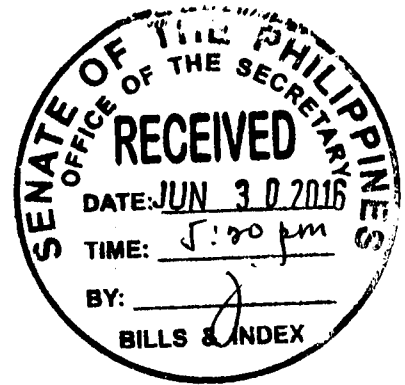


SEVENTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES

First Regular Session



SENATE
S.B. 159

Introduced by Senator 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

Accountability is the core of democratic governance. In their landmark article entitled "What Democracy is...and is Not" political scientists Philippe C. Schmitter and Terry Lynn Karl define democracy as "...a system of governance in which rulers are held accountable for their actions in the public realm."¹ The framers of the 1987 Constitution clearly recognized this principle and enshrined it in Article XI of our Fundamental Law, of which Section 1 reads: "Public office is a public trust. *Public officers and employees must, at all times, be accountable to the people...*"

Transparency is essential to accountability. Without transparency, citizens cannot access the information needed to collectively discern the fitness of public officials, elected otherwise, to hold public office. "Open dialogue can be effective 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."²

The right to information institutionalizes transparency and empowers citizens to access and demand information of public concern. The right to information is clearly recognized in the Bill of Rights. Article III, Section 3 of the Constitution which states that "The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law."

The right of information complemented by Article II, Sec. 28 which states: "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."

However, while the Supreme Court has consistently held that the right to information under the Bill of Rights is self-executory, it lacks the substantive and procedural details necessary for its effective and predictable implementation.³ The lack of implementing legislation bars the effective utilization of the right to information, thus stifling democratic politics and public accountability. This is disconcerting considering that 100 countries have enacted Right to Information (RTI) or Freedom of Information (FOI) laws as of 2014.⁴ The first FOI law was filed by Sweden in 1766.⁵ In

¹ Schmitter, P.C. and Karl, T.L. "What Democracy Is...And Is Not". *Journal of Democracy* Vol. 2, No.3: Summer 1991.

² *Valmonte vs. Belmonte*, G.R. No. 74930, 13 February 1989.

³ People's FOI Bill, 16th Congress

⁴ McIntosh, T. "Paraguay is 100th nation to pass FOI law, but struggle for openness goes on" *The Guardian* (19 September 2014). Retrieved from <http://www.theguardian.com/public-leaders-network/2014/sep/19/paraguay-freedom-information-law-transparency>

contrast, the first FOI bill in the Philippines was filed in 1992, and it has languished in Congress ever since.

RTI or FOI laws have been used to extract public accountability in many countries.⁶ Some cases are cited below:

1. In Thailand, a mother whose daughter was denied admission in a state primary school used FOI to demand the scores of students who took the admission test. One third (1/3) of those who were admitted were found to have failed the test. The same students were found to be members of powerful business and political families. The Thailand State Council declared the practice to be unconstitutional.
2. In Jamaica, FOI was used to scrutinize the status of children in State-run homes. It was found that children with behavioral and psychological problems were inadequately treated, which lead to cases of suicide; that children were exposed to sexual and physical abuse; and that children were exposed to poor hygiene. As a result, the Jamaican government started an inquiry into the status of children in State-run homes.
3. In Canada, FOI was used to probe into an incident of police violence towards an unarmed indigenous group. The indigenous group held a protest in the Ipperwash Provincial Park, a sacred burial ground which was expropriated by the Department of National Defense. One protestor died because of the incident. Audio from the said incident was retrieved through FOI. It was found that the police used abusive language and racial insults to lure the protestors. As a result, the person who killed the protestor was imprisoned. In addition, the Provincial Government of Ontario started an inquiry and issued recommendations.

It is for these reasons that this measure was filed. This bill is the People's Freedom of Information Act which I sponsored as Chairperson of the Senate Committee on Public Information and Mass Media and which the Senate passed on Third Reading in the 16th Congress. This bill also passed the Senate in only eight months of deliberation. As such, this bill encompasses the deliberations held among various stakeholders from the previous Congress.

Swift passage of this bill is urgently sought.


