

Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

EIGHTEENTH CONGRESS

First Regular Session

House Bill No. **5776**



**INTRODUCED BY
REP. ALFRED VARGAS**

EXPLANATORY NOTE

Information is power and freedom of information gives citizens the right to see how their taxes are being spent; how their services are being provided; and how their nations are being run. It is more than documents and policies – access to information, access to insight and influence, and a way for people to hold account those who run public services and represent them. (Elizabeth Denham, UK Information Commissioner)

Cognizant of the importance of the above quote, that of transparency and accountability in governance, one of the first acts of President Rodrigo Duterte upon his assumption as President of our nation is to sign Executive Order No. 2 on 23 July 2016. Said EO is entitled, "**OPERATIONALIZING IN THE EXECUTIVE BRANCH THE PEOPLE'S CONSTITUTIONAL RIGHT TO INFORMATION AND THE STATE POLICIES TO FULL PUBLIC DISCLOSURE AND TRANSPARENCY IN THE PUBLIC SERVICE AND PROVIDING GUIDELINES THEREFOR.**" (emphasis mine)

Somehow, it is a victory for the Freedom of Information (FOI) advocates who for almost three decades fought to have FOI legislated. A least with an EO that covers all the executive branch of government, partial victory for this advocacy is won.

But, the need to have FOI legislated is still reverberating for several reasons:

First, a mere Executive Order by one administration can easily be reversed by the next administration.

Second, EO No. 2 does not and cannot cover other important government institutions like local governments, the legislature, independent constitutional bodies and the judiciary. Coverage of these other government instrumentalities can only be done by an act of Congress.

Third, the EO can only exact administrative liabilities for denial of the information. Only a law can impose criminal liabilities and therefore carries a lot more weight in terms of enforcement and compliance.

In other words, FOI must be institutionalized. It must be legislated.

This draft, unlike those introduced during the prior Congress, proposes for the creation of an oversight body called Freedom of Information Commission. Some countries and states which has a set-up like this includes United Kingdom, Scotland, France, and Canada. This has been a global trend and has been recognized as advantageous especially in addressing violation of the right of access to information.

The establishment of a Commission will promote the exercise of the right of access to information. It will help in the redress in cases of violation of this right by virtue of an appeal remedy. The Commission may also perform technical assistance and guidance to government agencies in the implementation of the right of access to information. Since it is the gatekeeper of government information, it will have a clear understanding of what information may not be released because of the exceptions under the law.

These are among the functions of the Commission. But most importantly, this Commission shall function as an independent body that shall oversee the nationwide exercise of the right of access to information.

This administration only has two-and a-half years to go. We may need the President's moral suasion and *imprimatur* to see the passage of this critical governance measure. But then again, I have full faith that this 18th Congress is made up of men and women ready to deliver a landmark legislation that paves the way to an empowered and informed citizenry all contributing to good governance and our nation's development.

I earnestly ask that we pass this measure.



ALFRED VARGAS

Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 5776

INTRODUCED BY
REP. ALFRED VARGAS

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

AN ACT
ENABLING THE PEOPLE'S CONSTITUTIONAL RIGHT OF ACCESS TO
INFORMATION

CHAPTER I
GENERAL PROVISIONS

SEC. 1. Short Title. - This Act shall be known as the "Freedom of Information Act of 2019."

SEC. 2. Declaration of Policy. - The State recognizes the right of the people to information on matters of public concern and adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided by this Act. As a democratic country, it shall be the declared policy of the state to promote transparency, the meaningful and increased participation of the people in government decision-making and public accountability.

It is also the policy of the State to protect the fundamental human right of privacy, communication while ensuring the free flow of information to promote innovation and growth.

