

DAVAO ORIENTAL STATE UNIVERSITY

# FREEDOM OF INFORMATION

# MANUAL

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## **DOrSU Vision**

A university of excellence, innovation and inclusion.

## **DOrSU Mission**

1. To elevate knowledge generation, utilization and distribution;
2. To promote sustainable development through Research- based higher quality education, technical-vocational skills, responsive to the needs of the local and global community; and
3. To produce holistic, creative, and inclusive human resource that is responsive and resilient to global challenges while maintain a strong sense of nationhood.

## **DOrSU Core Values**

The institution, in all levels, is:

1. God-centered and humane;
2. Thinking critically and creatively;
3. Disciplined and competent;
4. Committed and collaborative; and
5. Resilient and sustainable.

## CHAPTER 1: OVERVIEW OF THE MANUAL

**Section 1. Purpose of the Manual:** The DOrSU FOI Manual serves as a comprehensive guide outlining the processes and procedures for handling information requests received by the Davao Oriental State University (DOrSU), in adherence to Executive Order (E.O.) No. 02 on Freedom of Information (FOI) – (Annex “A”).

**Section 2. Objectives of the Manual:** This Manual establishes the rules and procedures that the University observes when responding to requests for access to information. It aims to promote transparency in the exercise of the University's mandates and functions, and to uphold the fundamental right of the public to free flow of information.

**Section 3. Coverage of the Manual:** The Manual shall cover all requests for information directed to University's Main Campus, and its external campuses in Baganga and Tarragona, as well as its extension campuses, to wit: Banaybanay Campus, Cateel Campus, and San Isidro Campus.

## CHAPTER 2: DEFINITION OF TERMS

In the context of this DOrSU FOI Manual, the subsequent terms are defined as follows:

**COMPLEX REQUEST** refers to a request that will require extensive research of existing records, processing or generation of voluminous data, or may involve possible violation of the Data Privacy Act or other relevant laws.

**CONSULTATION** refers to a process 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.

**data.gov.ph** is the website that serves as the government's comprehensive portal for all public government data that is searchable, understandable, and accessible.

**ELECTRONIC FREEDOM OF INFORMATION (eFOI)** is a platform for citizens and government agencies that facilitate online FOI requests. Among many other features, eFOI provides a central resource for the public to understand the FOI, to locate records that are already available online, and to learn how to make a request for information that is not yet publicly available. eFOI.gov.ph also promotes agency accountability for the administration of the FOI by graphically displaying the detailed statistics

contained in Annual FOI Reports, so that they can be compared by agency and over time.

**EXCEPTIONS** refer to information that should not be released and disclosed in response to a FOI request because they are protected by the Constitution, laws or jurisprudence.

**FOI CONTACT** refers to the name, address and phone number at each government office where one can make a FOI request.

**FOI REQUEST** is a written request submitted to a government office personally or by email asking for records on any topic. A FOI request can generally be made by any Filipino to any government office.

**FOI RECEIVING OFFICER** is the primary contact at each government agency where the requesting party can call and ask questions about the FOI process or the pending FOI request.

**FREQUENTLY REQUESTED INFORMATION** refers to the information released in response to an FOI request that DOrSU determines to have become or are likely to become the subject of subsequent requests for substantially the same records.

**FULL DENIAL** is a response to an FOI request when DOrSU cannot release any records because, for example, the requested information is exempt from disclosure in its entirety or no records responsive to the request could be located.

**FULL GRANT** is a response when DOrSU is able to disclose all records in full.

**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 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.

**INFORMATION FOR DISCLOSURE** refers to the 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 the need for written requests from the public.

**MULTI-TRACK PROCESSING** refers to 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 through expedited processing are placed in yet another track. Requests in each track are processed on a first-in/first-out basis.

**OFFICIAL RECORD/S** 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.

**OPEN DATA** shall refer to publicly available data structured in a way that enables the data to be fully discoverable and usable by end-users.

**PARTIAL GRANT/PARTIAL DENIAL** is a response to an FOI request when the DOrSU is able to disclose portions of the records but must deny other portions of the request.

