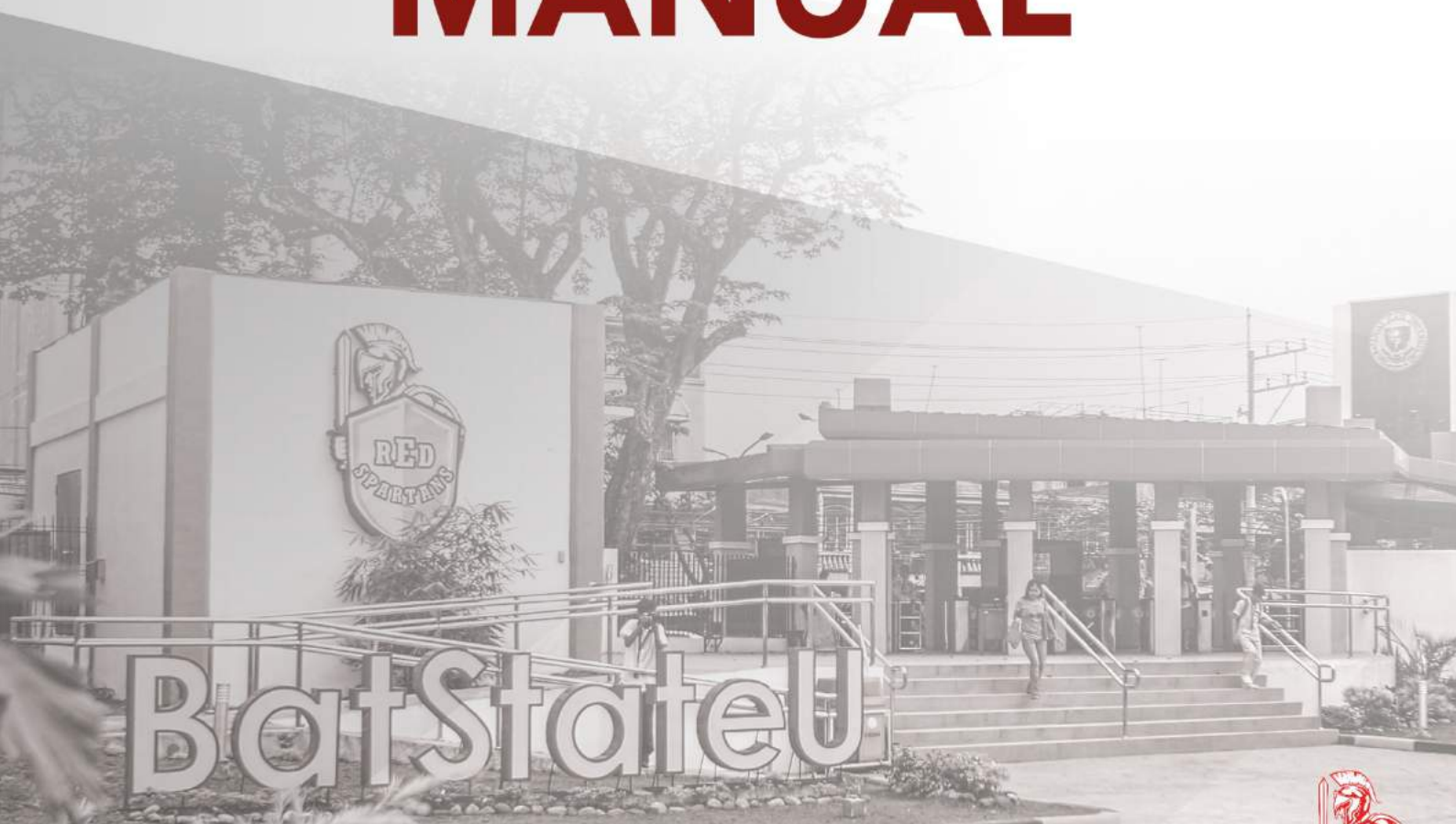




BATANGAS STATE UNIVERSITY

# FREEDOM OF INFORMATION MANUAL



Leading Innovations, Transforming Lives





Republic of the Philippines  
**BATANGAS STATE UNIVERSITY**

Batangas City

Tel Nos.: (043) 980-0385 loc. 1546/1822

Email Address: [batstateupresident@gmail.com](mailto:batstateupresident@gmail.com) Website Address: <http://www.batstate-u.edu.ph>

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## EXECUTIVE SUMMARY

### Batangas State University Freedom of Information (FOI) Manual

Pursuant to the Executive Order No. 02, series of 2016 signed by His Excellency on 23 July 2016, President Rodrigo Roa Duterte, directing to all government offices of the Executive Branch to formulate their respective implementing details within 120 days from its effectivity, this proposed Manual sets forth the specific rules and regulations on the basic right of the stakeholders of the University to information. The said order finds its legal bases on Section 28, Article II and Section 7, Article III of the 1987 Philippine Constitution and under the provisions of Republic Act (RA) No. 10173 or the Data Privacy Act.

In brief, the BatStateU Freedom of Information (FOI) Manual is culled from the FOI Manual of the CHED with certain modifications to fit with the organizational structure of the University and the documents in custody of BatStateU. The provisions of the Batangas State University FOI Manual are summarized to wit:

1. **As to purpose and coverage.** The purpose of this Manual is to provide the process by which the Batangas State University (BatStateU), its extension campuses, units and offices deal with requests of information received under Executive Order No. 2, s. 2016 on Freedom of Information (FOI). The Manual shall cover all requests for information directed to the BatStateU and all its extension campuses and offices under it.
2. **As to responsible officers.** Considering the difference with the organizational structure of the University and CHED, the present manual considers the following persons as the responsible officers herein: **(a)** FOI Receiving Officer (FRO)- To be identified by the ExeCom (preferably from the Records Office); **(b)** FOI Decision Maker (FDM)- Vice President and/or Executive Director who has primary concern over the requested document; and **(c)** FOI Appellate Authority- The University President shall be the Appellate Authority as regards denied requests.
3. **As to the substance.** Substantially, the content of the CHED Manual and the present manual are the same. The terms defined as used in the Manual are the same. It provides for the proper procedure for requesting certain information allowed by existing laws rules and regulations and well as the remedies in case of denial. It likewise provides that reasonable fees may be imposed for the reproduction of the documents requested. The liability for non-compliance of the Manual is also set forth in herein where the procedural due process per Revised Rules on Administrative Cases in the Civil Service shall be applicable. Standard forms are likewise devised to expedite all requests.

4. **As to documents allowed and exempted.** As a general rule, all public documents held by the University may be requested by a party concerned subject to the procedures outlined in the Manual. As an exception, those documents specifically listed under the Manual as exempted (e.g. sensitive personal information, Section 6 (2.1) therein and listed under Annex B thereof) cannot be allowed to be subject of requests, hence requests regarding such documents may be denied following the proper procedure.

With the adoption of the BatStateU FOI Manual, the University can fully comply not only with the requirements of EO No. 02 but likewise with all constitutional and statutory provisions affirming the basic right of people to information. That public trust is an essential attribute of public office; the Batangas State University must have to continually serve our stakeholders with utmost transparency. It must be recognized that with the affirmation of the right to information, active participation of all our stakeholders in the operations of the University will likewise be acknowledged. Such participation between the management and the stakeholders is the very core of the success of the University in honing the youth through provision of quality education.

The same was presented to the Academic and Administrative Councils of the University and was duly approved through Resolution 0308-2, S. 2017, to the Board of Regents Finance Committee which likewise approved the same, and to the Board of Regents during its 53<sup>rd</sup> Regular Meeting and was approved through BoR Res. No. 587, s. 2017. The University deemed it necessary to adhere to the policy, thus providing the BatStateU FOI Manual for the adoption of all of its stakeholders.



**Dr. TIRSO A. RONQUILLO**  
University President



**Republic of the Philippines**  
**BATANGAS STATE UNIVERSITY**

**Batangas City**

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**EXCERPT FROM THE MINUTES OF THE FIFTY-THIRD (53<sup>rd</sup>) REGULAR MEETING OF THE BATANGAS STATE UNIVERSITY BOARD OF REGENTS HELD AT THE CONFERENCE ROOM, 7<sup>TH</sup> FLOOR, CIRTC BUILDING, BATSTATEU PABLO BORBON MAIN I ON MARCH 25, 2017 AT 11:00 AM**

**PRESENT:**

- |  |   |                  |
|--|---|------------------|
| Dr. ALEX B. BRILLANTES, JR.<br>CHED Commissioner   | - | Chairperson      |
| Dr. TIRSO A. RONQUILLO<br>University President   | - | Vice-Chairperson |
| Sen. FRANCIS JOSEPH G. ESCUDERO<br>Chairperson, Senate Committee on Education, Arts and Culture<br>Represented by: Atty. CESAR A. CASTOR | - | Member           |
| Dir. LUIS G. BANUA<br>Director, NEDA – Region IV   | - | Member           |
| Dir. ALEXANDER R. MADRIGAL<br>Director, DOST – Region IV   | - | Member           |
| Mr. FAUSTINO RICARDO G. CAEDO<br>Private Sector Representative   | - | Member           |
| Dr. GEORGE P. COMPASIVO<br>Faculty Regent  | - | Member           |
| Mr. JOEY C. ESPINO<br>Student Regent   | - | Member           |
| Prof. ENRICO M. DALANGIN<br>Board and University Secretary   | - | Head Secretariat |

**OTHERS PRESENT:**

- |                             |   |                                       |
|-----------------------------|---|---------------------------------------|
| Ms. BLAISEDEL REGACHO       | - | Executive Assistant, Comm. Brillantes |
| Atty. LUZVIMINDA C. ROSALES | - | VP Administration and Finance         |
| Engr. ANTONIO A. GAMBOA     | - | Director, Project Management Office   |
| Ms. MICAH ALEYAH A. ACUZAR  | - | Technical Staff                       |
| Mr. ARISTEO G. DIMASACAT    | - | Technical Staff                       |
| Ms. LOUWELYN A. LUISTRO     | - | Technical Staff                       |

**Res. No. 587, S. 2017**

**WHEREAS, Executive Order No. 02, S. 2016 directs all government offices of the Executive Branch to formulate their respective implementing details within 120 days from its effectivity;**

**WHEREAS, in adherence to the Executive Order, Batangas State University proposed its Freedom of Information (FOI) Manual;**

**WHEREAS, the proposed manual was presented to the Academic and Administrative Councils of the University and was approved through Resolution No. 0308-2, S. 2017;**

**WHEREAS, the same was presented to the Finance Committee of the Board and was approved for endorsement after thorough discussion and deliberation through Resolution No. 002, S. 2017;**

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**WHEREAS, during its 53<sup>rd</sup> Regular Meeting, the Board accepted the endorsement of the Finance Committee;**

**NOW, THEREFORE, in view of the foregoing premises, the Board approved, as it is hereby approved, the Batangas State University Freedom of Information Manual.**

**Attached and made as an integral part of this resolution is the copy of the manual.**

**APPROVED.**

Certified Correct:

A handwritten signature in black ink, appearing to read "M. Dalangin".