SEC. 3. Coverage. - This Act shall cover all government agencies, and all private individuals or entities dealing, contracting, or transacting of whatever nature with the government or government agency that utilizes public funds. Government agency or agencies shall include the executive, legislative and judicial branches as well as constitutional bodies of the Republic of the Philippines including, but not limited to, the national government and all its agencies, departments, bureaus, offices and instrumentalities, constitutional

commissions and constitutionally mandated bodies, local government units, regulatory agencies, chartered institutions, government-owned or -controlled corporations (GOCCs) including wholly-owned or controlled subsidiaries, government financial institutions (GFIs), government instrumentalities with corporate powers (GICP), government corporate entities (GCE), and non-chartered GOCCs, state universities and colleges, and local water districts (LWDs), the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP), all offices in the Congress of the Philippines including the offices of Senators and Representatives, the Supreme Court and all lower courts established by law.

CHAPTER II DEFINITION OF TERMS

SEC. 4. Definition of Terms. - As used in this Act:

- (a) "Access" shall mean the granting of permission of obtaining a copy, receiving the information, or gaining of insight into the information or records sought, in whatever form.
- (b) "Information" shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recordings, magnetic or other tapes, electronic data, computer-stored data, or any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online which are made, received or kept in or under the control and custody of any government office pursuant to law, executive order, rules and regulations, ordinance or in connection with the performance or transaction of official business by any government agency.
- (c) "Official record/records" refers to information produced or received by a public officer or employee, or by a government agency in an official capacity or pursuant to a public function or duty.
- (d) "Public record/records" refers to information required by laws, executive orders, rules, or regulations to be entered, kept and made publicly available by a government agency.
- (e) "Public Service Contractor" refers to a private entity that has a dealing, contract or transaction of whatever nature with the government or a government agency that utilizes public funds.
- (f) "Records management" refers to the managerial activities involved with respect to the records, creation, records maintenance and use, transmission, retention, and records disposition in order to achieve adequate and proper documentation of policies and transactions of government for its efficient, effective and economical operations.

(g) "Sensitive personal information" shall be that defined under the Republic Act 10173 or the Data Privacy Act of 2012 and shall refer to personal information:

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

CHAPTER III FREEDOM OF INFORMATION COMMISSION

SEC. 5. Freedom of Information Commission. - There is hereby created the independent, collegial and autonomous body to be referred as the "Freedom of Information Commission" which shall have the status of a national government agency.

SEC. 6. Composition of the Commission. - The Commission shall consist of the Chairperson who shall be the head of the Commission and four (4) Commissioners for policy and planning, legal, operation and administration, and finance.

The Chairperson shall enjoy the benefits, privileges, and emoluments equivalent to the rank of the Secretary. Likewise, the Commissioners shall enjoy the benefits, privileges, and emoluments equivalent to the rank of the Undersecretary.

Except for the Commissioners who are presidential appointees only, the Chairperson is appointed by the President of the Republic of the Philippines with the approval of the Commission on Appointments by resolution. The Chairperson and Deputy Information Commissioners shall serve for a term of six (6) years and may be reappointed at any time after the lapse of the said term, subject to the discretion of the appointing authority.

The Chairperson and Commissioners must be at least thirty-five (35) years of age and of good moral character, unquestionable integrity and known probity, and has been in the government service for at least five (5) years.

The Chairperson shall be responsible for the general supervision, direction and management of the affairs of the Commission and shall exercise disciplinary control over the officers and employees of the Commission.

SEC. 7. Functions and Duties of the Commission. – The Commission shall have all the powers direct or incidental, as are necessary to undertake its functions under this Act, including but not limited to the following:

- (a) Oversee the implementation of all FOI and e-FOI programs for all the Branches of the Philippine Government and monitor compliance therewith;
- (b) Monitor compliance of government agencies covered in Section 3 especially to information that are excluded from disclosure pursuant to Sec.27 of this Act;
- (c) Issue policies, orders and guidelines in the implementation of this Act;
- (d) Develop programs and mechanisms to enhance the capacity of the Branches of the Government to comply with FOI programs;
- (e) Conduct and facilitate the necessary capacity and institutional building programs for all the Branches of the Philippine Government;
- (f) Provide vetting mechanism on the disclosure of information and documents of the government;
- (g) Coordinate and participate with local and international civil society organizations or any non-government institutions in any initiatives relative to the implementation and enforcement of this Act;
- (h) Enter into any agreement with any public or private entities or organizations relative to the implementation of this Act;
- (i) Prescribe the schedule of fees which must be reasonable based on the principle of proactive disclosure, in regard to providing information;
- (j) Provide assistance on matters relating to the Right of Access to information upon request by any of the covered agencies pursuant to Article 3 of this Act; and
- (k) All other functions and duties necessary and incidental for the enforcement and implementation of this Act.