**PENDING REQUEST OR PENDING APPEAL** refers to an FOI request or administrative appeal for which DOrSU 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.

**PERFECTED REQUEST** is an FOI request, which reasonably describes the records sought and is made in accordance with DOrSU's regulations.

**PERSONAL INFORMATION** shall refer to any information, whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information or when put together with other information would directly and certainly identify an individual.

**PROACTIVE DISCLOSURE** refers to the information made publicly available by DOrSU without waiting for a specific FOI request.

**PROCESSED REQUEST OR PROCESSED APPEAL** is the number of requests or

appeals for which DOrSU has completed its work and sent a final response to the requester.

**PUBLIC RECORDS** shall include information that, according to laws, executive orders, rules or regulations, is required to be entered, kept, and made publicly available by DOrSU.

**RECEIVED REQUEST OR RECEIVED APPEAL** is an FOI request or administrative appeal that DOrSU has received within a fiscal year.

**REFERRAL** is a process wherein, if DOrSU 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 and to provide the final determination directly to the requester.

**SENSITIVE PERSONAL INFORMATION**, as defined in the Data Privacy Act of 2012 (Annex B), shall refer to personal information:

- (1) About an individual race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
- (2) About an individual 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;
- (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.

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

**UNIVERSITY** shall refer to the Davao Oriental State University including its external and extension campuses, for the purposes of this Manual.

## **CHAPTER 3: PROMOTION OF OPENNESS IN GOVERNMENT**

**Section 1. Duty to Publish Information.** The University shall regularly publish, print and disseminate at no cost to the public and in an accessible form, in conjunction with Republic Act 9485 or otherwise known as the Anti-Red Tape Act of 2007, and through



www.dorsu.edu.ph, timely, true, accurate and updated key information including, but not limited to:

- (1) A description of its mandate, structure, powers, functions, duties and decision-making process;
- (2) A description of frontline services it delivers and the procedure and length of time by which they may be availed of;
- (3) The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
- (4) Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;
- (5) Important rules and regulations, orders or decisions;
- (6) Current and important database and statistics that it generates;
- (7) Bidding processes and requirements; and
- (8) Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.

**Section 2. Accessibility of Language and Form.** The University shall endeavor to translate key information into major Filipino languages and present them in popular form and means.

**Section 3. Keeping of Records.** The University shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation of records, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, activities, communications and documents received or filed with them and the data generated or collected.

## **CHAPTER 4: PROTECTION OF PRIVACY**

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

- (1) The University shall ensure that personal information, particularly sensitive personal information, in its custody or under its control is disclosed only as permitted by the Constitution, existing laws, jurisprudence and University policies, rules and regulations;
- (2) The processing of personal information, encompassing collection, storage, use, destruction, and other similar operations, is permitted, contingent upon compliance with the requirements stipulated in the Data Privacy Act and other laws allowing information disclosure to the public. It must

adhere to the principles of transparency, legitimate purpose, and proportionality as follows:

- a) Information must be collected for specified and legitimate purposes determined and declared before, or as soon as reasonably practicable after collection. Subsequent processing should align with such declared, specified and legitimate purposes only.
  - b) Processing of information must be carried out fairly and lawfully.
  - c) Personal information should be accurate, relevant, and, where necessary for the intended processing, kept up to date. Any inaccurate or incomplete data must be rectified, supplemented, destroyed, or its further processing restricted.
  - d) Information collected should be adequate and not excessive in relation to the purposes for which it is collected and processed.
  - e) Data should be retained only for as long as necessary for the fulfillment of the purposes for which the data was obtained. This includes the establishment, exercise, or defense of legal claims, legitimate business purposes, or as provided by law.
  - f) Data should be kept in a form that permits identification of data subjects for no longer than necessary for the purposes for which the data was collected and processed. However, personal information collected for other purposes may be processed for historical, statistical, or scientific purposes, and in cases specified by law, may be stored for extended periods. Adequate safeguards must be guaranteed by the laws authorizing their processing (Section 11, Data Privacy Act)."
- (3) The University as well as those seeking information pursuant to this FOI Manual as personal information controllers must ensure implementation of personal information processing principles set out herein. The University shall therefore, in the FOI request form, and in replying to the granted FOI request require the requesting party to strictly adhere to the Philippine Data Privacy Act and other applicable laws.
- (4) The processing of sensitive personal information and privileged information shall be prohibited, except in the following cases:
- a) The data subject has given his or her consent, specific to the purpose prior to the processing;
  - b) The processing of the same is provided for by existing laws and regulations;
  - c) The processing is necessary to protect the life and health of the data subject or another person, and the data subject is not legally or