**Prof. ENRICO M. DALANGIN**  
Board and University Secretary



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**EXCERPT FROM THE MINUTES OF THE JOINT MEETING OF THE BATANGAS STATE UNIVERSITY ACADEMIC AND ADMINISTRATIVE COUNCILS HELD AT THIRD FLOOR, AUDIO-VISUAL BUILDING, BATSTATEU PABLO BORBON MAIN I, BATANGAS CITY ON MARCH 8, 2017 AT 8:00AM**

**RESOLUTION NO 0308-2, S.2017  
APPROVING THE ADOPTION OF THE BATANGAS STATE UNIVERSITY FREEDOM OF INFORMATION (FOI) MANUAL**

**WHEREAS**, Section 28, Article II of the 1987 Constitution provides that the State adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to reasonable conditions prescribed by law;

**WHEREAS**, Section 7, Article III of the Constitution guarantees the right of the people to information on matters of public concern;

**WHEREAS**, the Data Privacy Act of 2012 (R.A. 10173), including its implementing Rules and Regulations, strengthens the fundamental human right of privacy, and of communication while ensuring the free flow of information to promote innovation and growth;

**WHEREAS**, Executive Order No. 02 issued by President Rodrigo R. Duterte provides the 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;

**WHEREAS**, it covers all government offices under the Executive Branch, including but not limited to the national government and all its offices, departments, bureaus, offices, and instrumentalities, including government-owned or -controlled corporations, and state universities and colleges;

**WHEREAS**, the Vice President for Administration and Finance presented the proposed Batangas State University Freedom of Information (FOI) Manual to the members of the Executive Committee and was approved through Resolution No. 0301-5, s. 2017 during its meeting on March 1, 2017;

**WHEREAS**, it was also presented to the members of the Academic and Administrative Councils during its meeting on March 8, 2017;

**WHEREAS**, after careful discussion and deliberation by the body, the Academic and Administrative Councils of the University resolved to approve the proposed Batangas State University Freedom of Information (FOI) Manual.

**NOW THEREFORE, BE IT RESOLVED**, that the members of the Academic and Administrative Councils of the University, with substantial purpose pursuant to the terms and provisions for the considerations provided, approved as it is hereby approved the proposed Batangas State University Freedom of Information (FOI) Manual.

**FURTHER RESOLVED**, that the members of the Academic and Administrative Councils approved for endorsement of the same to the BatStateU Board of Regents for final approval.

**APPROVED.**

**Certified Correct:**

A handwritten signature in blue ink, appearing to read "MD", positioned above the printed name.

**ENRICO M. DALANGIN**  
University and Board Secretary

Head Secretariat Academic and Administrative Councils

# **BATANGAS STATE UNIVERSITY**

## **Freedom of Information Manual (FOI)**

### **SECTION 1: OVERVIEW**

#### **1. PURPOSE OF THE MANUAL**

The purpose of this Freedom of Information Manual (Manual) is to provide the process by which the Batangas State University (BatStateU), its constituent and extension campuses, units and offices deal with requests of information received under Executive Order (E.O.) No. 2, s. 2016 on Freedom of Information (FOI). (See **Annex “A”**)

#### **2. STRUCTURE OF THE MANUAL**

This Manual sets out the definition of terms, standard operating procedures, remedies, fees, and administrative liability. It also provides for the relevant forms and other annexes.

This Manual sets the rules and procedures to be followed by the Batangas State University and its constituent and extension campuses, whenever a request for access to information is received. The University President shall be responsible for all actions carried out under this Manual and may delegate this responsibility to the respective Vice Presidents and/or Chancellors of the University campuses. The University President, with the authority of the Board of Regents, may delegate to a specific committee or official the authority to act as the Decision Maker (DM) and shall have overall responsibility for the initial decision on FOI request, (i.e. to decide whether to release all the records, partially release the records or deny access).

#### **3. COVERAGE OF THE MANUAL<sup>1</sup>**

The Manual shall cover all requests for information directed to the BatStateU central administration and all its constituent and extension campuses and offices under it, to wit:

- 3.1. Batangas State University Central Administration
- 3.2. Batangas State University Pablo Borbon
  - Batangas State University Rosario
  - Batangas State University San Juan
  - Batangas State University Lemery
- 3.3. Batangas State University Alangilan
  - Batangas State University Balayan
  - Batangas State University Lobo
  - Batangas State University Mabini
- 3.4. Batangas State University ARASOF-Nasugbu
- 3.5. Batangas State University JPLPC-Malvar
- 3.6. Batangas State University Lipa

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<sup>1</sup> BoR Resolution No. 172, s. 2020 (ROSMPP)

## **4. RESPONSIBLE OFFICERS<sup>2</sup>**

For purposes of the Manual, there shall be the FOI Receiving Officer (FRO), the FOI Decision Maker (FDM), and the FOI Appellate Authority designated at BatStateU. The Presidential Advisory Committee shall identify the FRO preferably from the Records Office of the University or its equivalent office in BatStateU. The FDMs shall refer to the Vice Presidents and/or Chancellors who have primary concern over the requested document. The University President shall be the Appellate Authority as regards denied requests.

The functions of the FROs shall include receiving on behalf of the BatStateU or any of its constituent and extension campuses, all requests for information. The FRO shall maintain a logbook of all requests chronologically received for accountability purposes.

The request shall be forwarded to the appropriate person who has custody of the records. The FRO shall monitor all FOI requests and appeals, provide assistance to the FOI Decision Maker (FDM), provide assistance and support to the public with regard to FOI requests, compile statistical information as required, and conduct initial evaluation of the request. Upon completion of the evaluation within the period set in the EO No. 02, the FRO shall advise the requesting party of any decision of the request. Should the request be denied, the decision may be appealed to the Appellate Authority as set forth in this manual.

## **SECTION 2: DEFINITION OF TERMS**

### **1. INFORMATION**

Means any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored data, 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, and rules and regulations or in connection with the performance or transaction of official business by any government office.

### **2. INFORMATION FOR DISCLOSURE**

Information promoting the awareness and understanding of policies, programs, activities, rules or revisions affecting the public, government agencies, and the community and economy. It also includes information encouraging familiarity with the general operations, thrusts and programs of the government. In line with the concept of proactive disclosure and open data, these types of information can already be posted to government websites, such as data.gov.ph, without need for written requests from the public.

### **3. OFFICIAL RECORDS**

Refers to information produced or received by a public officer or employee or by a government office in an official capacity or pursuant to a public function or duty.

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<sup>2</sup> BoR Resolution No. 172, s. 2020 (ROSMPP)



#### **4. PUBLIC RECORDS**

Includes information required by laws, executive orders, rules, or regulations to be entered, kept, and made publicly available by a government office.

#### **5. 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.

#### **6. SENSITIVE PERSONAL INFORMATION**

As defined in the Data Privacy Act of 2012 (Republic Act No. 10173), i.e., personal information:

- a. About an individual's race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
- b. About an individual's health, education, genetic or sexual life of a person, or to any proceedings for any offense committed or alleged to have committed by such person, the disposal of such proceedings or the sentence of any court in such proceedings;
- c. 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
- d. Specifically established by an executive order or an act of Congress to be kept classified.

### **SECTION 3. GLOSSARY OF TERMS**

#### **1. ADMINISTRATIVE FOI APPEAL**

An independent review of the initial determination made in response to a FOI request. Requesting parties who are dissatisfied with the response made on their initial request have a right to appeal that initial determination to an office within the agency, which will then conduct an independent review.

#### **2. ANNUAL FOI REPORT**

A report to be filed each year with the Presidential Communications Operations Office (PCOO) by all government agencies detailing the administration of the FOI. Annual FOI Reports contain detailed statistics on the number of FOI requests received, processed, and pending at each government office.

### **3. CONSULTATION**

When a government office locates a record that contains information of interest to another office, it will ask for the views of that other agency on the disclosability of the records before any final determination is made. This process is called a "consultation."

### **4. EXCEPTIONS**

Refers to those class of privileged information that are outside the scope of the constitutional right to information and which may not be released or disclosed to the public, as provided under the Constitution, laws or jurisprudence. These exceptions are enumerated hereof.

### **5. FREEDOM OF INFORMATION (FOI)**

The Executive Branch 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 in Executive Order No. 2. This right is indispensable to the exercise of the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making.

### **6. FOI CONTACT**

The name, address and phone number at each government office where you can make a FOI request.

### **7. FOI REQUEST**

Refers to a written request submitted to the University personally, by email or through the FOI Portal of the university asking for information on any matter of public concern pursuant to Article III Section 7 of the 1987 Constitution.

An FOI Request can generally be made by any Filipino to any government office.

### **8. FOI RECEIVING OFFICE**

The primary contact at each agency where the requesting party can call and ask questions about the FOI process or the pending FOI request.

### **9. FREQUENTLY REQUESTED INFORMATION**

Information released in response to a FOI request that the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records.

### **10. FULL DENIAL**

When the BatStateU or any of its extension campuses cannot release any records in response to a FOI request, because the requested information is exempt from disclosure in its entirety or, no records responsive to the request could be located.

## **11. A FULL GRANT**

When the BatStateU is able to disclose all records in full in response to a FOI request.

## **12. MULTI-TRACK PROCESSING**

A system that divides incoming FOI requests according to their complexity so that simple requests requiring relatively minimal review are placed in one processing track and more complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.

## **13. PARTIAL GRANT/PARTIAL DENIAL**

When the BatStateU is able to disclose portions of the records in response to a FOI request, but must deny other portions of the request.

## **14. PENDING REQUEST OR PENDING APPEAL**

An FOI request or administrative appeal for which a government office has not yet taken final action in all respects. It captures anything that is open at a given time including requests that are well within the statutory response time.

