

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 5653



Introduced by: Kababaihan Kabalikatan para sa Kapakanan at Kaunlaran ng Bayan (4K) Party-list
Representative Iris Marie D. Montes

AN ACT
IMPLEMENTING THE PEOPLE'S RIGHT TO INFORMATION AND THE
CONSTITUTIONAL POLICIES OF FULL PUBLIC DISCLOSURE AND HONESTY IN
THE PUBLIC SERVICE

EXPLANATORY NOTE

Article II, Section 24 of the Constitution provides that, "The State recognizes the vital role of communication and information in nation building" and that, "Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest" (Article II, Section 28).

Moreover, Article III, Section 7 mandates 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 aforesaid constitutional provisions strengthen the principle that "Public office is a public trust" and underscore the crucial need in a democracy for open access to government information by citizens.

It is without doubt that an informed people ushers in an empowered citizenry that brings about transparency, accountability, and good governance. Citizens' information with respect to certain activities and transactions of government enables the public to actively and properly participate in the process of governance provided under the Constitution. Without it, the enormous powers of the state in the hands of public officers are prone to abuse.

By guaranteeing public access to official records, documents and papers pertaining to official acts, transactions and decisions of the government, the people will have the opportunity to engage policy-makers, decision-makers, and dispensers of public good, which in the process enrich and even legitimize governance.

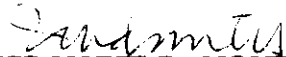
Indeed, good governance is anchored on the transparency and accountability of the government and its officials, together with the participation of an informed and active citizenry.

Transparency in the public sector enables our people to engage in meaningful participation, promotes accountability, and mitigates corruption, which has long been a major obstacle to our country's development.

Transparency is essential to accountability. Without transparency, citizens cannot access the information needed to collectively discern the fitness of public officials, elected or otherwise, to hold public office. "Open dialogue can be effective only to the extent that the citizenry is informed and thus able to formulate its will intelligently. Only when the participants in the discussion are aware of the issues and have access to information relating thereto can such bear fruit."¹

Hence, this bill aims to significantly help our government to better serve the needs of the people. The passage of the FOI bill will signal the beginning of the realization of our quest for good governance, transparency and accountability.

In view thereof, early approval of this bill is earnestly sought.


IRIS MARIE D. MONTES
Kababaihan Kabalikatan para sa Kapakanan
at Kaunlaran ng Bayan (4K) Party-list

¹ Valmonte vs. Belmonte, G.R. No. 74930, 13 February 1989

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

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

SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the state to recognize the right of the people to information on matters of public concern and to adopt and implement a policy of full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided by this Act. It is likewise the policy of the State to promote the meaningful and increased participation of the people in government decision-making and public accountability.

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

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

(a) Information refers to any public and/or official record, document, paper, report, letters, contract, minutes, and transcripts of official meetings, maps, books, photographs, data, research material, film, audio and video recordings, magnetic or other tapes, 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, 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) Official record/s 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;

(c) Personal Data refers to a collective term used to refer to personal information, sensitive personal information, and privileged information. These are any information that relates to an identified or identifiable living individual. Different pieces of information, which are collected together can lead to the identification of a particular person and also constitute personal data;

(d) Personal information refers 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;

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

(f) Public records refer to information required by laws, executive orders, rules, or regulations to be entered, kept, and made publicly available by a government agency/office;

(g) Public service contractor refers to a private entity that has a dealing, contract, or transaction of whatever form or kind with the government or a government agency/office that utilizes public funds;

(h) Sensitive personal information refers to personal information:

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

ii. about an individual's health, education, genetic, or sexual life of a person;

iii. any proceeding for any offense allegedly or actually committed by an individual, including the disposal of, or the court's sentence in such proceedings;

iv. 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 or data submitted by individuals to government agencies such as previous or current health records; and

v. specifically established by an executive order or an act of Congress to be kept classified.

SEC. 4. Coverage. This Act shall apply to all executive, legislative and judicial offices, and constitutional offices, including Local Government Units (LGUS), State Universities and Colleges (SUCS), Government-Owned or Controlled Corporations (GOCCS), and other government instrumentalities, subject to limitations under existing laws. Further, this Act shall also cover back-end government operations, within, between, and across agencies, government-to-government communications, particularly those involving sharing and processing of data and information between and among government agencies

for policy, planning, and decision-making purposes, and other government operations.