- physically able to express his or her consent prior to the processing;
- d) The processing is necessary to achieve the lawful and noncommercial objectives of public organizations and their associations: *Provided*, That such processing is only confined and related to the *bona fide* members of these organizations or their associations: *Provided, further*, That the sensitive personal information are transferred to third parties: *Provided, finally*, That consent of the data subject was obtained prior to processing;
  - e) The processing is necessary for purposes of medical treatment, carried out by a medical practitioner or a medical treatment institution, and an adequate level of protection of personal information is ensured; or
  - f) The processing concerns such personal information as is necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings, or the establishment, exercise or defense of legal claims, or when provided to government or public authority (Section 12, Data Privacy Act).
- (5) The University shall protect personal information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks or premature disclosure;
- (6) The FRO, FDM, or any employee or official who has access, whether authorized or unauthorized, to personal information in the custody of the University, shall not disclose that information except as authorized by existing laws.

## CHAPTER 5: KEY FOI OFFICERS

The University President shall be responsible for all actions carried out under this Manual and, with authority of the Board of Regents, may delegate responsible officers herein:

**Section 1. FOI RECEIVING OFFICER.** The Records Officer shall be the designated FOI Receiving Officer (FRO) who shall hold office at the DOrSU Main Campus.

The functions of the FRO shall include the following:

- a) receive all requests for information on behalf of the University and forward the same to the appropriate office who has custody of the records;

- b) conduct initial evaluation of the requests and advise the requesting party on the status of their requests;
- c) monitor all FOI requests and appeals;
- d) provide assistance to the FOI Decision Maker (FDM);
- e) compile statistical information as required; and
- f) provide assistance and support to the public and staff with regard to FOI.

The FRO shall maintain a logbook of all requests chronologically received for accountability purposes.

**Section 2. FOI DECISION MAKER.** There shall be an FOI Decision Maker (FDM) with a rank not lower than a Vice President.

The functions of the FDM shall include the following:

- a) evaluate the recommendations of the FRO on any request and take action thereon; and
- b) grant, deny, partially grant, or partially deny the request, order the redaction of certain information prior to release, refer the request to other offices, or undertake such other actions as may be appropriate;

**Section 3. APPEALS AND REVIEW COMMITTEE.** There shall be an Appeals and Review Committee composed of the FDM, the University's Data Protection Officer, and one representative from the Legal Affairs Office.

The Committee shall have the power to review all appeals and evaluate the grant or denial of the request of information and shall likewise provide expert advice to the University President on the denial of such request.

## **CHAPTER 6: STANDARD PROCEDURE** *(See Annex E for flowchart)*

### **Section 1. Receipt of Request for Information.**

- (1) The FOI Receiving Officer (FRO) shall receive the request for information from the requesting party and check compliance with 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.

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.

The Request Form shall be available in the FRO's office, and downloadable from the University's website. When duly accomplished, it shall reflect the details of the request as above required, and serve as a summary to guide in the evaluation of the request.

- (2) 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.
- (3) Upon receipt of the written request, the FRO shall promptly stamp it as "RECEIVED," clearly indicating the date and time of receipt. The name, rank, title, and position of the public officer who received the request shall be recorded, along with a corresponding signature. A copy of the stamped request shall be provided to the requesting party. In the case of email requests, the email shall be printed out and subjected to the same acknowledgment procedure, duly acknowledged by electronic mail. The FRO shall input the details of the request on the Request Tracking System and allocate a reference number.
- (4) In order to respond to FOI Requests efficiently and prevent unnecessary delays in responding to requests, the University shall devise a system that will segregate incoming FOI requests according to their complexity. Simple requests, as defined in this Manual, should be placed in one processing track, while more complex requests should be placed in another processing track. Requests in each track are to be processed on a first in/first out basis.