GRACE POE

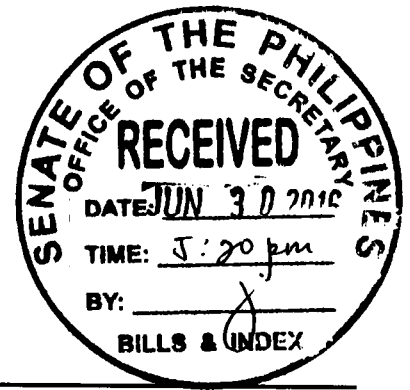
⁵ *Ibid.*

⁶ Daruwala, M. and Nayak, V. *Our Rights Our Information*. India: Commonwealth Human Rights Initiative, 2007
Retrieved from http://www.humanrightsinitiative.org/publications/rti/our_rights_our_information.pdf

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

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

1 **SECTION 1. Short Title.** – This Act shall be known as the "People's Freedom of Information
2 Act of 2016."
3

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

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

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

- 16
17 (a) "Information" shall mean any public and/or official record, document, paper, report, letters,
18 contract, minutes and transcripts of official meetings, maps, books, photographs, data,
19 research material, film, audio and video recordings, magnetic or other tapes, electronic data,
20 computer stored data, or other like or similar data or material of public concern recorded,
21 stored or archived in whatever form or format, which are made, received or kept in or under
22 the control and custody of any government agency pursuant to law, executive order, rules
23 and regulations, ordinance or in connection with the performance or transaction of official
24 business by any government agency.
25
26 (b) "Official record/records" shall refer to information, in final form produced or received by a
27 public officer or employee, or by a government agency in an official capacity or pursuant to
28 a public function or duty.
29
30 (c) "Public record/records" shall include information required by law, executive orders, rules, or
31 regulations to be entered, kept and made publicly available by a government agency.
32
33 (d) "Public service contractor" shall be defined as a private entity that has a dealing, contract
34 or transaction of whatever form or kind with the government or a government agency/office
35 that utilizes public funds.
36
37 (e) "Personal information" shall refer to any information whether recorded in a material form or
38 not from which the identity of an individual is apparent or can be reasonably and directly
39 ascertained by the entity holding the information or when put together with other

1 information would directly and certainly identify an individual.
2

3 (f) "Sensitive personal information" shall refer to personal information:
4

- 5 (1) about an individual's race, ethnic origin, marital status, age, color and religious,
6 philosophical or political affiliations;
7
8 (2) about an individual's health, education, genetic or sexual life of a person or to any
9 proceeding for any offense committed or alleged to have been committed by such
10 person, the disposal of such proceedings, or the sentence of any court in such
11 proceedings;
12
13 (3) issued by government agencies peculiar to an individual which includes, but not
14 limited to, social security numbers previous or current health records, licenses or its
15 denials, suspension or revocation and tax returns; and
16
17 (4) specifically established by an executive order or an act of Congress to be kept
18 classified.
19

20 **SEC. 4. Coverage.** – This Act shall cover all government agencies. Government agency or
21 agencies shall include the executive, legislative and judicial branches as well as constitutional
22 bodies of the Republic of the Philippines including, but not limited to, the national government and
23 all its agencies, departments, bureaus, offices and instrumentalities, constitutional commissions and
24 constitutionally mandated bodies, local governments and all their agencies, regulatory agencies,
25 chartered institutions, government-owned or -controlled corporations, including wholly-owned or
26 controlled subsidiaries, government financial institutions, and state universities and colleges.
27

28 **SEC. 5. Access to Information.** – Every Filipino citizen has a right to and shall, on request, be
29 given access to any information of public concern under the control of a government agency
30 regardless of the physical form or format in which they are contained subject only to the exceptions
31 enumerated in Section 7 of this Act.
32

33 **SEC. 6. Presumption.** – There shall be a legal presumption in favor of access to information.
34 No request for information shall be denied unless it clearly falls under the exceptions provided
35 under this Act. Accordingly, government agency shall have the burden of proof of showing by clear
36 and convincing evidence that the information requested is exempted from the disclosure by this Act.
37

38 **SEC. 7. Exceptions.** – Access to information shall be granted unless:
39

40 (a) The information is specifically authorized to be kept confidential under guidelines
41 established by an Executive Order, and in fact properly classified pursuant thereto:
42 *Provided, That*
43

- 44 (1) The information directly relates to national security or defense and its revelation may
45 cause damage to the national security or internal and external defense of the State; or
46
47 (2) The information requested pertains to the foreign affairs of the Republic of the
48 Philippines, when its revelation shall unduly weaken the negotiating position of
49 the government in an ongoing bilateral or multilateral negotiation or seriously
50 jeopardize the diplomatic relations of the Philippines with any state, or prejudice the
51 entrusting of information to the Republic of the Philippines on a basis of confidence by
52 the government of any other country or any international organization: *Provided, That*
53 sufficient information is disclosed to afford reasonable public participation in
54 government decision-making on bilateral and multilateral agreements: *Provided, further,*
55 That the head of the department or agency having custody or possession of such
56 information, shall keep under continuing review all classified information in his custody
57 and may direct the declassification review of such review as needed. Declassification of
58 the information shall be subject to the approval of the President.