## **15. PERFECTED REQUEST**

A FOI request, which reasonably describes the records, sought and is made in accordance with the government office's regulations.

## **16. PROACTIVE DISCLOSURE**

Information made publicly available by BatStateU without waiting for specific FOI request. Government agencies now post on their websites a vast amount of material concerning their functions and mission.

## **17. PROCESSED REQUEST OR PROCESSED APPEAL**

The number of request or appeals where the agency has completed its work and sent a final response to the requester.

## **18. RECEIVED REQUEST OR RECEIVED APPEAL**

An FOI request or administrative appeal that an agency has received within a fiscal year.

## **19. REFERRAL**

When a government office locates a record that originated with, or is of otherwise primary interest to another agency, it will forward that record to the other agency to process the record and to provide the final determination directly to the requester. This process is called a "referral."

## **20. SIMPLE REQUEST**

A FOI request that an agency anticipates will involve a small volume of material or which will be able to be processed relatively quickly.

### **SECTION 4. PROMOTION OF TRANSPARENCY IN GOVERNMENT**

#### **1. ACCESS TO INFORMATION**

The BatStateU 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 in E.O. No. 2. This right is indispensable to the exercise of the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making.

#### **2. DUTY TO PUBLISH INFORMATION**

The BatStateU shall regularly publish, print and disseminate at no cost to the public and in an accessible form, in conjunction with Republic Act 9485, or the Anti-Red Tape Act of 2007, and through its 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 process;
- b. A description of 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 and curriculum vitae;
- d. Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, program of receipts and expenditures;
- e. Important rules and regulations, orders or decisions;
- f. Current and important database and statistics that it generates;
- g. Bidding processes and requirements; and
- h. Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.

#### **3. ACCESSIBILITY OF LANGUAGE AND FORM**

The BatStateU shall endeavour to translate key information into major Filipino languages and present them in popular form and means.

#### **4. KEEPING OF RECORDS**

The BatStateU shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation or records, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, activities, communications and documents received or filed with them and the data generated or collected.

#### **5. EXCEPTIONS**

Access to information shall be denied when the information falls under any of the exceptions as provided for herein or in the attached list.

### **SECTION 5. PROTECTION OF PRIVACY**

While providing for access to information, the BatStateU shall afford full protection to a person's right to privacy, as follows:

- a. The BatStateU shall ensure that personal information, particularly sensitive personal information, in its custody or under its control is disclosed only as permitted by existing laws;
- b. The BatStateU shall protect personal information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks or premature disclosure;
- c. The FRO, FDM, or any employee or any official who has access, whether authorized or unauthorized, to personal information in the custody of the BatStateU, shall not disclose that information except as authorized by BatStateU or under existing laws.

### **SECTION 6. STANDARD PROCEDURE**

#### **1. RECEIPT OF REQUEST FOR INFORMATION**

1.1 The FOI Receiving Officer (FRO) shall receive the request for information from the requesting party and check compliance of the following requirements:

- a. The request must be in writing;
- b. The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification or authorization; and
- c. The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information.
- d. The request can be made through email, provided that the requesting party shall attach in the email a scanned copy of the FOI application request, and a copy of a duly recognized government ID with photo.

- 1.2 In case an FOI Request is sent to a person or unit in the University other than the FRO, the action by the person or unit receiving the request will depend on the nature of the information requested.
- 1.3 In case the requesting party is unable to make a written request, because of illiteracy or due to being a person with disability, he or she may make an oral request, and the FRO shall reduce it in writing.
- 1.4 The request shall be stamped received by the FRO, indicating the date and time of the receipt of the written request, and the name, rank, title and position of the public officer who actually received it, with a corresponding signature and a copy, furnished to the requesting party. In case of email requests, the email shall be printed out and shall follow the procedure mentioned above, and be acknowledged by electronic email. The FRO input the details of the request on the Request Tracking System and allocate a reference number.
- 1.5 The BatStateU and its constituent and extension campuses must respond to any FOI request promptly, within the fifteenth (15) working day following the date of receipt of the request. A working day is any day other than a Saturday, Sunday or a day which is declared a national public holiday in the Philippines. In computing for the period Article 13 of the New Civil Code shall be observed.

The date of the receipt of the request will be either be:

- a. The day on which the request is physically or electronically delivered to the government office, or directly into the email inbox of a member or staff, or the date the eFOI request is lodged to the BatStateU FOI Portal; and
- b. If the government office has asked the requesting party for further details to identify and locate the requested information, the date on which the necessary clarification is received.

An exception to this will be where the request has been emailed to an absent member of staff, and this has generated an 'out of office' message with instructions on how to re-direct the message to another contact. Where this is the case, the date of receipt will be the day the request arrives in the inbox of that contact. Should the requested information need further details to identify or locate, then the 15 working days will commence the day after it receives the required clarification from the requesting party.

## **2. INITIAL EVALUATION**

After receipt of the request for information, the FRO shall evaluate the contents of the request.

- 2.1 Requests exempted from coverage.** If the request is exempted from coverage, the FRO shall recommend the denial of the request for information to the FDM. The FDM shall evaluate the recommendation of the FRO and shall notify the requesting party of the decision the request.

The following are the exceptions:

- Documents related to a pending case before a judicial and quasi-judicial agencies;
- 201 Files
- Personnel Selection Board and Faculty Selection Board Documents
- Statement of Assets, Liabilities and Net Worth
- Resolutions of the Board of Regents except Excerpt thereof
- Minutes of the Meetings of the Board of Regents, Finance Committee and Executive Committee
- Bids and Awards Minutes of meetings
- Abstract of Bids
- Technical Working Group Recommendation
- Individual Performance Commitment Review
- Financial Report not yet audited by the Commission on Audit
- Minutes of Technical Working Group meetings
- All reports not in the final form
- Inter-office and inter-agency memorandum/correspondence
- Office recommendation as member of inter-agency task force/committee/body
- All documents listed in **Annex "B"** hereof and all other documents that may be categorized by laws, rules and regulations as confidential in nature.
- All other documents as may be identified by the University in accordance with the provisions of the Data Privacy Act of 2012 (e.g. those classified as Sensitive Personal Information).

**2.2 Request relating to more than one office other than the University:** If a request for information is received which requires to be complied with, of different attached agencies, bureaus and offices, the FRO shall forward such request to the said attached agency, bureau and office concerned and ensure that it is well coordinated and monitor its compliance.

The FRO shall also clear with the respective FROs of such agencies, bureaus and offices that they will be only provided the specific information that relates to their agencies, bureaus and offices.

**2.3 Requested information is not in the custody of the BatStateU.** If the requested information is not in the custody of the BatStateU and/or of any of its constituent and extension campuses, upon referral and discussions with the FDM, the FRO shall undertake the following steps:

- If the records requested refer to another government agency, the requested information will be immediately transferred to such appropriate department through the most expeditious manner and the transferring office must inform the requesting party of such transfer within 15 working days.
- If the records refer to an office not within the coverage of E.O. No. 2, the requesting party shall be advised accordingly and provided with the contact details of that office, if known.

**2.4 Requested information is already posted and available online.** If the information being requested is already posted and publicly available in the BatStateU website, data.gov.ph or FOI.gov.ph, the request shall be denied. However, the FRO shall inform the applicant of the reason of such denial.

**2.5 Requested information is substantially similar or identical to the previous request.** The BatStateU, through the FDM, upon recommendation of the FOI officer, shall deny an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has already been previously granted or denied and that the applicant shall be informed of the reason for such denial.

**2.6 Vexatious request.** The FRO shall recommend to the FDMs the denial of the vexatious request only after granting the requesting party the opportunity to clarify and/ or modify the request; and despite clarification and extension of reasonable assistance to the requesting party, the request still falls under Section 4 of FOI -MC No. 5, s. 2020 providing the guidelines on vexatious freedom of information requests and abuse of rights thereunder.

### **3. TRANSMITTAL OF REQUEST BY THE FRO TO THE FDM**

After receipt of the standard FOI request for information from the FRO, the FDM shall assess and clarify the request if necessary. He or she shall make all necessary steps to locate and retrieve the information requested to be submitted to the FRO within 10 days upon receipt of such request with corresponding transmittal.

### **4. ROLE OF FDM IN PROCESSING THE REQUEST**

Upon receipt of the standard FOI request for information from the FRO, the FDM shall assess and clarify the request if necessary. He or she shall make all necessary steps to locate and retrieve the information requested.



The FDM shall ensure that the complete information requested be submitted to the FRO within 10 days upon receipt of such request. The FRO shall note the date and time of receipt of the information from the FDM and report to the University President in case submission is beyond the 10-day period.

If the FDM needs further details to identify or locate the information, he shall, through the FRO, seek clarification from the requesting party. The clarification shall stop the running of the 15 working day period and will commence the day after it receives the required clarification from the requesting party.

If the FDM determines that a record contains information of interest to another office, the FDM shall consult with the agency concerned on the disclosability of the records before making any final determination.

## **5. ROLE OF FRO TO TRANSMIT THE INFORMATION TO THE REQUESTING PARTY**

For standard FOI requests, upon receipt of the requested information from the FDM, the FRO shall collate and ensure that the information is complete. He shall attach a cover/transmittal letter signed by the FDM and ensure the transmittal of such to the requesting party within 15 working days upon receipt of the request for information.

## **6. REQUEST FOR AN EXTENSION OF TIME**

If the information requested requires extensive search of the government's office records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases, the FDM should inform the FRO. The FRO shall inform the requesting party of the extension, setting forth the reasons for such extension. In no case shall the extension exceed twenty (20) working days on top of the mandated fifteen (15) working days to act on the request, unless exceptional circumstances warrant a longer period.

## **7. NOTICE TO THE REQUESTING PARTY OF THE APPROVAL/DENIAL OF THE REQUEST**

Once the FDM approved or denied the standard FOI request, he shall immediately notify the FRO who shall prepare the response to the requesting party either in writing or by email. All actions on standard FOI requests, whether approval or denial, shall pass through the University President for final approval.

## **8. APPROVAL OF REQUEST**

In case of approval, the FRO shall ensure that all records that have been retrieved and considered be checked for possible exemptions, prior to actual release. The FRO shall prepare the letter or email informing the requesting party within the prescribed period that the request was granted and be directed to pay the applicable fees, if any.