**Section 2. Initial Evaluation.** After receipt of the request for information, the FRO shall evaluate the contents of the request.

- (1) **Request relating to more than one office under the University:** If a request for information is received which requires to be complied with, of different offices, the FRO shall forward such request to the said offices concerned and ensure that it is well coordinated and monitor its compliance. The FRO shall also clear with the respective FROs of such offices that they will only provide

the specific information that relates to their offices.

- (2) **Requested information is not in the custody of the University:** If the requested information is not in the custody of the University, upon referral and discussions with the FDM, the FRO shall undertake the following steps:
  - a) If the records requested refer to another AGENCY, the request will be immediately transferred to such appropriate AGENCY through the most expeditious manner and the transferring office must inform the requesting party that the information is not held within the 15 working day limit. The 15 working day requirement for the receiving office commences the day after it receives the request.
  - b) 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.
- (3) **Requested information is already posted and available online:** Should the information being requested is already posted and publicly available in the University's website, data.gov.ph or foi.gov.ph, the FRO shall inform the requesting party of the said fact and provide them the website link where the information is posted.
- (4) **Requested information is substantially similar or identical to the previous request:** Should the requested information be substantially similar or identical to a previous request by the same requester, the request shall be denied. However, the FRO shall inform the applicant of the reason of such denial.
- (5) **Frequently requested information.** Each unit of the University should, as much as practicable, keep a database of frequently requested information for easy retrieval. Such frequently requested information may be made available online or readily available by each office.
- (6) **Requested information may be in violation of Data Privacy Act.** If, after evaluation of the FOI Request, the FRO determines that such request may possibly encroach on the right to privacy of any person or if there appears to be a risk that disclosure of the requested information will expose the University and/or its employees to liability under the Data Privacy Act or

any other existing law, the FRO shall refer the matter to the FDM. The FDM shall, before resolving the Request, refer the matter to a duly constituted FOI Appeals and Review Committee (ARC). The FOI ARC may recommend to the FDM the approval or denial of the Request.

**Section 3. Transmittal of Request by the FRO to the FDM:** After receipt of the request for information, the FRO shall evaluate the information being requested, and notify the FDM of such request. The copy of the request shall be forwarded to such FDM within one (1) day from receipt of the written request. The FRO shall record the date, time and name of the FDM who received the request in a record book with the corresponding signature of acknowledgement of receipt of the request.

**Section 4. Role of FDM in processing requests:** Upon receipt of the 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 or the designated officer, in case the submission is beyond the 10-day period.

If the FDM needs further details to identify or locate the information, he or she 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 office concerned on the disclosability of the records before making any final determination.

**Section 5. Role of FRO to transmit the information to the requesting party:** 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 University President or the designated officer and ensure the transmittal of such to the requesting party within 15 working days upon receipt of the request for information.

**Section 6. Period to Respond to an FOI Request.** The University must respond to

requests promptly, within the fifteenth (15) working days following the date of receipt. A working day is any day other than Saturdays, Sundays, national public holidays in the Philippines, and locally or University-declared holidays. In computing for the period, Article 13 of the New Civil Code shall be observed.

The date of receipt of the request shall be either:

- a) the day on which the request is physically or electronically delivered to the University, or directly into the email inbox of a member of staff; or
- b) the date on which the necessary clarification is received, if the University has asked the requesting party for further details to identify and locate the requested information.

An exception arises when a request is sent via email to an absent staff member, resulting in an 'out of office' message that provides instructions for redirecting the message to another contact. In such instances, the date of receipt will be considered the day the request reaches the inbox of the designated alternative 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. If no clarification is received from the requesting party after sixty (60) calendar days, the request shall be closed.