SEC. 8. Powers of the Commission. - For the purpose of performing its functions and duties as provided in the preceding section, the Commission shall have the power to:

- (a) Hold inquiries and require any person to appear before it;
- (b) Examine a person under oath or affirmation and require such person where necessary to produce any information which is in that person's possession; Provided that the information which is exempted from disclosure under Chapter VI shall be examined in confidence;
- (c) Inspect any information held by a government agency, including information denied by it under the provisions of this Act;
- (d) Direct a government agency to provide information in a particular form;
- (e) Direct a government agency to publish any information withheld by a said agency from the public, subject to the provisions of Chapter VI hereof;
- (f) Expeditiously hear and determine any appeals made to it by any aggrieved person; and
- (g) All other powers determined to be necessary for the implementation and enforcement of this Act.

SEC. 9. Good faith in the performance of functions. – No administrative, criminal or civil cases shall be filed against the Commission and its employees in respect to any acts performed in accordance with the implementation of this Act or performance of their functions.

CHAPTER IV RIGHT TO ACCESS TO INFORMATION PROCEDURES

SEC.10. Access to information. - Every Filipino citizen has a right to and shall, on request, be given access to any information, official records, public records, and documents and papers pertaining to official acts, transactions or decisions, or of public concern under the control of a government agency regardless of the physical form or format in which they are contained.

SEC. 11. 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 showing by clear and convincing evidence that the information requested is exempted from the disclosure by this Act.

SEC.12. Procedure for making a request. –

- (a) Any person or requesting party who wishes to obtain information shall submit, free of charge, a request to the government agency concerned personally, by mail, or through electronic means.
- (b) A person who is unable to make a written request for information, because of illiteracy or disability, may make an oral request, and the responsible public officer or employee who receives the oral request shall reduce it to writing, and include his or her name and position within the government agency, and give a copy thereof to the requesting party.
- (c) 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, public order or public policy.
- (d) If the request is submitted personally, the requesting party shall show his or her valid identification card issued by any government agency, or government or private employer or school.
- (e) 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; Provided, that the government agency shall, by reasonable means, prevent the disclosure in public of the government issued identification card of any requesting party.

- (f) The responsible public officer or employee receiving the request shall provide reasonable assistance, free of charge, to enable all requesting party and particularly those with special needs, to comply with the request requirements under this section.
- (g) The request shall be stamped by the public officer or employee, 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 public officer or employee shall provide for an equivalent means by which the requirements of this paragraph shall be met. Each government agency shall establish a system to track the status of all requests for information received by it.
- (h) 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.
- (i) A government agency may communicate the information requested in a form other than the preferred means whenever the agency has no capability in communicating the information in the preferred format, or such preferred means would unreasonably interfere with the effective operation of the agency or be detrimental to the preservation of the record.

SEC. 13. Period for compliance. -

- (a) The government agency, through its responsible public officer or employee, 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.
- (b) The responsible officer or employee shall, in writing or through electronic means, notify the requesting party 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.

SEC. 14. Referral and transfer of request. - When a request for information is made in accordance with Sec. 12 and said information is not held by the government agency but it is believed by its responsible public officer or employee to be held by another government agency, or it is believed to be more closely connected with the functions of another government agency, the government agency to which the request is made shall promptly, and in any case not later than fifteen (15) working days after the day on which the request is received, transfer the request or relevant part thereof to the other government agency and inform the requesting party accordingly.