## **9. DENIAL OF REQUEST**

In case of denial of the standard request wholly or partially, the FRO shall, within the prescribed period, notify the requesting party of the denial in writing. The notice shall clearly set forth the

ground or grounds for denial and the circumstances on which the denial is based. Failure to notify the requesting party of the action taken on the request within the period herein provided shall be deemed a denial of the request to information. All denials on FOI requests shall pass through the University President.

## **SECTION 7. REMEDIES IN CASE OF DENIAL**

A person whose request for access to information has been denied may avail himself of the remedy set forth below:

1. Administrative FOI Appeal to the University President. Provided, that the written appeal must be filed by the same requesting party within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request.. The appeal shall be decided by the University President upon the recommendation of the Director for Legal Affairs within thirty (30) working days from the filing of said written appeal. Failure to decide within the 30-day period shall be deemed a denial of the appeal.
2. Upon exhaustion of administrative FOI appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

## **SECTION 8. REQUEST TRACKING SYSTEM**

The BatStateU through the Office of Vice President for Development and External Affairs in coordination with the Records Section shall establish a system to trace the status of all requests for information received by it, which may be paper based, on-line or both.

## **SECTION 9. FEES**

### **1. NO REQUEST FEE**

The BatStateU shall not charge any fee for accepting requests for access to information.

### **2. REASONABLE COST OF REPRODUCTION AND COPYING OF THE INFORMATION**

The FRO shall immediately notify the requesting part in case there shall be a reproduction and copying fee in order to provide the information. Such fee shall be the actual amount spent by the BatStateU shall be posted by all offices of the University.

### **3. EXEMPTION FROM FEES**

The BatStateU may exempt any requesting party from payment of fee due to indigency, lack of funds, or similar circumstances, upon request stating the valid reason why such requesting party shall not pay the fee.

## **SECTION 10. ADMINISTRATIVE LIABILITY**

### **1. NON-COMPLIANCE WITH FOI**

Failure to comply with the provisions of this Manual shall be a ground for the following administrative penalties:

- a. 1<sup>st</sup> Offense – Reprimand
- b. 2<sup>nd</sup> Offense – Suspension of one (1) to thirty (30) days; and
- c. 3<sup>rd</sup> Offense – Dismissal from the service.

### **2. PROCEDURE**


The Revised Rules on Administrative Cases in the Civil Service shall be applicable in the disposition of cases under this Manual.

### **3. PROVISIONS FOR MORE STRINGENT LAWS, RULES AND REGULATIONS**

Nothing in this Manual shall be construed to derogate from any law, any rules, or regulation prescribed by anybody or agency, which provides for more stringent penalties.

## **SECTION 11. POSTING AND EFFECTIVITY**

This Manual shall be posted on the BatStateU website upon its approval by the University President and shall take effect fifteen (15) days thereafter.

	Reference No.: BatStateU-FO-REC-03	Effectivity Date: November 04, 2022	Revision No.: 02
Title:	<b>FREEDOM OF INFORMATION REQUEST FORM</b>		
Name/Pangalan:		FOI Request No.:	
Address/Tirahan:		Contact No.:	
		Email:	
Mode of Receiving the Information/ Paraan ng Pagtanggap ng Impormasyon:	<input type="checkbox"/> Email	Proof of Identity/ Katibayan ng Pagkakakilanlan: (ID that contains your photo and signature)	<input type="checkbox"/> Passport: _____
	<input type="checkbox"/> Fax		<input type="checkbox"/> Driver's Lic.: _____
	<input type="checkbox"/> Postal Address		<input type="checkbox"/> Others (please specify): _____
	<input type="checkbox"/> Pick-up (Official Hours)		_____
<b>REQUESTED INFORMATION</b>			
Title of the Document/ Titulo ng Dokumento:			
Year/Taon:			
Purpose/ Layunin:			
<b>DECLARATION</b>			
<p>I hereby declare that the information provided in this form is complete and correct and I have presented at least one (1) government-issued ID to establish proof of my identity. I understand that it is an offense to give misleading information about my identity, and that doing so may result in a decision to refuse to process my request.</p> <p>I further declare that any and all information provided by the University under this request shall only be used for the purpose herein stated, otherwise, I may be subjected to appropriate sanctions, which I am fully aware of.</p> <p><i>Aking ipinahahayag na ang impormasyong aking ibinigay ay kumpleto at tama at ako ay nagpakita ng isang ID na ibinigay ng pamahalaan upang patunayan ang aking pagkakakilanlan. Aking naiintindihan na isang pagkakasala ang magbigay ng nakakalinlang na impormasyon tungkol sa aking pagkakakilanlan, at ito ay maaaring magresulta sa hindi pagproseso ng aking kahilingan.</i></p> <p><i>Akin ding ipinahahayag na ang anuman at lahat ng impormasyong ibinigay ng Unibersidad sa pamamagitan ng kahilingang ito ay akin lamang gagamitin sa layunin nakasaad, kung hindi naman, ako ay maaring mapailalim sa naayong kaparusahan, kung saan ay lubos kong nauunawaan.</i></p> <p style="text-align: center;">_____ Signature Date: _____</p>			
<b>***FOR INTERNAL USE ONLY***</b>			
Received by:		Date and Time received:	
_____ <i>Signature over Printed Name</i> <b>Assistant Director, Records Management Office/          Head, Records Management Office</b>		_____ <i>The request is recommended to be:</i> <input type="checkbox"/> Approved <input type="checkbox"/> Denied Reason: _____	
Certified action is done:		Type of Action Conducted:	
_____ <i>Signature over Printed Name</i> Designation: _____ Date Signed: _____ <b>VP Concerned/ Chancellor Concerned</b>		<input type="checkbox"/> Approved <i>Attachment (if any):</i> _____ <input type="checkbox"/> Disapproved <i>Reason:</i> _____ <input type="checkbox"/> Others (Please specify): _____	
Received by:		Remarks:	
_____ <i>Signature over Printed Name</i> Date Signed: _____ <b>Assistant Director, Records Management Office/          Head, Records Management Office</b>			

"Pursuant to Republic Act No. 10173, also known as the Data Privacy Act of 2012, the Batangas State University, the National Engineering University recognizes its commitment to protect and respect the privacy of its customers and/or stakeholders and ensure that all information collected from them are all processed in accordance with the principles of transparency, legitimate purpose and proportionality mandated under the Data Privacy Act of 2012."



Republic of the Philippines  
**BATANGAS STATE UNIVERSITY**

**The National Engineering University**

*(Campus to be included in case of constituent/extension campuses)*

*(Address)*

*(Contact Number)*

*(E-mail Address)*

*(Website)*

---

**Records Management Office**

**FOI Response for Completion of FOI Request Form**

Date

**NAME OF REQUESTING PARTY**

Address of Requesting Party Line 1

Address of Requesting Party Line 2

Dear \_\_\_\_\_,

Greetings from Batangas State University!

Thank you for your request dated \_\_\_\_\_ under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

You asked for \_\_\_\_\_.

After processing your request, we found that you have failed to provide the following necessary details: \_\_\_\_\_. For the processing of your request, please provide us with the necessary missing details.

Thank you!

Respectfully,

\_\_\_\_\_  
Assistant Director, Records Management Office/  
Head, Records Management Office



**Republic of the Philippines**  
**BATANGAS STATE UNIVERSITY**  
**The National Engineering University**  
*(Campus to be included in case of constituent/extension campuses)*  
*(Address)*  
*(Contact Number)*  
*(E-mail Address)* *(Website)*

---

**Records Management Office**

**FOI Response for Clarification**

Date \_\_\_\_\_

**NAME OF REQUESTING PARTY**

Address of Requesting Party line 1

Address of Requesting Party line 2

Dear \_\_\_\_\_,

Greetings from Batangas State University!

Thank you for your request dated \_\_\_\_\_ under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

You asked for \_\_\_\_\_.

In order to fully process your request, may we ask for the following clarificatory details: \_\_\_\_\_.

Thank you!

Respectfully,

\_\_\_\_\_  
Assistant Director, Records Management Office/  
Head, Records Management Office



Republic of the Philippines  
**BATANGAS STATE UNIVERSITY**

**The National Engineering University**

*(Campus to be included in case of constituent/extension campuses)*

*(Address)*

*(Contact Number)*

*(E-mail Address)*

*(Website)*

---

**Records Management Office**

**FOI Response for Extension of Period**

Date

**NAME OF REQUESTING PARTY**

Address of Requesting Party line 1

Address of Requesting Party line 2

Dear \_\_\_\_\_,

Greetings from Batangas State University!

Thank you for your request dated \_\_\_\_\_ under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

You asked for \_\_\_\_\_.

Since your request requires extensive search of the records and facilities of [NAME OF OFFICE CONCERNED] or [Because of (mention specific fortuitous event) which is beyond our control], we are asking for an extension of \_\_\_\_\_ days in order to fully process your request.

Thank you!

Respectfully,

\_\_\_\_\_  
Assistant Director, Records Management Office/  
Head, Records Management Office



**Republic of the Philippines**  
**BATANGAS STATE UNIVERSITY**

**The National Engineering University**

*(Campus to be included in case of constituent/extension campuses)*

*(Address)*

*(Contact Number)*

*(E-mail Address)*

*(Website)*

**Records Management Office**

**FOI Response for Approval of Request**

Date

**NAME OF REQUESTING PARTY**

Address of Requesting Party line 1

Address of Requesting Party line 2

Dear \_\_\_\_\_,

Greetings from Batangas State University!

Thank you for your request dated \_\_\_\_\_ under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

You asked for \_\_\_\_\_.

Your FOI request is APPROVED. Enclosed is a copy of [some/most/all]\* of the requested information [in your preferred format]. Please be informed that the information released to you should only be used solely for the purpose stated in your request.

Thank you!

Respectfully,

\_\_\_\_\_  
 Assistant Director, Records Management Office/  
 Head, Records Management Office





**Republic of the Philippines**  
**BATANGAS STATE UNIVERSITY**

**The National Engineering University**

*(Campus to be included in case of constituent/extension campuses)*

*(Address)*

*(Contact Number)*

*(E-mail Address)*

*(Website)*

---

**Records Management Office**

**FOI Response for Denial of Request  
(contrary to laws, rules, and regulations)**

Date

**NAME OF REQUESTING PARTY**

Address of Requesting Party line 1

Address of Requesting Party line 2

Dear \_\_\_\_\_,

Greetings from Batangas State University!

Thank you for your request dated \_\_\_\_\_ under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

You asked for \_\_\_\_\_.