In case the Requesting Party is unable to comply with any of the requisites, e.g. appropriate ID, insufficient details, etc., the FRO shall write the Requesting Party to notify him or her of the deficiencies and give him or her five working (5) days to rectify the deficiency in the request. The fifteen-day period within which to act on an FOI Request shall only commence once the Requesting Party completes the requisites for an FOI Request. In case the Requesting Party fails to rectify the deficiency within the said period, the request shall be archived.

**Section 7. 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.



**Section 8. Notice to the Requesting Party of the Approval/Denial of the Request:**

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

**Section 9. Action on the FOI Request**

(1) **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.

a) **Partial grant.** When, in the determination of the FDM, the University cannot fully disclose all records due to exceptions, or when some information, data, or records cannot be located, the FDM, through the FRO, will only disclose those portions of the records that it is legally permitted to do so.

(2) **Denial of Request:** In case of denial of the 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 Office of the University President or to his designated officer.

a) **Grounds for Denial of Request.** The following are grounds for denial of an FOI Request:

- The request is covered by one of the exceptions under the Constitution, laws or jurisprudence.
- The request is covered by one of the exceptions listed in Annex C of this Manual.
- The request is substantially similar or identical to a previous request by the same requesting party.

**CHAPTER 7: REMEDIES IN CASE OF DENIAL**

**Section 1. Request for Reconsideration.** A requestor whose request has been denied, wholly or partially, by the FRO or the FDM, is not allowed to file any request for reconsideration of such denial. Instead, the requestor may file an appeal set forth in the succeeding sections.

**Section 2. Appeal to the University's FOI Appeals and Review Committee (ARC).** A person whose request for access to information has been denied may file Administrative FOI appeal to the FOI ARC, *Provided*, that:

- (1) a written appeal is filed by the same requesting party to the FOI ARC within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request.
- (2) the appeal shall be decided by the University President upon the recommendation of the FOI ARC 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.

**Section 3. Appeal to the Board of Regents.** A requestor whose appeal has been denied, wholly or partially, by the ARC and subsequently, the University President, is not allowed to file any request for reconsideration of such denial. Instead, the denial may be appealed to the Board of Regents (BOR), through the BOR Secretary; *Provided*, that:

- (1) the appeal shall be in writing, and filed by the same requestor within fifteen (15) working days from receipt of the notice of resolution or from the lapse of the thirty (30) working day period to resolve the first appeal;
- (2) the letter of appeal shall state the ground(s) relied upon and the arguments for the reversal of the denial of the request; and
- (3) the requestor provide supporting information to the appeal.

In case the Board of Regents sets aside the denial of the request and grants the appeal, the University President shall issue a memorandum to the FDM directing that access to the requested information be given to the requestor.

The BOR Secretary shall notify the requestor of the resolution of the appeal through the issuance of a notice. In case of denial, the notice shall specify the ground/s for the denial, whether the denial is in whole or in part, and the circumstances upon which the denial is based.

The decision of the Board shall be final and executory.

**Section 4. Resort to the Courts.** Upon exhaustion of Administrative FOI appeal remedies as herein provided, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

## **CHAPTER 8: REPORTING AND MONITORING**

**Section 1. Request Tracking System.** The University shall establish a system to trace the status of all requests for information received by it, which may be paper-based, online or both. It shall be the responsibility of the FRO to collate and consolidate the information under the Request Tracking System.

**Section 2. FOI Registry and Summary.** To facilitate a uniform tracking system, monitoring, and evaluation system for FOI program implementation, the FOI Quarterly Registry and Summary Sheet are accomplished by the FRO. All FOI requests should be logged in to the Excel sheet (the template provided by the FOI Program Management Office) and should be updated accordingly.

The FOI Registry and Summary should provide information on the following: data request; type of request; description of the request (categories of records sought) or link to actual request letter; decision made, whether it was granted in whole or in part, or denied; and date released.

In calculating the number of days lapsed for FOI requests, the FRO must exclude the date of receipt if it falls on holidays and weekends.

**Section 3. Feedback Mechanism.** The University shall establish a feedback mechanism in order to generate valid and consistent feedback from stakeholders, which can be used to initiate strategies that will improve the implementation of the FOI program in the University.