- 1
2 (b) The information consists of minutes or records of advice given or of opinions expressed
3 during decision-making or policy formulation including exchanges when the chief executive
4 was not present, if invoked by the chief executive to be part of presidential communications
5 privilege. Whenever disclosure would significantly undermine the free and frank provision
6 of advice or exchange of views: *Provided*, That an executive order shall be issued
7 specifying the reasonable period after which information invoked to be privileged under this
8 paragraph shall be made accessible to the public.
9
- 10 (c) The information requested pertains to internal and/or external defense, law enforcement, and
11 border control, when the disclosure thereof may:
- 12 (1) Compromise or interfere with any legitimate military or law enforcement operation, or
13
14 (2) Compromise or interfere with the legitimate prevention, detection or suppression of
15 criminal activity, or the legitimate implementation of immigration controls and border
16 security, or
17
18 (3) Lead to the disclosure of the identity of a confidential source, including a government, or
19 foreign agency or authority or any private institution which furnished information on a
20 confidential basis, and, in the case of a record or information compiled by a law
21 enforcement authority in the course of an investigation or by an agency conducting a
22 lawful national security intelligence investigation, information furnished by a
23 confidential source, or
24
25 (4) Disclose legitimate techniques and procedures for law enforcement investigations or
26 prosecutions, or would disclose legitimate guidelines for law enforcement investigations
27 or prosecutions if such disclosure could reasonably be expected to risk circumvention of
28 the law, or
29
30 (5) Endanger the life or physical safety of any individual, or
31
32 (6) Deprive a person of a right to a fair trial and impartial adjudication.
33
- 34 (d) The information requested pertains to matters of human security, such as, but not limited to,
35 food, health, money and trade: *Provided*, That such disclosure or premature disclosure will
36 imperil our well-being or degrade the quality of life of our people by causing unnecessary
37 panic and conflict and threatening to limit the range of policy choices available to the
38 concerned implementing and regulating agencies: *Provided, further*, That this exception
39 shall apply only until such time that the confidentiality requirement of the action plan of said
40 agency is no longer necessary in addressing the said security issue.
41
42
- 43 (e) The information requested consists of drafts of orders, resolutions, decisions, memoranda or audit
44 reports by any executive, administrative, regulatory, constitutional, judicial or quasi-judicial
45 body in the exercise of their regulatory, audit and adjudicatory function. The revelation of
46 which would impair the impartiality of verdicts or otherwise obstruct the administration of
47 justice.
48
- 49 (f) The information requested is obtained by either House of Congress, or any committee thereof,
50 in executive session.
51
- 52 (g) The information requested pertains to the personal and sensitive information of a natural person
53 other than the requesting party, and its disclosure would constitute an unwarranted invasion
54 of his or her personal privacy, or the person is or was an official or employee of a
55 government agency and the information relates to his other public function or the person has
56 consented, in writing, to the disclosure of the information.
57
- 58 (h) The information requested pertains to trade secrets and commercial or financial information

1 obtained from a natural or juridical person other than the requesting party, obtained in
2 confidence or covered by privileged communication, and/or filed with a government agency,
3 whenever the revelation thereof would prejudice the interests of such natural or juridical
4 person in trade, industrial, financial or commercial competition.
5

- 6 (i) The information is classified as privileged communications in legal proceedings by law or by the
7 Rules of Court unless the person entitled to the privilege has waived it.
8
9 (j) The information requested is exempted from disclosure by the Constitution or by law,
10 including information protected under the Anti-money Laundering Law, as amended,
11 and the bank secrecy laws.
12
13 (k) The information is of a nature that its premature disclosure would:
14
15 (1) in the case of an agency that regulates or deals with currencies, interest rates, securities,
16 commodities, or financial institutions, be likely to lead speculations in currencies,
17 interest rates, securities, or commodities market; or
18
19 (2) in the case of other agencies, be likely to frustrate the effective implementation of a
20 proposed official action: *Provided*, That the information shall be disclosed once the
21 abovementioned dangers have ceased.
22
23 (l) The information has already been made accessible as provided in Sections 8(a), 9, 11 and 14
24 of this Act.
25