Your FOI request is DENIED because it is contrary to [cite specific provision law, rule or regulation]. If you would like to appeal this denial, you may submit an appeal within fifteen (15) days from the receipt of this letter.

Thank you!

Respectfully,

\_\_\_\_\_  
Assistant Director, Records Management Office/  
Head, Records Management Office



**Republic of the Philippines**  
**BATANGAS STATE UNIVERSITY**  
**The National Engineering University**  
*(Campus to be included in case of constituent/extension campuses)*  
*(Address)*  
*(Contact Number)*  
*(E-mail Address)* *(Website)*

---

**Records Management Office**

**FOI Response for Denial of Request**  
**(falls under the list of exceptions)**

Date

**NAME OF REQUESTING PARTY**

Address of Requesting Party line 1

Address of Requesting Party line 2

Dear \_\_\_\_\_,

Greetings from Batangas State University!

Thank you for your request dated \_\_\_\_\_ under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

You asked for \_\_\_\_\_.

Your FOI request is DENIED because it falls under the list of exceptions, specifically [cite ground for exemption]. If you would like to appeal this denial, you may submit an appeal within fifteen (15) days from the receipt of this letter.

Thank you!

Respectfully,

\_\_\_\_\_  
Assistant Director, Records Management Office/  
Head, Records Management Office



**Republic of the Philippines**  
**BATANGAS STATE UNIVERSITY**

**The National Engineering University**

*(Campus to be included in case of constituent/extension campuses)*

*(Address)*

*(Contact Number)*

*(E-mail Address)*

*(Website)*

---

**Records Management Office**

**FOI Response for Similar to Previous Request**

Date

**NAME OF REQUESTING PARTY**

Address of Requesting Party line 1

Address of Requesting Party line 2

Dear \_\_\_\_\_,

Greetings from Batangas State University!

Thank you for your request dated \_\_\_\_\_ under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

You asked for \_\_\_\_\_.

Since your requested information is substantially similar or identical to your previous request dated \_\_\_\_\_, the [NAME OF CONCERNED OFFICE] shall not act upon your request. Please be guided accordingly.

Thank you!

Respectfully,

\_\_\_\_\_  
Assistant Director, Records Management Office/  
Head, Records Management Office



**Republic of the Philippines**  
**BATANGAS STATE UNIVERSITY**

**The National Engineering University**

*(Campus to be included in case of constituent/extension campuses)*

*(Address)*

*(Contact Number)*

*(E-mail Address)*

*(Website)*

**Records Management Office**

**FOI Response for Request Available Online**

Date \_\_\_\_\_

**NAME OF REQUESTING PARTY**

Address of Requesting Party line 1

Address of Requesting Party line 2

Dear \_\_\_\_\_,

Greetings from Batangas State University!

Thank you for your request dated \_\_\_\_\_ under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

You asked for \_\_\_\_\_.

We would like to inform you that your requested information can be FOUND ONLINE at the website of the [NAME OF CONCERNED OFFICE]. Your requested information can be found at the following link/s: [www.]

Thank you!

Respectfully,

\_\_\_\_\_  
 Assistant Director, Records Management Office/  
 Head, Records Management Office



**Republic of the Philippines**  
**BATANGAS STATE UNIVERSITY**

**The National Engineering University**

*(Campus to be included in case of constituent/extension campuses)*

*(Address)*

*(Contact Number)*

*(E-mail Address)*

*(Website)*

---

**Records Management Office**

**FOI Response for Information Not in Custody  
(information not with the agency under the executive branch)**

Date

**NAME OF REQUESTING PARTY**

Address of Requesting Party line 1

Address of Requesting Party line 2

Dear \_\_\_\_\_,

Greetings from Batangas State University!

Thank you for your request dated \_\_\_\_\_ under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

You asked for \_\_\_\_\_.

We would like to inform you that [NAME OF CONCERNED OFFICE] is NOT IN POSSESSION of the information you have requested. As such, we have transmitted the same to [NAME OF AGENCY] which can properly process your request. You may follow up with [NAME OF CONTACT PERSON] at this number [CONTACT NUMBER OF AGENCY].

Thank you!

Respectfully,

\_\_\_\_\_  
Assistant Director, Records Management Office/  
Head, Records Management Office



Republic of the Philippines  
**BATANGAS STATE UNIVERSITY**

**The National Engineering University**

*(Campus to be included in case of constituent/extension campuses)*

*(Address)*

*(Contact Number)*

*(E-mail Address)*

*(Website)*

---

**Records Management Office**

**FOI Response for Information Not in Custody  
(information with the other executive agency)**

Date

**NAME OF REQUESTING PARTY**

Address of Requesting Party line 1

Address of Requesting Party line 2

Dear \_\_\_\_\_,

Greetings from Batangas State University!

Thank you for your request dated \_\_\_\_\_ under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

You asked for \_\_\_\_\_.

We would like to inform you that [NAME OF CONCERNED OFFICE] is NOT IN POSSESSION of the information you have requested. As such, we have transmitted the same to [NAME OF AGENCY] which can properly process your request. You may follow up with [NAME OF CONTACT PERSON] at this number [CONTACT NUMBER OF AGENCY].

Thank you!

Respectfully,

\_\_\_\_\_  
Assistant Director, Records Management Office/  
Head, Records Management Office



MALACAÑAN PALACE  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 02

**OPERATIONALIZING IN THE EXECUTIVE BRANCH THE PEOPLE'S  
CONSTITUTIONAL RIGHT TO INFORMATION AND THE STATE  
POLICIES OF FULL PUBLIC DISCLOSURE AND TRANSPARENCY  
IN THE PUBLIC SERVICE AND PROVIDING GUIDELINES  
THEREFOR**

**WHEREAS**, pursuant to Section 28, Article II of the 1987 Constitution, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to reasonable conditions prescribed by law;

**WHEREAS**, Section 7, Article III of the Constitution guarantees the right of the people to information on matters of public concern;

**WHEREAS**, the incorporation of this right in the Constitution is a recognition of the fundamental role of free and open exchange of information in a democracy, meant to enhance transparency and accountability in government official acts, transactions, or decisions;

**WHEREAS**, the Executive Branch recognizes the urgent need to operationalize these Constitutional provisions;

**WHEREAS**, the President, under Section 17, Article VII of the Constitution, has control over all executive departments, bureaus and offices, and the duty to ensure that the laws be faithfully executed;

**WHEREAS**, the Data Privacy Act of 2012 (R.A. 10173), including its Implementing Rules and Regulations, strengthens the fundamental human right of privacy and of communication while ensuring the free flow of information to promote innovation and growth;

**NOW, THEREFORE, I, RODRIGO ROA DUTERTE**, President of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

THE PRESIDENT OF THE PHILIPPINES

**SECTION 1. Definition.** For the purpose of this Executive Order, the following terms shall mean:

- (a) "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, and rules and regulations or in connection with the performance or transaction of official business by any government office.
- (b) "Official record/records" shall refer to information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.
- (c) "Public record/records" shall include information required by laws, executive orders, rules, or regulations to be entered, kept and made publicly available by a government office.

**SECTION 2. Coverage.** This order shall cover all government offices under the Executive Branch, including but not limited to the national government and all its offices, departments, bureaus, and instrumentalities, including government-owned or -controlled corporations, and state universities and colleges. Local government units (LGUs) are enjoined to observe and be guided by this Order.

**SECTION 3. Access to Information.** Every Filipino shall have access to information, official records, public records, and documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development.

**SECTION 4. Exception.** Access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing laws or jurisprudence.

The Department of Justice and the Office of the Solicitor General are hereby directed to prepare an inventory of such exceptions and submit the same to the Office of the President within thirty (30) calendar days from the date of effectivity of this Order.

The Office of the President shall thereafter immediately circularize the inventory of exceptions for the guidance of all government offices and instrumentalities covered by this Order and the general public.

Said inventory of exceptions shall periodically be updated to properly reflect any change in existing law and jurisprudence and the Department of Justice and the Office of the Solicitor General are directed to update the inventory of exceptions as



the need to do so arises, for circularization as hereinabove stated.

**SECTION 5. Availability of SALN.** Subject to the provisions contained in Sections 3 and 4 of this Order, all public officials are reminded of their obligation to file and make available for scrutiny their Statements of Assets, Liabilities and Net Worth (SALN) in accordance with existing laws, rules and regulations, and the spirit and letter of this Order.

**SECTION 6. Application and Interpretation.** There shall be a legal presumption in favor of access to information, public records and official records. No request for information shall be denied unless it clearly falls under any of the exceptions listed in the inventory or updated inventory of exceptions circularized by the Office of the President as provided in Section 4 hereof.

The determination of the applicability of any of the exceptions to the request shall be the responsibility of the Head of the Office which has custody or control of the information, public record or official record, or of the responsible central or field officer duly designated by him in writing.

In making such determination, the Head of the Office or his designated officer shall exercise reasonable diligence to ensure that no exception shall be used or availed of to deny any request for information or access to public records or official records if the denial is intended primarily and purposely to cover up a crime, wrongdoing, graft or corruption.

**SECTION 7. Protection of Privacy.** While providing access to information, public records, and official records, responsible officials shall afford full protection to an individual's right to privacy as follows:

- (a) Each government office per Section 2 hereof shall ensure that personal information in its custody or under its control is disclosed or released only if it is material or relevant to the subject matter of the request and its disclosure is permissible under this Order or existing laws, rules or regulations;
- (b) Each government office must protect personal information in its custody or control by making reasonable security arrangements against leaks or premature disclosure of personal information which unduly exposes the individual whose personal information is requested to vilification, harassment, or any other wrongful acts; and
- (c) Any employee or official of a government office per Section 2 hereof who has access, authorized or unauthorized, to personal information in the custody of the office must not disclose that information except when authorized under this Order or pursuant to existing laws, rules or regulations.

**SECTION 8. People's Freedom of Information (FOI) Manual.** For the effective implementation of this Order, every government office is directed to prepare within one hundred twenty (120) calendar days from the effectivity of this Order, its

own People's FOI Manual, which shall include, among others, the following information:

- (a) The location and contact information of the head, regional, provincial, and field offices, and other established places where the public can submit requests to obtain information;
- (b) The person or officer responsible for receiving requests for information;
- (c) The procedure for the filing and processing of the request, as provided in the succeeding Section 9 of this Order;
- (d) The standard forms for the submission of requests and for the proper acknowledgment of such requests;
- (e) The process for the disposition of requests;
- (f) The procedure for administrative appeal of any denial of request for access to information; and
- (g) The schedule of applicable fees.