**Section 4. Reporting.** The University shall capture statistics on FOI implementation and disclose this to the public.

## **CHAPTER 9: FEES**

**Section 1. No Request Fee.** The University shall not charge any fee for accepting FOI requests.

**Section 2. Reasonable Cost of Reproduction, Copying, and/or Delivery of the Information.** The FRO shall immediately notify the requesting party in case there shall be a reproduction, copying and/or delivery fee in order to provide the information. Such fee shall be the actual amount spent by the University in providing the information to the requesting party. The schedule of fees shall be posted by the University in its website.

**Section 3. Exemption from Fees.** The University may exempt any requesting party from payment of fees, upon request stating the valid reason why such requesting party shall not pay the fee.

## **CHAPTER 10: ADMINISTRATIVE LIABILITY**

**Section 1. Non-compliance with FOI.** Failure to comply with the provisions of this Manual shall be a ground for the following administrative penalties:

- a. First Offense - Reprimand;
- b. Second Offense - Suspension of one (1) to thirty (30) days; and
- c. Third Offense - Dismissal from the service.

**Section 2. Procedure.** The Revised Rules on Administrative Cases in the Civil Service shall be applicable in the disposition of cases under this Manual.

**Section 3. Provisions for More Stringent Laws, Rules and Regulations.** Nothing in this Manual shall be construed to derogate from any law, any rules, or regulations prescribed by anybody or the University, which provides for more stringent penalties.

# ANNEX A

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 TO  
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:

**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 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.

- 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 encouraged 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 to 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 law 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 provided in the preceding section.

The determination of the applicability of any of the exceptions to the request shall be the responsibility of the Head of the Office which is in custody or control of the information, public record or official record, or 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 the right to privacy of the individual 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 law, 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 regulation.

**SECTION 8. People's Freedom to 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 provisions:

- 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 office 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 the 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 exception 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 and 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 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 cases or other analogous cases. The government office shall notify the person making the request of the extension, setting forth the reasons for such extension. In no case shall the extension go beyond twenty (20) working days 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 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 stipulated shall be deemed a denial of the request for access to information.

**SECTION 13. Remedies in Cases 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 the 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) working 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 part 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 or 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 23rd day of July in the year of our Lord two thousand and sixteen.

By the President:

(Sgd.) **RODRIGO ROA DUTERTE** President of the Philippines

(Sgd.) **SALVADOR C. MEDIALDEA** Executive Secretary

## ANNEX B

Republic of the Philippines

Congress of the Philippines

Metro Manila Fifteenth Congress

Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-fifth day of July, two thousand eleven.

[Republic Act No. 10173]

AN ACT PROTECTING INDIVIDUAL PERSONAL INFORMATION IN INFORMATION AND COMMUNICATIONS SYSTEMS IN THE GOVERNMENT AND THE PRIVATE SECTOR, CREATING FOR THIS PURPOSE A NATIONAL PRIVACY COMMISSION, AND FOR OTHER PURPOSES

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

### CHATER I GENERAL PROVISIONS

**Section 1. *Short Title.*** - This Act shall be known as the "Data Privacy Act of 2012".

**Section 2. *Declaration Policy.*** - It is the policy of the State to protect the fundamental human right of privacy of communication while ensuring free flow of information to promote innovation and growth. The State recognizes the vital role of information and communications technology in nation-building and its inherent obligation to ensure that personal information in information and communications systems in the government and in the private sector are secured and protected.

**Section 3. *Definition of Terms.*** - Whenever used in this Act, the following terms shall have the respective meanings hereafter set forth:

(a) *Commission* shall refer to the National Privacy Commission created by virtue of this Act.

(b) *Consent of the data subject* refers to any freely given, specific, informed indication of will, whereby the data subject agrees to the collection and processing of personal information about and/or relating to him or her. Consent shall be evidenced by written, electronic or recorded means. It may also be given on behalf of the data subject by an agent specifically authorized by the data subject to do so.

(c) *Data subject* refers to an individual whose personal information is processed.

(d) *Direct marketing* refers to communication by whatever means of any advertising or marketing material which is directed to particular individuals.

