abstracts of decisions of the Supreme Court and the
13 Court of Appeals or other courts of similar rank, as may be deemed
14 by said courts of sufficient importance to be so published:
15
- 16 (d) Such documents or classes of documents as the President shall
17 determine from time to time to have general application or which
18 he/she may authorize to be published. However, other documents
19 or classes of documents as may be required to be published by law,
20 such as petitions and/or legal notices in connection with land titles,
21 naturalization or special proceedings shall continue to be published
22 in the print version of the Official Gazette or in any newspaper of
23 general circulation for purposes of compliance with the publication
24 requirement.
25

26 **SEC. 19. Capacity-Building, Promotion of Best Practices and**
27 **Continuous Updating of Appropriate Information Technology and FOI. –**

28 All government agencies must ensure that they have a compliant website within
29 two (2) years from the date of effectivity of this Act. The Department of
30 Information and Communications Technology (DICT) shall monitor all
31 government agency websites and render the appropriate support, including
32 capacity-building of government employees and coordination with other
33 appropriate agency, utilizing alternative mechanisms, and seeking the
34 assistance of concerned and willing private volunteer groups to ensure full
35 compliance with the requirements of this Act.
36

37 In the performance of its monitoring function of government websites and
38 portals, the DICT shall endeavor to continuously develop, improve and update
39 its information technology system taking into consideration usability and
40 practical accessibility of government documents by the public.
41

42 The DICT shall be responsible for setting the standards for the file
43 formats to be used by the political subdivisions of the State. All national and
44 local government agencies, including GOCCs with or without an original
45 charter, shall comply with the DICT's standards in the publication of government
46 public information in accordance with the provisions of this Act.
47

48 Every government agency shall ensure the provision of adequate
49 training for its officials to improve awareness of the people's right to information

1 and the provisions of this Act, and to keep updated on best practices in relation
2 to information disclosure, records maintenance, and archiving.

3
4 **SEC. 20. Use of Plain Language.** - Every government agency shall
5 endeavor to use plain language in their communications, orders, compliance,
6 requirements or instructions issued to implement the provisions of this Act. The
7 government agencies shall translate key information into the Filipino language
8 and other major languages in the Philippines and present them in popular form
9 and means.

- 10
11 (a) To carry out the provision of this Act, the Civil Service Commission
12 (CSC) is designated to issue guidelines on the use of plain
13 language to suit the needs of the requesting party;
14
15 (b) The CSC shall provide the necessary training to employees of each
16 government agency in using plain language in public documents;
17
18 (c) All departments, agencies and instrumentalities of the national
19 government, including government-owned or -controlled
20 corporations, local government units and state colleges and
21 universities shall designate an official responsible for implementing
22 the plain language; and
23
24 (d) Website contents including, but not limited to, financial data, notices
25 and other technical and legal documents, of government agencies
26 must also be written in plain language to ensure that these
27 information are easy to read, understand and use.
28

29 **SEC. 21. Administrative Offenses and Penalties.** -
30

- 31 (a) The acts enumerated in this sub-section shall be tantamount to
32 grave administrative offenses and shall constitute grounds for
33 administrative and disciplinary sanction against any public official
34 or employee who willfully and knowingly commits any of the
35 following:
36
37 (1) Refusal to promptly forward the request under Section 12 of
38 this Act to the public officer within the same office or agency
39 responsible for officially acting on the request when such is
40 the direct cause of the failure to disclose the information
41 within the periods required by this Act;
42
43 (2) Failure to act on the request within the periods required by
44 this Act;
45
46 (3) Refusal to comply with the decision of his/her immediate
47 supervisor, or of any court ordering the release of information;
48
49 (4) Approval of policies, rules and regulations clearly contrary to
50 the provisions of this Act, and which policies, rules and

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regulations are the direct cause of the denial of a request for information; or

(5) Failure to upload information required to be posted on an agency's website within the period provided under Section 19: *Provided*, That the head of agency or any other officer or employee tasked to perform said uploading shall be held liable.