The government agency, to which the request was referred and transferred, shall act on the referral and transfer of request within fifteen (15) working days from receipt of such referral and transfer of request. The request shall be treated as an initial request with respect to said government agency.

When a request is referred and transferred to two (2) or more government agencies, the first one to respond shall be given preference. However, if there are succeeding responses from other government agencies, the responses shall be treated as that correlated with the first government agency that responded.

SEC. 15. Fees. Government agencies may not charge any fees for accessing information unless, they may charge a reasonable fee which shall in no case exceed the actual cost of reproduction and sending the information to the requesting party. An indigent requesting party shall be exempted from the payment thereof.

The agency may, within the period provided under Sec. 13 of this Act, give the applicant fees notice, stating that a fee of an amount specified in the notice is to be charged by the agency for complying with Chapter IV of this Act.

The non-payment of fees shall not be a ground for refusing to comply with the provision of this Act.

SEC. 16. Freedom of Information Manual. - All covered agencies shall provide for their Manual indicating the procedures for making a request, period of compliance, list of exempted information or records from disclosure, process of referral and transfer of request, fees for reproduction and sending of information to the requesting party, and all other pertinent procedures for the efficient and effective access to information.

SEC. 17. Freedom of Information Portal. -The Commission, in coordination with the Department of Information and Communications Technology (DICT) shall, within sixty (60) working days from the establishment of the Commission, create an online portal to be used as a facility for lodging request using the internet.

SEC. 18. Proactive Publication. - It is the duty of the agencies to proactively disclose in the office premises and in their website, the following:

- (a) The agency's mandate and functions;
- (b) Vision, mission and core values;
- (c) Powers and duties of officials with their position and office contact information;
- (d) The norms set by it for the discharge of its functions;
- (e) The procedure followed in the decision-making process, including channels of supervision and accountability;
- (f) The current and updated service standards or guidance used by the agency and its officials and employees in relation to its dealings with the public, including the rules, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions or the Citizen's Charter;
- (g) Statistical data of its accomplishments;
- (h) The budget allocated to each of its agencies, including the particulars of all plans, proposed expenditures and reports on disbursement made;
- (i) Subsidy programs of the government including but not limited to health care, community development, or women and children care. The manner of the execution of these programs, the amounts allocated and beneficiaries.
- (j) Particulars of concessions, permits or authorizations granted by it;
- (k) The names, designation, contact details of responsible public officers or employees of every agencies, appellate authorities and their office contact details;
- (l) The public authority shall also before initiating any project or formulating any policies or program, publish or communicate to the public in general or to the persons likely to be affected by it in a particular, the facts available to it or to which it has reasonable access which in its opinion should be known to them in the best interest of natural justice and promotion of democratic principles; and
- (m) Current news and updated events conducted by agencies.

All statistical data pertaining to funds, budget allocation, subsidies and other public finance matters shall be downloadable in machine readable format.

CHAPTER V CENTRAL APPEALS AND REVIEW COMMITTEE

SEC. 19. Central Appeals and Review Committee. – Government agencies must establish an internal appeal mechanism which shall be known as the Central Appeals and Review Committee that shall exercise the following functions:

- (a) Receive, review, evaluate, and assess the appeal on the denial of the request for information;
- (b) Determine if the appeal was filed within the period provided under this Act;

- (c) Recommend to the head of agency the actions on the appeal filed by the requesting party; and
- (d) Such other functions as may be determined by the Commission.

The CARC may be composed of not more than three (3) public officers with a rank of a Director or Manager, or its equivalent, of offices handling information and communication, records management, or policy.

SEC. 20. Remedies in Cases of Denial of Request for Information. – Every denial of request for access to information may be appealed to Central Appeals and Review Committee (CARC) of the agencies concerned. The written appeal must be filed by the same person making the request, or his or her authorized representative, within fifteen (15) working days from the notice of denial. The appeal shall be decided by CARC within twenty (20) working days from filing of said written appeal.