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

- 30 (1) The exceptions are strictly construed;
31
32 (2) The exceptions are not used to cover-up a crime, or any unlawful activity;
33
34 (3) The President, the Supreme Court, the Senate, the House of Representatives, and
35 the Constitutional Commissions with a majority vote of the body in accordance
36 with their own rules of procedure when applicable may waive an exception with
37 respect to information in the custody of offices under their respective supervision
38 or control, when they deem that there is an overriding public interest in disclosure;
39
40 (4) The exceptions do not constitute authority to withhold information from, or limit
41 the availability of records to congress, or any of its committees;
42
43 (5) The exceptions do not constitute an authority of the executive branch of a local
44 government unit to withhold information from its legislative body.
45
46 (6) Whenever the information requested is part of a record, whose other parts are
47 covered by an exception, but may be reasonably severed from a record, the
48 responding official shall communicate the information not covered by the
49 exception to the requester; and
50
51 (7) The exceptions set forth in this section may be overcome if the requester is able to prove
52 before a court of competent jurisdiction that the public interest in the disclosure of
53 information outweighs the public interest in keeping the information secret or
54 confidential;
55
56 (m) The information requested pertains to information about the ongoing evaluation or review of
57 bids or proposals undertaken by the bidding or review committee prior to an official
58 recommendation by the government.

1
2 **SEC. 8. Mandatory Disclosure of Information. –**
3

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

- 8 (1) President;
- 9 (2) Vice-President;
- 10 (3) Members of the Cabinet;
- 11 (4) Members of Congress;
- 12 (5) Justices of Supreme Court;
- 13 (6) Members of Constitutional Commissions and other constitutional offices,
- 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 websites, which shall be
17 updated monthly, a register of the following public interest transactions, documents or
18 records, including:
19

- 20 (1) Annual Budget of Government Agencies;
- 21 (2) Itemized Monthly Collections and Disbursement;
- 22 (3) Summary of Income and Expenditures;
- 23 (4) Component of the IRA Utilization;
- 24 (5) Annual Procurement Plan and Procurement List;
- 25 (6) An updated plantilla of positions and vacant positions with qualifications/
26 requirements in their organizations that need to be filled-up;
- 27 (7) Items to Bid;
- 28 (8) Bid Results on Civil Works, and Goods and Services;
- 29 (9) Abstract of Bids as Calculated;
- 30 (10) Procurement contracts entered into by a government agency;
- 31 (11) Construction or concession agreements or contracts entered into by a
32 government agency with any domestic or foreign person or entity;
- 33 (12) Private sector participation agreements or contracts in infrastructure and
34 development projects under Republic Act No. 6957, as amended by Republ
35 Act No. 7718, authorizing the financing, construction, operation and
36 maintenance of infrastructure projects;
- 37 (13) Public funding extended to any private entity;
- 38 (14) Bilateral or multilateral agreements and treaties in trade, economic partnership,
39 investments, cooperation and similar binding commitments;
- 40 (15) Licenses, permits or agreements granted by any government agency to any
41 person or entity for the extraction and/or utilization of natural resources and a
42 list of the grantees;
- 43 (16) Guarantees given by any government agency to government-owned or
44 controlled corporations and to private corporations, persons or entities;
- 45 (17) Loans from domestic and foreign financial institutions;
- 46 (18) Loans, grants, development assistance, technical assistance, and programs
47 entered into by a government agency with official bilateral or multilateral
48 agencies, as well as with private aid agencies or institutions; and
- 49 (19) Compromise agreements entered into by a government agency with any person
50 or entity.
51

52 The register shall contain a brief description of the transaction involved including,
53 but not limited to: the nature and object of the transaction, the parties and amounts involved,
54 the key steps undertaken towards its conclusion, and the relevant dates provided that
55 contracts and agreements involving an amount of at least Fifty million pesos (Php
56 50,000,000.00) shall be uploaded in full on the website of the concerned government agency
57 or the *Official Gazette* online. A covered record shall be enrolled in the register not later than
58 thirty (30) working days from its perfection or issuance.

1
2 **SEC. 9. Openness and Transparency in Government Agencies.** – Each government agency
3 shall make available upon the request of any citizen at no cost and in an accessible form, consistent
4 with the provisions of Republic Act No. 9485, or the Anti-Red Tape Act of 2007, and through their
5 website, timely, true, accurate and updated key information including, but not limited to:
6

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

35
36 All government agencies shall over time endeavor and build the capacity and practice to upload
37 in full all other contracts, agreements, or treaties covered under this section, in particular those that
38 are of the highest public interest by reason of the amounts involved and the impact of the transaction
39 to the public.
40

41 **SEC. 10. Protection of Privacy.** – While providing for access to information in public records,
42 this Act also affords full protection of the right to privacy of individuals, as follows:
43

- 44 (a) A government agency must ensure that personal and sensitive information in its custody or
45 under its control is disclosed only as permitted under this Act;
- 46
47 (b) A government agency must protect personal and sensitive information in its custody or under
48 its control by making reasonable security arrangements against such risks as unauthorized
49 access, collection, use, disclosure, or disposal;
- 50
51 (c) An employee, officer or director of a government agency who has access, whether authorized
52 or unauthorized, to personal and sensitive information in the custody of the agency, must not
53 disclose that information except as authorized under this Act.