**SECTION 9. Procedure.** The following procedure shall govern the filing and processing of requests for access to information:

- (a) Any person who requests access to information shall submit a written request to the government office concerned. The request shall state the name and contact information of the requesting party, provide valid proof of his identification or authorization, reasonably describe the information requested, and the reason for, or purpose of, the request for information: *Provided*, that no request shall be denied or refused acceptance unless the reason for the request is contrary to law, existing rules and regulations, or it is one of the exceptions contained in the inventory of exceptions as hereinabove provided.
- (b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable all requesting parties, particularly those with special needs, to comply with the request requirements under this Section.
- (c) The request shall be stamped by the government office, indicating the date and time of receipt and the name, rank, title or position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to the requesting party. Each government office shall establish a system to trace the status of all requests for information received by it.
- (d) The government office shall respond to a request fully compliant with the requirements of sub-section (a) hereof as soon as practicable but not exceeding fifteen (15) working days from the receipt thereof. The response mentioned above refers to the decision of the office concerned to grant or deny access to the information requested.
- (e) The period to respond may be extended whenever the information requested requires extensive search of the government office's records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases. The government office shall

notify the person making the request of such extension, setting forth the reasons for the extension. In no case shall the extension go beyond twenty (20) working days counted from the end of the original period, unless exceptional circumstances warrant a longer period.

- (f) Once a decision is made to grant the request, the person making the request shall be notified of such decision and directed to pay any applicable fees.

**SECTION 10. Fees.** Government offices shall not charge any fee for accepting requests for access to information. They may, however, charge a reasonable fee to reimburse necessary costs, including actual costs of reproduction and copying of the information requested, subject to existing rules and regulations. In no case shall the applicable fees be so onerous as to defeat the purpose of this Order.

**SECTION 11. Identical or Substantially Similar Requests.** The government office shall not be required to act upon an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has already been previously granted or denied by the same government office.

**SECTION 12. Notice of Denial.** If the government office decides to deny the request wholly or partially, it shall, as soon as practicable and within fifteen (15) working days from the receipt of the request, notify the requesting party of the denial in writing. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based. Failure to notify the requesting party of the action taken on the request within the period herein provided shall be deemed a denial of the request for access to information.

**SECTION 13. Remedies in Case of Denial of Request for Access to Information.** A person whose request for access to information has been denied may avail himself of the remedies set forth below:

- (a) Denial of any request for access to information may be appealed to the person or office next higher in authority, following the procedure mentioned in Section 8 (f) of this Order: Provided, that the written appeal must be filed by the same person making the request within fifteen (15) calendar days from the notice of denial or from the lapse of the relevant period to respond to the request.
- (b) The appeal shall be decided by the person or office next higher in authority within thirty (30) working days from the filing of said written appeal. Failure of such person or office to decide within the afore-stated period shall be deemed a denial of the appeal.
- (c) Upon exhaustion of administrative appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

**SECTION 14. Keeping of Records.** Subject to existing laws, rules, and regulations, government offices shall create and/or maintain accurate and reasonably complete records of important information in appropriate formats, and implement a

records management system that facilitates easy identification, retrieval and communication of information to the public.

**SECTION 15. Administrative Liability.** Failure to comply with the provisions of this Order may be a ground for administrative and disciplinary sanctions against any erring public officer or employee as provided under existing laws or regulations.

**SECTION 16. Implementing Details.** All government offices in the Executive Branch are directed to formulate their respective implementing details taking into consideration their mandates and the nature of information in their custody or control, within one hundred twenty (120) days from the effectivity of this Order.

**SECTION 17. Separability Clause.** If any section or part of this Order is held unconstitutional or invalid, the other sections or provisions not otherwise affected shall remain in full force and effect.

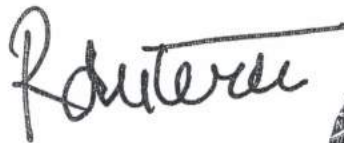
**SECTION 18. Repealing Clause.** All orders, rules and regulations, issuances or any part thereof inconsistent with the provisions of this Executive Order are hereby repealed, amended or modified accordingly: *Provided*, that the provisions of Memorandum Circular No. 78 (s. 1964), as amended, shall not be deemed repealed pending further review.

**SECTION 19. Effectivity.** This Order shall take effect immediately upon publication in a newspaper of general circulation.

Done, in the City of Manila, this 23<sup>rd</sup> day of July in the year of our Lord Two Thousand and Sixteen.


By the President:

  
SALVADOR C. MEDIALDEA  
Executive Secretary





CERTIFIED COPY:

  
MARIANITO M. DIMAANDAL  
DIRECTOR IV  
MALACANANG RECORDS OFFICE

Office of the President  
of the Philippines  
Malacañang

MEMORANDUM CIRCULAR NO. 89

UPDATING THE INVENTORY OF EXCEPTIONS TO THE RIGHT TO ACCESS OF  
INFORMATION UNDER EXECUTIVE ORDER (EO) NO. 02, SERIES OF 2016

**WHEREAS**, pursuant to Section 4 of EO No. 02, series of 2016 (EO No. 02), the Office of the President (OP) issued a Memorandum circularizing the inventory of exceptions to the right to access information under EO No. 02 (Inventory of Exceptions) on 24 November 2016;

**WHEREAS**, Section 4 of EO No. 02 directs the Department of Justice (DOJ) and the Office of the Solicitor General (OSG) to update the Inventory of Exceptions as the need to do so arises and the OP to accordingly circularize the same;

**WHEREAS**, Section 1 of Memorandum Circular No. 49, series of 2018, created the Inter-Agency Freedom of Information Exceptions Policy Committee (IA-FOI-EPC), with the DOJ and the OSG as co-chairs, to review the Inventory of Exceptions and periodically update the same to reflect changes in existing laws and jurisprudence; and

**WHEREAS**, the IA-FOI-EPC, through IA-FOI-EPC Resolution Nos. 2019-001 and 2021-001, proposed updates to the Inventory of Exceptions;

**NOW THEREFORE**, the attached updated Inventory of Exceptions is hereby circularized for the guidance of all government offices and instrumentalities covered by EO No. 02 and the general public.

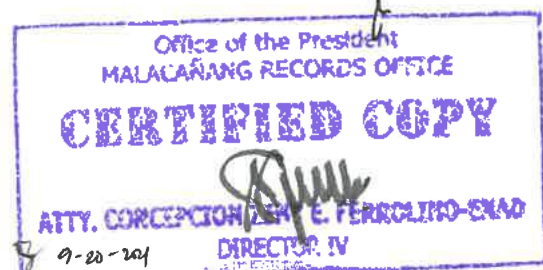
The foregoing list of exceptions shall be without prejudice to existing laws, jurisprudence, rules or regulations authorizing the disclosure of the excepted information upon satisfaction of certain conditions in certain cases, such as the consent of the concerned party or as may be ordered by the courts.

In evaluating requests for information, all heads of offices are enjoined to ensure the meaningful exercise of the public of their right to access to information on public concerns.

**DONE**, in the City of Manila, this 13<sup>th</sup> Day of September in the Year of our Lord, Two Thousand and Twenty-One.

By authority of the President:

  
SALVADOR C. MEDIALDEA



## **Exceptions to Right to Access of Information**

For the guidance of all government offices and instrumentalities covered by EO No. 2 (s. 2016) and the general public, the following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence:<sup>1</sup>

1. Information covered by Executive privilege;
2. Privileged information relating to national security, defense or international relations;
3. Information concerning law enforcement and protection of public and personal safety;
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused;
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers;
6. Prejudicial premature disclosure;
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged;
8. Matters considered confidential under banking and finance laws, and their amendatory laws; and
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations.

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<sup>1</sup> These exceptions only apply to governmental bodies within the control and supervision of the Executive department. Unless specifically identified, these exceptions may be invoked by all officials, officers, or employees in the Executive branch in possession of the relevant records or information.

For the implementation of the exceptions to the right of access to information, the following provide the salient details and legal bases that define the extent and application of the exceptions.

1. Information covered by Executive privilege:
  - a. Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings;<sup>2</sup> and
  - b. Matters covered by deliberative process privilege, namely:
    - i. advisory opinions, recommendations, resolutions, minutes of meetings, and deliberations comprising part of a process by which governmental decisions and policies are formulated; intra-agency or inter-agency recommendations or communications during the stage when common assertions are still in the process of being formulated or are in the exploratory stage; or information pertaining to the decision-making of executive officials;<sup>3</sup> and
    - ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;<sup>4</sup>
2. Privileged information relating to national security, defense or international relations:
  - a. Information, record, or document that must be kept secret in the interest of national defense or security;<sup>5</sup>

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<sup>2</sup> This exception may only be invoked by the President and his close advisors. The extent of the privilege is defined by applicable jurisprudence: *Senate v. Ermita*, G.R. No. 169777, 20 April 2006, 488 SCRA 1; *Neri v. Senate Committee on Accountability of Public Officers and Investigations*, G.R. No. 180643, 4 September 2008, 564 SCRA 152; *Akbayan v. Aquino*, G.R. No. 170516, 16 July 2008, 558 SCRA 468; and *Chavez v. PCGG*, G.R. No. 130716, 9 December 1998, 299 SCRA 744.

<sup>3</sup> *Akbayan v. Aquino*, *supra*; *Chavez v. NHA*, G.R. No. 164527, 15 August 2007; and *Chavez v. PCGG*, *supra*; *Sereno v. Committee on Trade and Related Matters of the National Economic Development Authority*, G.R. No. 175210, 01 February 2016, 780 PHIL 1-18; and *Department of Foreign Affairs v. BCA International Corporation*, G.R. No. 210858, 29 June 2016. The privilege of invoking this exception ends when the executive agency adopts a definite proposition.

<sup>4</sup> Section 3(d) Rule IV, *Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees* (Rules on CCESPOE). Drafts of decisions, orders, rulings, policy decisions, memoranda, and the like, such as resolutions prepared by the investigating prosecutor prior to approval for promulgation and release to parties [*Revised Manual for Prosecutors of the Department of Justice (DOJ)*] are also covered under this category of exceptions.