Failure of the government agency to act and decide on the appeal within the period stated in the preceding paragraph shall constitute a denial of the appeal and is deemed to be final; Provided, that in case the requesting party fails to appeal within the period provided herein, the denial of the request shall be deemed final and said party loses his or her right to the remedies provided in this Act. The decision of the CARC shall be treated as final.

Upon denial, the aggrieved party shall file its Motion for Reconsideration to the Office of the President in requests made to the Executive Branch, or to the Supreme Court for requests made in the Judiciary, or to the House of Representatives or Senate of the Philippines, for requests made in their respective offices. The filing of a motion for reconsideration may be dispensed.

SEC. 21. Appeal on behalf of the aggrieved requesting party. – Where the aggrieved party is unable to make an appeal due to, among others, health conditions or lack of legal capacity to file a suit, such appeal may be made by a person duly authorized in writing by the aggrieved party.

CHAPTER VI INVENTORY OF EXCEPTIONS

SEC. 22. Exceptions. – Access to information shall be denied when the information falls under any of the exceptions enshrined in the Philippine Constitution, existing laws or jurisprudence.

All agencies and offices covered by this Act shall, within sixty (60) working days from the issuance of the Implementing Rules and Regulations, provide for their respective list of exempted information from disclosure. Said list shall

be reflected in their own Freedom of Information Manual as mentioned in Sec. 16 hereof.

All exempted information under this Section shall be mandatorily reviewed 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 Judiciary shall be subject to the approval of the, Supreme Court; for Congress, subject to the approval of the Senate and the House of Representatives respectively; for local government units, subject to the approval of their local Sanggunians, ; and for agencies under the executive branch and all other agencies and offices, subject to the approval of the Office of the President.

SEC. 23. Qualifications. – Even if the information falls under the exceptions provided in the Implementing Rules and Regulations, access to information shall not be denied if:

- (a) The information may be reasonably severed from the body of the information which would be subject to the exceptions;
- (b) The public interest in the disclosure outweighs the harm to the interest sought to be protected by the exceptions; or
- (c) The requesting party is either House of Congress, or any of its Committees and the disclosure is to be made in executive session, unless the disclosure will constitute a violation of the Constitution.

SEC. 24. Classification and De-classification of government information or records. – Government agencies may classify information or records, as to disclosure, within their control or custody for a period provided in the Implementing Rules and Regulations; Provided, that all classified information contained in all government agency records that: (1) are more than fifty (50) years old (2) and have been determined to have historical value shall be automatically declassified whether or not the records have been reviewed. Subsequently all classified information in such records shall be automatically declassified no longer than fifty (50) years from the date of its original classification.

CHAPTER VII PENALTIES

SEC. 25. Criminal Offenses. – The Commission may, motu proprio or upon receipt of complaint by the requesting party, file a criminal case to any individuals for any following acts:

- (a) When a responsible public officer or employee willfully denies or obstructs access of any information or records;
- (b) When a responsible public officer or employee willfully fails to act on the request within the compliance periods provided under Sections 13 and 14 of this Act;

- (c) When a responsible officer willfully refuses to comply with the decision of his or her superior, or of any court ordering the release of information;
- (d) When a public officer or employee willfully interferes with the work of the Commission or other officer of the Commission;
- (e) When a public officer or employee deliberately conceals or falsifies records or provides false, misleading, incomplete or inaccurate information in response to a request made in pursuant to this Act;
- (f) When any responsible public officer or employee who shall claim an exception under Chapter VI of this Act, when such claim is manifestly devoid of factual and legal bases;
- (g) When any individual disclosed or released any information knowing that the said information is covered under Chapter VI of this Act;
- (h) When any public officer or employee who willfully disclosed or released information that is altered, tampered or modified to the extent that the disclosed or 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 Act;
- (i) Any individual who willfully directed, induced or caused the commission of the foregoing acts shall be liable as principal by inducement in the prosecution of public officer or employees under this section;
- (j) 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 as ordered by any government agency or of any court ordering the release of the documents/papers. In addition to the penalties provided herein, said public service contractor shall have the automatic revocation of their license to operate;
- (k) If the violation committed in this Act is induced and assisted by a private individual or a corporation, partnership or any kind of juridical entity, the penalty provided herein shall be imposed on its executive officer and/or other responsible officials.