54
55 **SEC. 11. Freedom of Information Manual.** –
56

- 57 (a) For the effective implementation of this Act, all government agencies shall prepare a
58 Freedom of Information Manual, within six (6) months from the effectivity of this Act

1 indicating the following:
2

- 3 (1) The location and contact information of the head, regional, provincial and field offices, and
4 other established places where the public can obtain government information or submit
5 requests;
- 6 (2) The types of information it generates, produces, holds and/or publishes;
- 7 (3) A description of its record-keeping system;
- 8 (4) The person or office responsible for receiving requests for information;
- 9 (5) The procedure for the filing of requests personally, by mail, or through the identified
10 electronic means;
- 11 (6) The standard forms for the submission of request and for the proper acknowledgment of
12 the request;
- 13 (7) The process for the disposition of the request, including the routing of the request to the
14 person or office with the duty to act on the request, the decision making process, and the
15 grant or denial of access and its implementation;
- 16 (8) The procedure for the administrative appeal of any denial for access to information;
- 17 (9) The schedule of fees;
- 18 (10) The process and procedure for the mandatory disclosure of information under Section
19 8 of this Act: *Provided*, That, should the agency lack the capacity to fully comply
20 therewith, a brief description of its plan to facilitate compliance within three (3) years
21 from the approval of this Act; and
- 22 (11) Such other information, taking into consideration the unique characteristics of an
23 agency, that will help facilitate the effective implementation of this Act.
- 24 (12) The foregoing information shall also be posted in its website and bulletin boards, and
25 shall be regularly updated;
- 26 (13) In no case shall the absence of the aforementioned Manual be a reason for the denial
27 of any request for information made in accordance with this Act.
- 28 (14) The heads of each of the departments and agencies may designate liaison units or
29 Committees who shall coordinate with the other units of the agency in implementing
30 this Act. The composition, functions and duties of these liaison units or Committees shall
31 be included in the FOI Manual.

32
33 **SEC. 12. Procedure of Access. –**
34

- 35 (a) Any person who wishes to obtain information shall submit, free of charge, a request to the
36 government agency concerned personally, by mail, or through electronic means. A person
37 who is unable, because of illiteracy or due to being a person with disability, to make a
38 written request for information may make an oral request, and the public official who
39 receives the oral request shall reduce it to writing, and include his name and position within
40 the government agency, and give a copy thereof to the person who made the request. The
41 request shall state the name and preferred contact information of the requesting party, and
42 reasonably describe the information required, the reason for the request of the information
43 and the preferred means by which the government agency shall communicate such
44 information to the requesting party: *Provided*, That the stated reason shall not be used as a
45 ground to deny the request or to refuse the acceptance of the request, unless such reason is
46 contrary to law. If the request is submitted personally, the requesting party shall show his
47 current identification card issued by any government agency, or government or private
48 employer or school, or a community tax certificate. If the request is submitted by mail or
49 through electronic means, the requesting party may submit a photostatic or electronically
50 scanned copy of verifiable identification, or other convenient means as determined by the
51 agency.
52
- 53 (b) The public official receiving the request shall provide reasonable assistance, free of charge,
54 to enable all requesters and particularly those with special needs, to comply with the request
55 requirements under this section.
56
- 57 (c) The request shall be stamped by the government agency, indicating the date and time of
58 receipt and the name, rank, title and position of the receiving public officer or employee with

1 the corresponding signature, and a copy thereof furnished to the requesting party. In case the
2 request is submitted by electronic means, the government agency shall provide for an
3 equivalent means by which the requirements of this paragraph shall be met. Each
4 government agency shall establish a system to trace the status of all requests for information
5 received by it.
6

- 7 (d) The request may indicate the requesting party's preferred mode and means of receiving the
8 information requested, provided that the mode and means are reasonable, taking into
9 consideration equipment normally available to the concerned government agency.
10
11 (e) A government agency may communicate the information requested in a form other than the
12 preferred means whenever the agency has no capability in communicating the information in
13 the preferred format, or such preferred means would unreasonably interfere with the
14 effective operation of the agency or be detrimental to the preservation of the record.
15
16 (f) The government agency shall comply with such request as soon as practicable, and in any
17 case within fifteen (15) working days from the receipt thereof. The period may be extended
18 whenever the information requested requires a search of the government agency's field or
19 satellite offices, examination of voluminous records, the occurrence of fortuitous events or
20 other analogous cases.
21
22 (g) The government agency shall, in writing or through electronic means, notify the person
23 making the request of the extension, setting forth the reasons for such extension and the date
24 when the information shall be made available, which in no case shall result in an extension
25 of more than twenty (20) working days.
26
27 (h) Once a decision is made to grant the request, the person making the request shall be notified
28 of such and shall pay the required access and processing fees.
29