<sup>5</sup> *Almonte v. Vasquez*, G.R. No. 95367, 23 May 1995, 244 SCRA 286; *Chavez v. PCGG*, *supra*; *Legaspi v. Civil Service Commission*, L-72119, 29 May 1987, 150 SCRA 530; *Chavez v. NHA*, *supra*; *Neri v. Senate*, *supra*; *Chavez v. Public Estates Authority*, G.R. No. 133250, 9 July 2002, 384 SCRA 152; *Lagman v. Medialdea*, G.R. Nos. 231658, 231771, and 231774, 4 July 2017, 812 PHIL 179-853; and Section 3(a), Rule IV, Rules on CCESPOE. This exception generally includes matters classified under Memorandum Circular (MC) No. 78, as amended by MC No. 196 as "Top Secret," "Secret," "Confidential," and "Restricted." This exception also includes records, papers, and information related to matters provided under Sections 16, 18, and 45, *The Anti-Terrorism Act of 2020* [Republic Act (RA) No. 11479] and its Implementing Rules and Regulations (IRR), as may be invoked by the government agency involved.

- b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;<sup>6</sup> and
  - c. Patent applications, the publication of which would prejudice national security and interests;<sup>7</sup>
3. Information concerning law enforcement and protection of public and personal safety:
- a. Investigation records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would –
    - i. interfere with enforcement proceedings;
    - ii. deprive a person of a right to a fair trial or an impartial adjudication;
    - iii. disclose the identity of a confidential source and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; or
    - iv. unjustifiably disclose investigative techniques and procedures;<sup>8</sup>
  - b. Informer's privilege or the privilege of the Government not to disclose the identity of a person or persons who furnish information of violations of law to officers charged with the enforcement of law;<sup>9</sup>
  - c. When disclosure of information would put the life and safety of an individual in imminent danger;<sup>10</sup>
  - d. Any information given by informants leading to the recovery of camapped vehicles and apprehension of the persons charged with carnapping;<sup>11</sup> and
  - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;<sup>12</sup>

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<sup>6</sup> *Akbayan v. Aquino, supra*; Section 3(a) Rule IV, Rules on CCESPOE. This privilege may be invoked by the Department of Foreign Affairs and other government bodies involved in diplomatic negotiations.

<sup>7</sup> The applicability of this exception is determined by the Director General of the Intellectual Property Office and subject to the approval of the Secretary of the Department of Trade and Industry. Section 44.3 of the *Intellectual Property Code* (RA No. 8293, as amended by RA No. 10372).

<sup>8</sup> Section 3(f), Rule IV, Rules on CCESPOE; *Chavez v. PCGG, supra*. May be invoked by law enforcement agencies.

<sup>9</sup> *Akbayan v. Aquino, supra*; and Section 51, *Human Security Act of 2007* (RA No. 9372). May be invoked by law enforcement agencies.

<sup>10</sup> Section 3(b), Rule IV, Rules on CCESPOE.

<sup>11</sup> Section 19, *New Anti Carnapping Act of 2016* (RA No. 10883). May be invoked by law enforcement agencies.

<sup>12</sup> Section 7, *Witness Protection, Security and Benefit Act* (RA No. 6981).



4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused. These include:
  - a. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,<sup>13</sup> personal information or records,<sup>14</sup> including sensitive personal information, birth records,<sup>15</sup> school records,<sup>16</sup> or medical or health records;<sup>17</sup>

Sensitive personal information as defined under the *Data Privacy Act of 2012* refers to personal information:<sup>18</sup>

- (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.

However, personal information may be disclosed to the extent that the requested information is shown to be a matter of public concern or interest, shall not meddle with or disturb the private life or family relations of the

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<sup>13</sup> Section 3(e), Rule IV, Rules on CCESPOE.

<sup>14</sup> Sections 8 and 15, *Data Privacy Act of 2012* (RA No. 10173); *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 [Section 3(g), *Data Privacy Act of 2012*]; Article 26, Civil Code. May be invoked by National Privacy Commission and government personal information controllers.

<sup>15</sup> Article 7, *The Child and Youth Welfare Code* [Presidential Decree (PD) No. 603].

<sup>16</sup> Section 9(4), *Education Act of 1982* [Batas Pambansa (BP) Blg. 232].

<sup>17</sup> Medical and health records are considered as sensitive personal information pursuant to Section 3(l)(2), *Data Privacy Act of 2012*; See also Department of Health-Department of Science and Technology (DOST)-Philippine Health Insurance Corporation Joint Administrative Order No. 2016-0002 (Privacy Guidelines for the Implementation of the Philippine Health Information Exchange); Section 9, *Mandatory Reporting of Notifiable Diseases and Health Events of Public Health Concern Act* (RA No. 11332); Section 36, *Universal Health Care Act* (RA No. 11223); Section 28, *National Integrated Cancer Control Act* (RA No. 11215); and Section 5(l), *Mental Health Act* (RA No. 11036). Mental health records under RA No. 11036 include information on any aspect of the mental health, treatment, or care of the service user.

<sup>18</sup> Section 3(l), *Data Privacy Act of 2012*. See also Section 9, *Free Internet Access in Public Places Act* (RA No. 10929); Section 26, *Safe Spaces Act* (RA No. 11313); and Section 21, *Tax Amnesty Act* (RA No. 11213).

individual<sup>19</sup> and is not prohibited by any law or regulation. Any disclosure of personal information shall be in accordance with the principles of transparency, legitimate purpose and proportionality.<sup>20</sup>

Disclosure of personal information about any individual who is or was an officer or employee of a government institution shall be allowed, provided that such information relates to the position or functions of the individual, including: (1) the fact that the individual is or was an officer or employee of the government institution; (2) the title, business address and office telephone number of the individual; (3) the classification, salary range and responsibilities of the position held by the individual; and (4) the name of the individual on a document prepared by the individual in the course of employment with the government;<sup>21</sup>

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;<sup>22</sup> and
- c. Records of proceedings and processes deemed confidential by law for the privacy and/or protection of certain individuals, such as children, victims of crime, witnesses to a crime or rehabilitated drug offenders, including those pertaining to the following:
  - (1) records of child and family cases;<sup>23</sup>
  - (2) children in conflict with the law from initial contact until final disposition of the case;<sup>24</sup>
  - (3) a child who is a victim of any offense under the *Anti-Child Pornography Act of 2009*, including the name and personal circumstances of the child, or the child's immediate family, or any other information tending to establish the child's identity;<sup>25</sup>
  - (4) a child witness, who is a victim of a crime, an accused of a crime, or a witness to a crime, including the name, address, telephone number, school, or other identifying information of a child or an immediate family of the child;<sup>26</sup>
  - (5) cases involving violence against women and their children, including the name, address, telephone number, school, business, address,

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<sup>19</sup> Article 26(2), *Civil Code*.

<sup>20</sup> Section 11, *Data Privacy Act of 2012*.

<sup>21</sup> Section 4, *Data Privacy Act of 2012*.

<sup>22</sup> *An Act Expanding the Coverage of Exemptions from Revealing the Source of Published News or Information Obtained in Confidence by Including Journalists from Broadcasts, and News Agencies, Amending for the Purpose Section 1 of RA No. 53, as Amended By RA No. 1477 (RA No. 11458)*. May be invoked by government newspapers.

<sup>23</sup> Section 12, *Family Courts Act of 1997 (RA Act No. 8369)*.

<sup>24</sup> Section 43, *Juvenile Justice and Welfare Act of 2006 (RA No. 9344)*.

<sup>25</sup> Section 13, *Anti-Child Pornography Act of 2009 (RA No. 9775)*.

<sup>26</sup> Section 31, A.M. No. 00-4-07-SC, *Re: Proposed Rule on Examination of a Child Witness*.

- employer, or other identifying information of a victim or an immediate family member;<sup>27</sup>
- (6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;<sup>28</sup>
  - (7) names of victims of child abuse, exploitation or discrimination;<sup>29</sup>
  - (8) cases of gender-based streets and public spaces sexual harassment, including information on the victim and the accused who is a minor;<sup>30</sup>
  - (9) disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons;<sup>31</sup>
  - (10) records, documents, and communications of proceedings involving domestic, inter-country, and administrative, adoptions, including the identity of the child, natural parents and adoptive parents;<sup>32</sup>
  - (11) names of students who committed acts of bullying or retaliation;<sup>33</sup>
  - (12) children in situations of armed conflict;<sup>34</sup>
  - (13) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended; and<sup>35</sup>
  - (14) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;<sup>36</sup>

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<sup>27</sup> Section 44, *Anti-Violence Against Women and their Children Act of 2004* (RA No. 9262); and *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006.

<sup>28</sup> Section 7, *Anti-Trafficking in Persons Act of 2003* (RA No. 9208), as amended by RA No. 10364.

<sup>29</sup> Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act* (RA No. 7610).

<sup>30</sup> Section 26, *Safe Spaces Act* (RA No. 11313).

<sup>31</sup> Section 14, *Juvenile Justice and Welfare Act of 2006*; Section 7, *Anti-Trafficking in Persons Act of 2003*, as amended; and Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act*.

<sup>32</sup> Section 15, *Domestic Adoption Act of 1998* (RA No. 8552) and Section 43, IRR of RA No. 8552; Sections 6 and 16(b), *Inter-Country Adoption Act of 1995* (RA No. 8043) and Sections 53, 54 and 55 of IRR of RA No. 8043; Section 14, *Simulated Birth Rectification Act* (RA No. 11222) and Section 28 of IRR of RA No. 11222.

<sup>33</sup> Section 3(h), *Anti-Bullying Act* (RA No. 10627).

<sup>34</sup> Section 19, *Special Protection of Children in Situations of Armed Conflict Act* (RA No. 11188).

<sup>35</sup> Sections 60, 64 and 67, *Comprehensive Dangerous Drugs Act of 2002* (RA No. 9165).

<sup>36</sup> Section 44, *Philippine HIV and AIDS Policy Act* (RA No. 11166). Information covered by Section 44 may be disclosed with the written consent of the affected person or in accordance with Sections 45 and 46 of RA No. 11166.