SEC. 26. Penalties. - A penalty of imprisonment of not less than one (1) year but not more than three (3) years and a fine ranging from one hundred thousand pesos (Php 100,000.00) to five hundred thousand pesos (Php 500,000.00) shall be imposed upon acts enumerated in the preceding section.

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

SEC. 27. Whistleblower protection. – Where the disclosure is one which involves public interest, no person shall be liable for any disclosure of any information which was obtained in confidence. Public interest, for purposes of this Act, shall be determined on a case-to-case basis by the Courts unless otherwise defined by law.

SEC. 28. Administrative Liability. – In addition to the criminal penalties provided under Section 24, a public officer or employee may also be administratively liable under the Civil Service Rules and Regulations in respect to violations of this Act.

CHAPTER VIII

FUNCTIONS OF THE OFFICE OF THE OMBUDSMAN

SEC. 29. Functions of the Office of the Ombudsman. – The Office of the Ombudsman, pursuant the Philippine Constitution, shall be given the following additional functions:

- (a) To investigate and review decision of any responsible public officers or employees, and Central Appeals and Review Committee of government agencies relative to the disclosure or non-disclosure of information;
- (b) To investigate and review any decision of any government agencies, departments or institutions regarding the arbitrary extension of the time limit to respond provided in this Act;
- (c) To investigate and review any written complaint against any officers or employees of any government agencies, departments, or institutions for all actions;
- (d) To investigate and review all offenses and penalties committed under Sec. 23 and Sec. 24 of this Act;
- (e) To provide for its own rules of procedure as regards investigation and review; Provided that said rules of procedure shall take into utmost consideration the expedient handling of all the investigation and review of any of the acts mentioned under this Chapter;
- (f) And all other functions and powers as may be deemed necessary and appropriate for the enforcement of this Act.

SEC. 30. Applicability of relevant laws. – The functions and powers of the Office of the Ombudsman as stated in this Act shall be without prejudice to its other functions and powers provided under the 1987 Constitution of the Republic of the Philippines, Republic Act 6770 or The Ombudsman Act of 1989, and other relevant laws.

SEC. 31. Consultation with the National Privacy Commission. – The Office of the Ombudsman may, before coming up with a resolution or decision

to a complaint made under this Act, to consult with the National Privacy Commission regarding the merits of the case especially if the refusal is grounded on privacy concerns.

CHAPTER IX

Protection of Privacy.

SEC. 32. While providing for access to information in public records, the right to privacy of individuals shall at all times be protected in the following manner:

- a) A government agency shall ensure that personal information in its custody or under its control is disclosed only as permitted under this Act;
- b) A government agency shall protect personal information in its custody or under its control by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure, or disposal;
- c) A director, officer or employee of a government agency who has access, whether authorized or unauthorized, to personal information in the custody of the agency, shall not disclose that information except as authorized under this Act.

CHAPTER X

RECORDS MANAGEMENT

SEC. 33. Records maintenance. – All government agencies shall record and maintain record of all its activities in a manner that facilitates the right to information, as provided in this Act and in accordance with the rules and regulations to be established by the National Archives of the Philippines (NAP) and the Commission as regards records management in support to the right to information.

SEC. 34. Code of Practice on Records Management. – The Commission and the NAP shall, after consultation with the government agencies and interested parties, issue a Code of Practice on Records Management within sixty (60) working days from the establishment of the Commission.