30 If the information is not held by the government agency to which the request was made, it
31 shall notify the requester that it does not hold the information, and indicate to the requester which
32 agency holds the record, if known. Whenever practicable, the agency receiving the request may also
33 cause the transfer of the request to the appropriate agency that holds the information: *Provided*, That
34 the period to comply with the request under this section shall begin to run only upon the receipt of
35 the agency to which the request is transferred.
36

37 **SEC. 13. Access and Processing Fees.** – Government agencies may charge a reasonable fee
38 which shall in no case exceed the actual cost of reproduction, copying or transcription and the
39 communication of the information requested. An agency may waive the fees whenever it is satisfied
40 that the requester is an indigent, or that the cost of reproduction is negligible, or that it is pursuant to
41 a program for proactive disclosure.
42

43 **SEC. 14. Exemption from Compliance.** – The government agency is excused from complying
44 with a subsequent identical or substantially similar request from the same requesting party where it
45 has previously complied with a request for information unless a reasonable interval has lapsed
46 between compliance with the previous request and the making of the current request: *Provided*, That
47 the government agency complies with Section 15 of this Act.
48

49 **SEC. 15. Notice of Denial.** – If the government agency decides to deny the request, in whole
50 or in part, it shall, as soon as practicable, and in any case within fifteen (15) calendar days from the
51 receipt of the request, notify the person making the request of such denial in writing or through
52 electronic means. The notice shall clearly set forth the ground or grounds for denial and the
53 circumstances on which the denial is based, and indicate available rights of reconsideration or
54 appeal. Failure to notify the person making the request of the denial, or of the extension, shall be
55 deemed a denial of the request for access to information.
56

57 **SEC. 16. Remedies in Cases of Denial of Request for Information.** –
58

1 (a) In all government agencies other than the judicial branch:
2

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

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

21 No damages shall be assessed against the respondent unless it is proven that the
22 respondent acted with malice, bad faith or negligence. Subject to the provisions of
23 existing laws and the issuances of the Supreme Court, all courts shall give preference to
24 the hearing and disposition of petitions for *mandamus* filed pursuant to the provisions of
25 this Act. The court hearing the case is empowered to receive the information subject of a
26 claim of exception under Section 7 herein and examine them *in camera* to determine the
27 sufficiency of the factual and legal basis of such claim, when such sufficiency cannot be
28 reasonably determined through evidence and circumstances apart from the information.
29

30 (b) In the Judicial Branch, the judiciary shall be governed by such remedies as promulgated by
31 the Supreme Court.
32

33 (c) The remedies provided in this section are without prejudice to any other administrative, civil or
34 criminal action covering the same act.
35

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

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

40 (e) In case the requesting party has limited or no financial capacity, the Public Attorney's
41 Office shall be mandated to provide legal assistance to the requester in availing of the remedies
42 provided under this Act.
43

44 **SEC. 17. Keeping of Records. –**
45

46 (a) Government agencies shall create and/or maintain in appropriate formats, accurate and
47 reasonably complete documentation or records of their organization, policies, transactions,
48 decisions, resolutions, enactments, actions, procedures, operations, activities,
49 communications and documents received or filed with them and the data generated or
50 collected. These shall include working files such as drafts or notes, whenever these have
51 been circulated within the agency for official purpose such as for discussion, comment or
52 approval or when these contain unique information that can substantially contribute to a
53 proper understanding of the agency organization, policies, transactions, decisions,
54 resolutions, enactments, actions, procedures, operations, and activities. This likewise
55 include information submitted by public service contractors to the government agency
56 concerned such as receipts, identities of the suppliers, purchase orders, cash vouchers,
57 related agreements with other private entities, and other documents related to the execution
58 or the implementation of their transactions or contracts with the government agency

1 involved;

2
3 (b) Government agencies shall identify specific and classes of official records in their
4 custody or control that have continuing historical, administrative, informational, legal, evidentiary,
5 or research value for preservation by such agencies or their legitimate successors, or for transfer to
6 the National Archives of the Philippines. In addition, the National Archives of the Philippines shall
7 likewise identify specific and classes of official records that it shall require agencies to preserve and
8 transfer to it.