(e) *Filing system* refers to any set of information relating to natural or juridical persons to the extent that, although the information is not processed by equipment operating automatically in response to instructions given for that purpose, the set is structured, either by reference to individuals or by reference to criteria relating to individuals, in such a way that specific information relating to a particular person is readily accessible.

(f) *Information and Communications System* refers to a system for generating, sending, receiving, storing, or otherwise processing electronic data messages or electronic documents and includes the computer system or other similar device by or which data is recorded, transmitted or stored and any procedure related to the recording, transmission, or storage of electronic data, electronic message, or electronic document.

(g) *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 would directly and certainly identify an individual.

(h) *Personal information controller* refers to person or organization who controls the collection, holding, processing or use of personal information, including a person or organization who instructs another person or organization to collect, hold, process, use, transfer or disclose personal information on his or her behalf. The term excludes:

(1) A person or organization who performs such functions as instructed by another person or organization; and

(2) An individual who collects, holds, processes or uses personal information in connection with the individual's personal, family or household affairs.

(i) *Personal information processor* refers to any natural or juridical person qualified to act as such under this Act to whom a personal information controller may outsource the processing of personal data pertaining to a data subject.

(j) *Processing* refers to any operation or any set of operations performed upon personal information including, but not limited to, the collection, recording, organization, storage, updating or modification, retrieval, consultation, use, consolidation, blocking, erasure or destruction of data.

(k) *Privileged information* refers to any and all forms of data which under the Rules of Court and other pertinent laws constitute privileged communication.

(l) *Sensitive personal information* refers to personal information:

(1) About an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;

(2) About an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;

(3) Issued by government agencies peculiar to an individual which includes, but is 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.

**Section 4. Scope.** – This Act applies to the processing of all types of personal information and to any natural and juridical person involved in personal information processing including those personal information controllers and processors who, although not found or established in the Philippines, use equipment that are located in the Philippines, or those who maintain an office, branch or agency in the Philippines subject to the immediately succeeding paragraph: *Provided*, That the requirements of Section 5 are complied with.

This Act does not apply to the following:

(a) Information about any individual who is or was an officer or employee of a government institution that 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;

(b) Information about an individual who is or was performing service under contract for a government institution that relates to the services performed, including the terms of the contract, and the name of the individual given in the course of the performance of those services;

(c) Information relating to any discretionary benefit of a financial nature such as the granting of a license or permit given by the government to an individual, including the name of the individual and the exact nature of the benefit;

(d) Personal information processed for journalistic, artistic, literacy or research purposes;

(e) Information necessary in order to carry out the functions of public authority which includes the processing of personal data for the performance by the independent central monetary authority and law enforcement and regulatory agencies of their constitutionally and statutorily mandated functions. Nothing in this Act shall be construed as to have amended or repealed Republic Act No. 1405, otherwise known as the Secrecy of Bank Deposits; Republic Act No. 6426, otherwise known as the Foreign Currency Deposit Act; and Republic Act No. 9510, otherwise known as the Credit Information System Act (CISA);

(f) Information necessary for banks and other financial institutions under the jurisdiction of the independent central monetary authority or Bangko Sentral ng Pilipinas to comply with Republic Act No 9510, and Republic Act No. 9160, as amended, otherwise known as the Anti-Money Laundering Act and other applicable laws; and

(g) Personal information originally collected from residents of foreign jurisdiction in accordance with laws of those foreign jurisdictions, including any applicable data privacy laws, which is being processed in the Philippines.

**Section 5. Protection Afforded to Journalists and their Sources.** – Nothing in this Act shall be construed as to have amended or repealed the provisions of Republic Act No. 53, which affords the publishers, editors or duly accredited reports of any newspaper, magazine

or periodical of general circulation protection from being compelled to reveal the source of any news report or information appearing in said publication which was related in any confidence to such publisher, editor, or reporter.