The Code of Practice on Records Management shall provide rules and regulations on keeping of records, records system, storage, maintenance of records, selection of records for preservation, retention or transfer of public records, transmission of public records, disposal, and all other related processes,

CHAPTER XI

CAPACITY BUILDING AND SYSTEMS OF INCENTIVES

SEC. 35. Capacity-Building, Promotion of Best Practices, and Continuous Updating of Appropriate Use of Information Technology. – Pursuant to the function of the Commission, it shall ensure that public officers and

employees are adequately trained to improve awareness of the Constitutional right on access to information and the provisions of this Act, all government agencies must adopt their own best practices relating to information disclosure and records management.

The DICT, in coordination with the Commission and other relevant government agencies, shall monitor all government agency websites and render the appropriate support including capacity-building program and coordination with another appropriate agency, utilizing alternative mechanism 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 usability and practical accessibility of government documents by the public.

SEC. 36. Integration of Freedom of Information in Elementary, Secondary and Tertiary Curriculum. – The Right of Access to information shall be integrated in subjects such as, but not limited to, Araling Panlipunan or its equivalent subjects in the elementary level; in subjects such as, but not limited to, Social Studies or its equivalent subjects in Secondary Level; and in subjects as may be determined in the Tertiary Level.

The Department of Education and the Commission on Higher Education in coordination with the Civil Service Commission, Commission and other relevant offices shall prepare the necessary modules and teaching programs consistent with the objectives of this Act.

SEC. 37. Incentives, rewards, and building FOI Champions. – The Commission shall establish a system of special incentives and rewards to be given to appropriate government agency or agencies that initiated and displayed compliance and full participation in the meaningful implementation of this Act. The incentives and rewards may include, but shall not be limited to, social projects, grants-in-aid, national recognition, and similar entitlements, and certification as Freedom of Information Champions.

CHAPTER XII FINAL PROVISIONS

SEC. 38. Implementing Rules and Regulations. – The Commission, Department of Budget and Management (DBM), Civil Service Commission, and DICT shall issue within one hundred twenty (120) working days from the effectivity of this Act the necessary rules and regulations for the effective implementation of this Act.

SEC. 39. Transfer of Office and Personnel. – The Freedom of Information – Project Management Office (FOI-PMO) created under Presidential Communications Operations Office Department Order No. 018, s. 2017,

Memorandum Order No. 10, s. 2016 and Executive Order No. 02, s. 2016, shall be abolished, and its powers and functions, applicable funds and appropriations, records, equipment, property, and personnel shall be transferred to the Commission.

SEC. 40. Separation and Retirement from Service. - Employees who are separated from service within six (6) months from the effectivity of this Act as a result of the consolidation and/or reorganization under the provisions of this Act shall receive separation benefits to which they may be entitled under Executive Order No. 366, s. 2004; Provided, that those who are qualified to retire under existing retirement laws shall be allowed to retire and receive retirement benefits to which they may be entitled under applicable laws and issuances.

SEC. 41. Structure and Staffing Pattern. - With the approval of the DBM, the Commission shall determine its organizational structure and create new divisions or units as it may deem necessary, and shall appoint officers and employees of the Commission in accordance with the civil service law, rules, and regulations.

SEC. 42. Transition Period. - The transfer of functions, assets, funds, equipment, properties, transactions, and personnel of FOI-PMO, and the formulation of the internal organic structure, staffing pattern, operating system of the Commission shall be completed within six (6) months from the effectivity of this Act, during which time, the existing personnel shall continue to assume their posts and hold their positions in a regular capacity: Provided, that after the abolition of FOI-PMO, the Commission, in coordination with DBM, shall determine and create new positions, the funding, requirement of which may exceed the equivalent cost of positions abolished.

SEC. 43. Appropriations. - The amount necessary to carry out the provisions of this Act shall be charged in reference to Sec. 37 of this Act and shall thereafter be included in the annual General Appropriations Act.

SEC. 44. Separability Clause. - If any section or part of this Act is held unconstitutional or invalid, the other sections or provisions not otherwise affected shall remain in full force and effect.

SEC. 45. Repealing Clause. - All laws, decrees, executive orders, rules and regulations, issuances or any part thereof inconsistent with the provisions of this Act are deemed repealed.

SEC. 46. Effectivity. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,