9
10 (c) In addition to the specific and classes of official records identified for preservation
11 under letter (b) of this section, the following shall not be destroyed:

- 12
13 (1) Records pertaining to loans obtained or guaranteed by the government;
14 (2) Records of government contracts;
15 (3) The declaration under oath of the assets, liabilities and net worth of public officers
16 and employees, as required by law; and
17 (4) Records of official investigations pertaining to allegations of graft and corruption of
18 public officers.
19 (5) Government agencies shall prepare, following standards and period promulgated
20 pursuant to Republic Act No. 9470 or the National Archives of the Philippines Act of
21 2007, a records management program that includes the following:
22 (6) A records maintenance system for the creation, selection, classification, indexing and
23 filing of official records that facilitate the easy identification, retrieval and
24 communication of information to the public;
25 (7) A records maintenance, archival and disposition schedule providing a listing of
26 records under current use, for retention by the agency, for transfer to the National
27 Archives, or for destruction: *Provided*, That destruction of the official records may
28 be implemented only upon approval of the National Archives of the Philippines; and
29 (8) A specification of the roles and responsibilities of agency personnel in the
30 implementation of such system and schedule.

31
32 (d) In addition to its function as repository of all rules and regulations issued by agencies as
33 provided under Book VII, Chapter II of the Administrative Code of 1987, the University of
34 the Philippines Law Center shall, in coordination with the Office of the President which has
35 exclusive editorial and printing jurisdiction over the *Official Gazette*, and with other relevant
36 agencies, maintain a database, and publish the same in print in the *Official Gazette* or in
37 digital or online form, the following:

- 38
39 (1) All laws of the Philippines and their amendments, from the period of the Philippine
40 Commission to the present;
41 (2) All presidential issuances from November 15, 1935 to the present including, but not
42 limited, to executive orders, presidential proclamations, administrative orders,
43 memorandum circulars, general orders, and other similar issuances;
44 (3) A database of all appointments and designations made by the President of the
45 Philippines; and
46 (4) Opinions of the Secretary of Justice.

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

51
52 For purposes of compliance with Article 2 of the Civil Code of the Philippines, publication of
53 the following in the online version of the *Official Gazette*, with the corresponding timestamps on the
54 document, shall be considered as official publication:

- 55
56 (a) All legislative acts and resolutions of a public nature of the Congress of the Philippines;
57
58 (b) All executive and administrative orders and proclamations of general application;

1
2 (c) Decisions or abstracts of decisions of the Supreme Court and the Court of Appeals or other
3 courts of similar rank, as may be deemed by said courts of sufficient importance to be so
4 published;

5
6 (d) Such documents or classes of documents as the President shall determine from time to time
7 to have general application or which he may authorize to be published. However, other
8 documents or classes of documents as may be required to be published by law, such as
9 petitions and/or legal notices in connection with land titles, naturalization or special
10 proceedings shall continue to be published in the print version of the *Official Gazette* or in
11 any newspaper of general circulation for purposes of compliance with the publication
12 requirement.
13

14 **SEC. 19. Capacity-Building, Promotion of Best Practices and Continuous Updating of**
15 *Appropriate Information Technology and FOI.* – All government agencies must ensure that they
16 have a compliant website within two (2) years from the date of effectivity of this Act. The National
17 Computer Center shall monitor all government agency websites and render the appropriate support
18 including capacity-building program and coordination with another appropriate agency, utilizing
19 alternative mechanism and seeking the assistance of private relevant and willing volunteer groups to
20 ensure full compliance with the requirements of this Act.
21

22 In the performance of its monitoring function of government websites and portals, the National
23 Computer Center shall endeavor to continuously develop, improve and update its information
24 technology system taking into consideration usability and practical accessibility of government
25 documents by the public.
26

27 The Department of Science and Technology shall be responsible for setting the standards for
28 the file formats to be used by the political subdivisions of the State. All national and local
29 government agencies including GOCCs with or without original charter in the publication of
30 government public information in accordance with the provisions of this Act.
31

32 Every government agency shall ensure the provision of adequate training for its officials to
33 improve awareness of the people's right to information and the provisions of this Act, and to keep
34 updated as to best practices in relation to information disclosure, records maintenance and archiving.
35

36 **SEC. 20. Use of Plain Language.** – Every government agency shall endeavor to use plain
37 language in their communications orders, compliance, requirements or instructions issued to
38 implement the provisions of this Act. The government agencies shall translate key information into
39 major Filipino languages and present them in popular form and means.
40

- 41 (1) To carry out the provision of this Act, the Civil Service Commission (CSC) is
42 designated to issue guidelines on the use of plain language to suit the needs of the
43 requesting party;
- 44 (2) The CSC shall provide the necessary training to employees of each government agency
45 in using plain language in public documents;
- 46 (3) All departments, agencies and instrumentalities of the national government, including
47 government-owned or -controlled corporations, local government units and state
48 colleges and universities shall designate an official responsible for implementing the
49 plain language; and
- 50 (4) Website contents including, but not limited to, financial data, notices and other
51 technical and legal documents, of government agencies must also be written in plain
52 language to ensure that these information are easy to read, understand and use.
53