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

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

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

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

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

(2) The information requested pertains to the foreign affairs of the Republic of the Philippines when its revelation shall unduly weaken the negotiating position of the government in an 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 custody and may direct the declassification review of such review as needed. Declassification of 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, 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;

(2) compromise or interfere with the legitimate prevention, detection, or suppression of criminal activity, or the legitimate implementation of immigration controls and border security;

(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;

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

(5) endanger the life or physical safety of any individual; or

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

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

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

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

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

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

i. The information requested and/or obtained by either the House of Congress or any committee thereof, in executive session;

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

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

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

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

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

o. The information is of a nature that its premature disclosure would:

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

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

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

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

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

1) The exceptions are strictly construed;

2) The exceptions are not used to cover - up legitimate investigations being conducted by law enforcement agencies or the Legislature involving the commission of a crime, or any unlawful activity wherein such information is material or relevant to the allegations or issues;

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

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

5) The exceptions do not constitute an authority of the executive branch of a Local Government Unit (LGU) to withhold information from its legislative body;

6) Whenever the information requested is part of a record, whose other parts are covered by an exception, but may be reasonably severed from a record, the responding official shall communicate the information not covered by the exception to the requester; and

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

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

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

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

1) President;

2) Vice-President;

3) Members of the Cabinet;

4) Members of Congress;

5) Justices of Supreme Court;

6) Members of Constitutional Commissions and other constitutional offices;

and

7) Officers of the Armed Forces with general or flag rank.

Provided, That sensitive personal information contained in the SALN such as:

i. Home address of the declarant;

ii. Details of any unmarried children below eighteen (18) years of age living in the declarant's household, if any, particularly their names, dates of birth, and ages;

iii. Signatures of the declarant and co-declarant; and

iv. Government-issued ID numbers of the declarant and co-declarant redacted to protect the dignity, safety, and security of the public officer shall be redacted: Provided, further, That all SALNs for previous years shall be archived and kept available on the said websites.

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

1) annual budget of government agencies;

2) itemized monthly collections and disbursement;

3) summary of income and expenditures;

4) component of the IRA utilization;

5) annual procurement plan and procurement list;

6) an updated plantilla of positions and vacant positions with qualifications/ requirements in their organizations that need to be filled up;

7) Items to Bid;

8) Bid Results on Civil Works, and Goods and Services;

9) Abstract of Bids as calculated;

10) Procurement contracts entered into by a government agency with corresponding income tax returns, if applicable, of the person or entity awarded of the same;

11) Construction or concession agreements or contracts entered into by a government agency with any domestic or foreign person or entity;

12) Private sector participation agreements or contracts in infrastructure and development projects under Republic Act No. 6957, as amended by Republic Act No. 7718, authorizing the financing, construction, operation, and maintenance of infrastructure projects;

13) Public funding extended to any private entity;

14) Bilateral or multilateral agreements and treaties in trade, economic partnership, investments, cooperation, and similar binding commitments;

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

16) Guarantees given by any government agency to GOCCs and to private corporations, persons or entities;

17) Loans from domestic and foreign financial institutions;

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

19) Compromise agreements entered into by a government agency with any person or entity.

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

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

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. SALN 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;

g. Work programs, development plans, investment plans, projects, performance targets and accomplishments, and 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 database 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.

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

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

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

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

c. A government agency must protect personal data in its custody or under its control in accordance with the provisions of the Republic Act No. 10173 or the Data Privacy Act of 2012, its implementing rules and regulations, and issuances by the National Privacy Commission (NPC); and

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

SEC. 11. *Freedom of Information (FOI) Manual.* - For the effective implementation of this Act, all government agencies shall prepare a Freedom of Information (FOI) Manual, within six (6) months from the effectivity of this Act indicating the following:

a. The location and contact information of the head, regional, provincial, and field offices, and other established places where the public can obtain government information or submit requests;

b. The types of information it generates, produces, holds, and/or publishes;

c. A description of its record-keeping system;

d. The person or office responsible for receiving requests for information;

e. The procedure for the filing of requests personally, by mail, or through the identified electronic means;

g. The standard forms for the submission of requests and the proper acknowledgment of the request;

h. The process for the disposition of the request, including the routing of the request to the person or office with the duty to act on the request, the decision making process, and the grant or denial of access and its implementation;

i. The procedure for the administrative appeal of any denial of access to information;

j. The schedule of fees;

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

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

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

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

SEC. 12. *Procedure of Access.* -

a. Any person who wishes to obtain information shall submit, free of charge, a request to the government agency concerned personally, by mail, or through electronic means. A person who is unable, because of illiteracy or due to being a person with disability, to make a written request for information may make an oral request, and the public official who receives the oral request shall reduce it to writing, and include his name and position within the government agency, and give a copy thereof to the person who made the request. The request shall state the name and preferred contact information of the requesting party, and reasonably describe the information required, the reason for the request of the information, and the preferred means by which the government agency shall communicate such information to the requesting party: Provided, That the stated reason shall not be used as a ground to deny the request or to refuse the acceptance of the request unless such reason is contrary to law. If the request is submitted personally, the requesting party shall show his current identification card issued by any government agency, 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 particularly those with special needs, to comply with the request 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 the 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 equipment normally available to the concerned government agency;

e. A government agency may communicate the information requested in a form other than the preferred means whenever the agency has no capability of 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;

f. 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;

g. 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 information shall be made available, which in no case shall result in an extension of more than twenty (20) working days; and