5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers, such as but not limited to the following:
- a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;<sup>37</sup>
  - b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority;<sup>38</sup>
  - c. Records and reports submitted to the Social Security System by the employer or member;<sup>39</sup>
  - d. Information of registered persons with the Philippine Identification System;<sup>40</sup>
  - e. Information gathered for the HIV and AIDS monitoring and evaluation program under RA No. 11166 and all other related health intelligence activities;<sup>41</sup>
  - f. Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under condition of anonymity;<sup>42</sup>
  - g. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;<sup>43</sup>

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<sup>37</sup> Sections 45, 106.1, and 150.2, *The Intellectual Property Code* (RA No. 8293, as amended by RA No. 10372); Section 66.2, *Securities Regulation Code* (RA No. 8799); DOST Administrative Order No. 004-16; Section 142, *The Corporation Code* (BP Blg. 68); Section 34, *Philippine Competition Act* (RA No. 10667); Sections 23 and 27 (c), *The New Central Bank Act* (RA No. 7653); *Anti-Money Laundering Act* (RA No. 9160); Section 18, *Strategic Trade Management Act* (RA No. 10697); Sections 10 and 14, *Safeguard Measures Act* (RA No. 8800); Section 12, *Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990* (RA No. 6969); Article 290, *Revised Penal Code*; Section 10.10, Rule 10, 2012 Revised IRR of *Build-Operate-Transfer Law* (RA No. 6957); *Revised Philippine Ports Authority Manual of Corporate Governance*; and Section 18, *Energy Virtual One-Stop Shop Act* (RA No. 11234).

<sup>38</sup> Section 26, *Philippine Statistical Act of 2013* (RA No. 10625) and Section 4, *Commonwealth Act No. 591*. See also Section 10, *Community-Based Monitoring System Act* (RA No. 11315).

<sup>39</sup> Section 24(c), *Social Security Act of 1997* (RA No. 1161, as amended by RA No. 8282).

<sup>40</sup> Section 17, *Philippine Identification System Act* (RA No. 11055).

<sup>41</sup> Section 43, *Philippine HIV and AIDS Policy Act* (RA No. 11166).

<sup>42</sup> Section 34, *Philippine Competition Act* (PCA), RA No. 10667 and Section 13, Rule 4 of the IRR of PCA. This exception can be invoked by the Philippine Competition Commission subject to well-defined limitations under the PCA.

<sup>43</sup> Section 81, EO No. 226 (s. 1987), as amended.

- h. Documents submitted through the Government Electronic Procurement System;<sup>44</sup>
- i. Information obtained from accessing any electronic key, electronic data message, or electronic document, book, register, correspondence, information or other material pursuant to any powers conferred under the *Electronic Commerce Act of 2000*;<sup>45</sup>
- j. Any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the *Philippine Mining Act of 1995* and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates;<sup>46</sup>
- k. Information received by the Department of Tourism (DOT) in relation to the accreditation of accommodation establishments (such as hotels and resorts) and travel and tour agencies;<sup>47</sup>
- l. The fact that a covered transaction report to the Anti-Money Laundering Council (AMLC) has been made, the contents thereof, or any information in relation thereto;<sup>48</sup>
- m. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;<sup>49</sup>
- n. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;<sup>50</sup>
- o. Information on registered cultural properties owned by private individuals;<sup>51</sup>
- p. Data submitted by a higher education institution to the Commission on Higher Education (CHED);<sup>52</sup>

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<sup>44</sup> Section 9, *Government Procurement Reform Act* (RA No. 9184).

<sup>45</sup> Section 32, *Electronic Commerce Act of 2000* (RA No. 8792).

<sup>46</sup> Section 94(f), *Philippine Mining Act of 1995* (RA No. 7942).

<sup>47</sup> Section 1, Rule IX, DOT MC No. 2010-02 (Rules and Regulations to Govern, the Accreditation of Accommodation Establishments – Hotels, Resorts and Apartment Hotels); and Section 23, DOT MC No. 2015-06 (Revised Rules and Regulations to Govern the Accreditation of Travel and Tour Agencies).

<sup>48</sup> Section 9(c), *Anti-Money Laundering Act of 2001*, as amended. May be invoked by AMLC, government banks and its officers and employees.

<sup>49</sup> Section 10, *Safeguard Measures Act*.

<sup>50</sup> Section 297 in relation with Section 295 and Section 356, *The Insurance Code* (as amended by RA No. 10607).

<sup>51</sup> Section 14, *National Cultural Heritage Act of 2009* (RA No. 10066).

<sup>52</sup> CHED Memorandum Order No. 015-13, 28 May 2013.

- q. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;<sup>53</sup>
  - r. Records or information in connection with any investigation conducted by the Presidential Anti-Corruption Commission (PACC) when such disclosure will deprive the respondent of the right to a fair and impartial investigation;<sup>54</sup> and
  - s. Records of surveillance of suspects and interception and recording of communications acquired by a law enforcement agent or military personnel pursuant to the *Anti-Terrorism Act of 2020*.<sup>55</sup>
6. Information of which a premature disclosure would:
- a. in the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution; or
  - b. be likely or significantly frustrate implementation of a proposed official action, except such department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal.<sup>56</sup>
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:
- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*;<sup>57</sup>
  - b. Matters involved in an Investor-State mediation;<sup>58</sup>

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<sup>53</sup> Articles 229 and 230, *Revised Penal Code*; Section 3(k), *Anti-Graft and Corrupt Practices Act* (RA No. 3019); Section 7(c), *Code of Conduct and Ethical Standards for Public Officials and Employees* (RA No. 6713); Section 7, *Exchange of Information on Tax Matters Act of 2009* (RA No. 10021); and Section 6.2, *Securities Regulation Code* (RA No. 8799).

<sup>54</sup> Section 3, Rule IV, PACC Resolution No. 001, s. 2018 (IRR of the PACC).

<sup>55</sup> Section 16, *The Anti-Terrorism Act of 2020* (RA No. 11479).

<sup>56</sup> Section 3(g), Rule IV, Rules on CCESPOE.

<sup>57</sup> Sections 9, 23 and 33, *Alternative Dispute Resolution (ADR) Act of 2004* (RA No. 9285); and DOJ Circular No. 98 (s. 2009) or the IRR of the ADR Act.

<sup>58</sup> Article 10, International Bar Association Rules for Investor-State Mediation.

- c. Information and statements made at conciliation proceedings under the *Labor Code*;<sup>59</sup>
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);<sup>60</sup>
- e. Results of examinations made by the Securities and Exchange Commission (SEC) on the operations, books and records of any corporation, and all interrogatories propounded by it and the answers thereto;<sup>61</sup>
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;<sup>62</sup>
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;<sup>63</sup>
- h. Information related to the assignment of the cases to the reviewing prosecutors or the undersecretaries in cases involving violations of the *Comprehensive Dangerous Drugs Act of 2002*;<sup>64</sup>
- i. Investigation report and the supervision history of a probationer;<sup>65</sup>
- j. Those matters classified as confidential under the *Anti-Terrorism Act of 2020* and its IRR;<sup>66</sup>
- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;<sup>67</sup> and
- l. Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;<sup>68</sup>

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<sup>59</sup> Article 237, *Labor Code*.

<sup>60</sup> Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

<sup>61</sup> Section 178, *Revised Corporation Code of the Philippines*. May be invoked by the SEC and any other official authorized by law to make such examination.

<sup>62</sup> Sections 13.4, 15.4, 29.2 (b), and 64.2 of the *Securities Regulation Code*.

<sup>63</sup> Section 53(b)(1) of the *Pre-Need Code of the Philippines*. The confidentiality of the proceedings is lifted after the issuance of the cease and desist order.

<sup>64</sup> DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

<sup>65</sup> Section 17, *Probation Law of 1976* [PD No. 968 (s.1976)].

<sup>66</sup> Sections 18 and 45, *The Anti-Terrorism Act of 2020* (RA No. 11479) and Rules 5.8 and 5.19 of the IRR of RA No. 11479.

<sup>67</sup> Section 14, Civil Service Commission Resolution No. 01-0940.

<sup>68</sup> Section 18, Rule 139-B and Section 24, Rule 130 of the Rules of Court; and Section 11 of the Rule on DNA Evidence, A.M. No. 06-11-5-SC.

8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:
  - a. RA No. 1405 (*Law on Secrecy of Bank Deposits*);
  - b. RA No. 6426 (*Foreign Currency Deposit Act of the Philippines*) and relevant regulations;
  - c. RA No. 8791 (*The General Banking Law of 2000*);
  - d. RA No. 9160 (*Anti-Money Laundering Act of 2001*);
  - e. RA No. 9510 (*Credit Information System Act*); and
  - f. RA No. 245, as amended by Presidential Decree No. 1878;
  
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations, such as:
  - a. Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:
    - (1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;<sup>69</sup>
    - (2) Those deemed confidential or protected information pursuant to United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (UNCITRAL Transparency Rules);<sup>70</sup> and
    - (3) Refugee proceedings and documents under the *1951 Convention Relating to the Status of Refugees*, as implemented by DOJ Circular No. 58 (s. 2012);
  
  - b. Testimony from a government official, unless pursuant to a court or legal order;<sup>71</sup>
  
  - c. When the purpose for the request of Statement of Assets, Liabilities and Net Worth is any of the following:
    - (1) any purpose contrary to morals or public policy; or

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<sup>69</sup> Examples: Article 20 (2), ASEAN Comprehensive Investment Agreement; Article 15 (2) Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation between the ASEAN and the Republic of India; and Article 15 (2) of the Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation among the Government of the Member Countries of the ASEAN and the Republic of Korea.

<sup>70</sup> Article 7, UNCITRAL Transparency Rules.

<sup>71</sup> *Senate v. Neri, supra*; *Senate v. Ermita, supra*.



- (2) any commercial purpose other than by news and communications media for dissemination to the general public;<sup>72</sup>
- d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;<sup>73</sup>
  - e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;<sup>74</sup>
  - f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;<sup>75</sup> and
  - g. Attorney-client privilege existing between government lawyers and their client.<sup>76</sup>

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<sup>72</sup> Section 8(D), *Code of Conduct and Ethical Standards for Public Officials and Employees*.

<sup>73</sup> *Belgica v. Ochoa*, G.R. No. 208566, 19 November 2013; and *Valmonte v. Belmonte Jr.*, G.R. No. 74930, 13 February 1989, 252 Phil. 264.

<sup>74</sup> Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending Certain Provisions of the New Rules of Procedure of the National Labor Relations Commission, 08 March 2002; Department of Agrarian Reform MC No. 07-11, 19 July 2011; Department of Social Welfare and Development MC No. 021-12, 16 October 2012; and Section 42, *Investment Company Act* (RA No. 2629); When the information requested is not a matter of public concern or interest as decided in *Hilado v. Judge Amor A. Reyes*, G.R. No. 163155, 21 July 2006.

<sup>75</sup> *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

<sup>76</sup> Canon 21 of the *Code of Professional Responsibility*.

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