54 **SEC. 21. Administrative Offenses and Penalties.** –
55

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

- 1
- 2 (1) Refusal to promptly forward the request under Section 12 of this Act to the public officer
- 3 within the same office or agency responsible for officially acting on the request when such
- 4 is the direct cause of the failure to disclose the information within the periods required by
- 5 this Act;
- 6 (2) Failure to act on the request within the periods required by this Act;
- 7 (3) Refusal to comply with the decision of his immediate supervisor, or of any court ordering
- 8 the release of information;
- 9 (4) Approval of policies, rules and regulations clearly contrary to the provisions of this Act,
- 10 and which policies, rules and regulations are the direct cause of the denial of a request for
- 11 information;
- 12 (5) Failure to upload information required to be posted on an agency's website within the
- 13 period provided under Section 19: *Provided*, That the head of agency or any other officer
- 14 or employee tasked to perform said uploading shall be held liable.
- 15

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

18
19 **SEC. 22. Criminal Offenses and Penalties.** – The penalty of imprisonment of not less than
20 one (1) month but not more than six (6) months and a fine ranging from Ten thousand pesos (Php
21 10,000.00) to One hundred thousand pesos (Php 100,000.00) shall be imposed upon:

- 22
- 23 (a) Any public official or employee who falsely denies or conceals the existence of information
- 24 that is a proper subject for disclosure under this Act.
- 25 (b) Any public official or employee who destroys, or causes to be destroyed, information and/or
- 26 documents being requested under this Act, for the purpose of frustrating the requesting
- 27 party's access thereto.
- 28 (c) Any individual who knowingly directed, induced or caused the commission of the foregoing
- 29 acts shall be liable as principal by inducement in the prosecution of public officials or
- 30 employees under this section.
- 31 (d) Any public officer or employee responsible for officially acting on the request, who shall
- 32 claim an exception under Section 7 of this Act, or under the Constitution, when such claim is
- 33 manifestly devoid of factual basis.
- 34 (e) Any individual who divulged or released information covered under Section 7 of this Act.
- 35 (f) Any public officer or employee who divulged or released information that is altered,
- 36 tampered or modified to the extent that the released information materially differs from the
- 37 original contents of the document: *Provided*, That altering or modifying a document for the
- 38 purpose of severing an exempt information from non-exempt information in a single
- 39 document shall not be punishable under this subsection. The responsible officers of the
- 40 public service contractor and the signatories to the contract or any document evidencing
- 41 transaction with the government or government agency who fail to submit the necessary
- 42 documents/papers
- 43

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

48
49 **SEC. 23. Denial in Good Faith Not a Ground for Liability.** – A denial in good faith of a
50 request made pursuant to the provisions of this Act shall not constitute grounds for administrative,
51 civil or criminal liability. In cases of denial of the request, the public official, officer or employee
52 involved must prove that he/she acted in good faith by specifying the ground relied upon for the
53 denial.

54
55 **SEC. 24. Act Not a Bar to Claim of Right to Information Under the Constitution.** – No
56 provision of this Act shall be interpreted as a bar to any claim of the right to information under
57 Article III, Section 7 of the Constitution.

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

10 **SEC. 26. *Reports on FOI.*** – All government agencies shall be required to submit annual
11 reports on the number of requests for information received and processed, of appeals made from the
12 denial thereof, and such other information as provided in this Act. The said report may be integrated
13 in the agencies' main Annual Report and its posting and publication in their respective websites
14 shall be considered as sufficient compliance.
15

16
17 **SEC. 27. *System of Incentives and Rewards.*** – A system of special incentives and rewards is
18 hereby established to be given to appropriate government agency or agencies that initiated and
19 displayed compliance and full participation in the meaningful implementation of this Act. The
20 incentives and rewards may include, but not limited to, social projects, grants-in-aid, national
21 recognition, and similar entitlements.
22

23 **SEC. 28. *Appropriations.*** – The amount necessary to carry out the provisions of this Act shall
24 be charged against the agencies' current budget and shall thereafter be included in the annual
25 General Appropriations Act.
26

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

30 **SEC. 30. *Repealing Clause.*** – All laws, decrees, executive orders, rules and regulations,
31 issuances or any part thereof inconsistent with the provisions of this Act, including Sections 18, 24
32 and 25 of Executive Order No. 292 in relation to Article 2 of Republic Act No. 386, Memorandum
33 Circular No. 78 dated 14 August 1964 (Promulgating Rules Governing Security of Classified Matter
34 in Government Offices), as amended, and Section 3, Rule IV of the Rules Implementing Republic
35 Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees), are
36 deemed repealed: *Provided*, That Memorandum Circular No. 78 shall be deemed repealed after one
37 (1) year from the effectivity of this Act or upon issuance of the Executive Order in Section 7(a)
38 whichever comes first.
39

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

Approved,