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

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

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

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

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

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

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

1) Every denial of any request for access to information may be appealed to the person or office next higher in authority of the same agency, following the procedure mentioned in Section 11 (h) of this Act: Provided, That the written appeal must be filed by the same person making the request within fifteen (15) working 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 the filing of said written appeal. Failure of the government agency to decide within the aforesated period shall constitute a denial of the appeal;

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

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

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

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

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

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

SEC. 17. *Keeping of Records.* -

a. Government agencies shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation or records of their organization, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, activities, communications, and documents received or filed with them and the data generated or collected. These shall include working files such as drafts or notes, whenever these have been circulated within the agency for official purposes such as for discussion, comment, or approval or when these contain unique information that can substantially contribute to a proper understanding of the agency organization, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, and

activities. This likewise includes information submitted by public service contractors to the government agency concerned such as receipts. Identities of the suppliers, purchase orders, cash vouchers, related agreements with other private entities, and other documents related to the execution or the implementation of their transactions or contracts with the government agency involved;

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

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

1. Records pertaining to loans obtained or guaranteed by the government;
2. Records of government contracts;
3. The declaration under oath of the SALN of public officers and employees, as required by law; and
4. Records of official investigations pertaining to allegations of graft and corruption of public officers.

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

- 1) A records maintenance system for the creation, selection, classification, indexing, and filing of official records that facilitate the easy identification, retrieval, and communication of information to the public;
- 2) A records maintenance, archival, and disposition schedule providing a listing of records under current use, for retention by the agency, for transfer to the National Archives, or for destruction: Provided, That destruction of the official records may be Implemented only upon approval of the NAP; and
- 3) A specification of the roles and responsibilities of agency personnel in the implementation of such system and schedule.

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

1. All laws of the Philippines and their amendments, from the period of the Philippine Commission to the present;

2. All presidential issuances from November 15, 1935, to the present including, but not limited, to executive orders, presidential proclamations, administrative orders, memorandum circulars, general orders, and other similar issuances;

3. A database of all appointments and designations made by the President of the Philippines; and

4. Opinions of the Secretary of Justice.

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

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

a. All legislative Acts and resolutions of a public nature of the Congress of the Philippines;

b. All executive and administrative orders and proclamations of general application;

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

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

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

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

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

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

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

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

b. The CSC shall provide the necessary training to employees of each government agency in using plain language in public documents;

c. All departments, agencies, and instrumentalities of the national government, including LCDs, and SUCs shall designate an official responsible for implementing the plain language; and

d. Website contents including, but not limited to, financial data, notices, and other technical and legal documents, of government agencies must also be written in plain language to ensure that this information is easy to read, understand and use.

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

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

1) Refusal to promptly forward the request under Section 12 of this Act to the public officer within the same office or agency responsible for officially acting on the request when such is the direct cause of the failure to disclose the information within the periods required by this Act;

2) Failure to act on the request within the periods required by this Act;

3) Refusal to comply with the decision of his immediate supervisor, or any court ordering the release of information;

4) Approval of policies, rules, and regulations clearly contrary to the provisions of this Act, and which policies, rules, and regulations are the direct cause of the denial of a request for information;

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 the 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) year but not more than six (6) years and a fine ranging from One Hundred Thousand Pesos (P100,000.00) to One Million Pesos (P1,000,000.00) 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 public official or employee who destroys, or causes to be destroyed information and/or documents being requested under this Act, for the purpose of frustrating the requesting party's access thereto;

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 altering or modifying a document for the purpose of severing an exempt information from non-exempt information in a single document shall not be punishable under this subsection; and

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

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

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

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

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

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

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

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

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

SEC. 29. *Separability Clause.* - If any part or provision of this Act is held unconstitutional or invalid, the remainder thereof not otherwise affected shall remain in full force and effect.

Sec. 30. *Repealing Clause.* - Sections 18, 24, and 25 of Executive Order No. 292 in relation to Article 2 of Republic Act No. 386, Memorandum Circular No. 78 dated 14 August 1964 (Promulgating Rules Governing Security of Classified Matter in Government Offices), as amended, and Section 3, Rule IV of the Rules Implementing Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees), are hereby repealed: Provided, That Memorandum Circular No. 78 shall be deemed repealed after one (1) year from the effectivity of this Act or upon issuance of the Executive Order in Section 7(a) whichever comes first.

All other laws, presidential decrees, executive orders, letters of instruction, proclamations, or administrative regulations that are inconsistent with the provisions of this act are hereby repealed, amended, or modified accordingly.

SEC. 31. *Effectivity.* -This Act shall take effect after fifteen (15) days following the completion of its publication in the official gazette, or in a national newspaper of general circulation.

Approved,