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

SEC. 22. Criminal Offenses and Penalties. — The penalty of imprisonment of not less than one (1) month but not more than six (6) months and a fine ranging from ten thousand pesos (Php10,000.00) to one hundred thousand pesos (Php100,000.00) shall be imposed upon:

- (a) Any public official or employee who falsely denies or conceals the existence of information that is a proper subject for disclosure under this Act;
- (b) Any individual who knowingly directed, induced or caused the commission of the foregoing acts shall be liable as principal by inducement in the prosecution of public officials or employees under this Section;
- (c) Any public officer or employee responsible for officially acting on the 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 redacting 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; and
- (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 is induced and assisted by a private individual or a corporation, partnership or any kind of judicial entity, the penalty provided

1 herein shall be imposed on its executive officer and/or other officials
2 responsible therefor: *Provided*, That they shall suffer, in addition to the penalties
3 provided herein, the automatic revocation of their license to operate.
4

5 Any public official or employee who willfully destroys, or causes to be
6 destroyed, or sells information and/or documents being requested under this
7 Act, for the purpose of frustrating the requesting party's access thereto shall
8 suffer a fine of not less than five hundred thousand pesos (Php500,000.00) but
9 not more than one million pesos (Php1,000,000.00) or a penalty of five (5) years
10 but not more than fifteen (15) years, or both, as provided under Republic Act
11 No. 9470 or the "National Archives Act."
12

13 **SEC. 23. Denial in Good Faith Not a Ground for Liability.** - A denial
14 in good faith of a request made pursuant to the provisions of this Act shall not
15 constitute grounds for administrative, civil or criminal liability. In cases of denial
16 of the request, the public official, officer or employee involved must prove that
17 he/she acted in good faith by specifying the ground relied upon for the denial.
18

19 **SEC. 24. Act Not a Bar to Claim of Right to Information Under the**
20 **Constitution.** - No provision of this Act shall be interpreted as a bar to any
21 claim of the right to information under Article III, Section 7 of the Constitution.
22

23 **SEC. 25. Integration of Freedom of Information (FOI) and Good**
24 **Governance in the Curriculum.** - To ensure a well-informed generation of
25 citizens, the right to information, the principles of accountability and
26 transparency, democracy and leadership, and good governance shall be
27 integrated in such subjects as *Heyograpiya*, *Kasaysayan at Sibika (HEKASI)*
28 and *Araling Panlipunan* in the elementary level and in subjects such as *Social*
29 *Studies* and *Makabayan* or its equivalent subjects in the high school level.
30

31 The Technical Education and Skills Development Authority (TESDA)
32 and the Commission on Higher Education (CHED) shall likewise integrate
33 lessons on the right to information, the principles of accountability and
34 transparency, democracy and leadership, and good governance in their training
35 modules or curriculum.
36

37 The Department of Education, TESDA and CHED, in coordination with
38 the Civil Service Commission and other relevant offices, shall prepare the
39 necessary modules and teaching programs consistent with the objectives of
40 this Act.
41

42 **SEC. 26. Reports on FOI.** - All government agencies shall be required
43 to submit annual reports on the number of requests for information received
44 and processed, of appeals made from the denial thereof, and such other
45 information as provided in this Act. The said report may be integrated in the
46 agencies' main Annual Reports. Their posting and publication in the agencies'
47 respective websites shall be considered sufficient compliance.
48

49 **SEC. 27. System of Incentives and Rewards.** - A system of special
50 incentives and rewards is hereby established to be given to appropriate

1 government agency or agencies that initiated and displayed compliance and
2 full participation in the meaningful and effective implementation of this Act. The
3 incentives and rewards may include, but shall not be limited to, social projects,
4 grants-in-aid, national recognition, and similar entitlements.
5

6 **SEC. 28. Appropriations.** - The amount necessary to carry out the
7 provisions of this Act shall be charged against the agencies' current budget and
8 shall thereafter be included in the annual General Appropriations Act.
9

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

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

26 **SEC. 31. Effectivity.** - This Act shall take effect fifteen (15) days after
27 its publication in the Official Gazette or in at least two (2) newspapers of general
28 circulation.
29

30 **Approved,**
31