**Section 6. *Extraterritorial Application.*** – This Act applies to an act done or practice engaged in and outside of the Philippines by an entity if:

(a) The act, practice or processing relates to personal information about a Philippine citizen or a resident;

(b) The entity has a link with the Philippines, and the entity is processing personal information in the Philippines or even if the processing is outside the Philippines as long as it is about Philippine citizens or residents such as, but not limited to, the following:

(1) A contract is entered in the Philippines;

(2) A juridical entity unincorporated in the Philippines but has central management and control in the country; and

(3) An entity that has a branch, agency, office or subsidiary in the Philippines and the parent or affiliate of the Philippine entity has access to personal information; and

(c) The entity has other links in the Philippines such as, but not limited to:

(1) The entity carries on business in the Philippines; and

(2) The personal information was collected or held by an entity in the Philippines.

## CHAPTER II THE NATIONAL PRIVACY COMMISSION

**Section 7. *Functions of the National Privacy Commission.*** – To administer and implement the provisions of this Act, and to monitor and ensure compliance of the country with international standards set for data protection, there is hereby created an independent body to be known as the National Privacy Commission, which shall have the following functions:

(a) Ensure compliance of personal information controllers with the provisions of this Act;

(b) Receive complaints, institute investigations, facilitate or enable settlement of complaints through the use of alternative dispute resolution processes, adjudicate, award indemnity on matters affecting any personal information, prepare reports on disposition of complaints and resolution of any investigation it initiates, and, in cases it deems appropriate, publicize any such report: *Provided*, That in resolving any complaint or investigation (except where amicable settlement is reached by the parties), the Commission shall act as a collegial body. For this purpose, the Commission may be given access to personal information that is subject of any complaint and to collect the information necessary to perform its functions under this Act;

(c) Issue cease and desist orders, impose a temporary or permanent ban on the processing of personal information, upon finding that the processing will be detrimental to national security and public interest;

(d) Compel or petition any entity, government agency or instrumentality to abide by its orders or take action on a matter affecting data privacy;

(e) Monitor the compliance of other government agencies or instrumentalities on their security and technical measures and recommend the necessary action in order to meet minimum standards for protection of personal information pursuant to this Act.

(f) Coordinate with other government agencies and the private sector on efforts to formulate and implement plans and policies to strengthen the protection of personal information in the country;

(g) Publish on a regular basis a guide to all laws relating to data protection;

(h) Publish a compilation of agency system of records and notices, including index and other finding aids;

(i) Recommend to the Department of Justice (DOJ) the prosecution and imposition of penalties specified in Sections 25 to 29 of this Act;

(j) Review, approve, reject or require modification of privacy codes voluntarily adhered to by personal information controllers: *Provided*, That the privacy codes shall adhere to the underlying data privacy principles embodied in this Act: *Provided, further*, That such privacy codes may include private dispute resolution mechanisms for complaints against any participating personal information controller. For this purpose, the Commission shall consult with relevant regulatory agencies in the formulation and administration of privacy codes applying the standards set out in this Act, with respect to the persons, entities, business activities and business sectors that said regulatory bodies are authorized to principally regulate pursuant to the law: *Provided, finally*, That the Commission may review such privacy codes and require changes thereto for purposes of complying with this Act;

(k) Provide assistance on matters relating to privacy or data protection at the request of a national or local agency, a private entity or any person;

(l) Comment on the implication on data privacy of proposed national or local statutes, regulations or procedures, issue advisory opinions and interpret the provisions of this Act and other data privacy laws;

(m) Propose legislation, amendments or modifications to Philippine laws on privacy or data protection as may be necessary;

(n) Ensure proper and effective coordination with data privacy regulators in other countries and private accountability agents, participate in internal and regional initiatives for data privacy protection;

(o) Negotiate and contract with other data privacy authorities of other countries for cross-border application and implementation of respective privacy laws;

(p) Assist Philippines companies doing business abroad to respond to foreign privacy or data protection laws and regulations; and

(q) Generally perform such acts as may be necessary to facilitate cross-border enforcement of data privacy protection.

**Section 8. Confidentiality.** – The Commission shall ensure at all times the confidentiality of any personal information that comes to its knowledge and possession.

**Section 9. Organizational Structure of the Commission.** – The Commission shall be attached to the Department of Information and Communications Technology (DICT) and shall be headed by a Privacy Commissioner, who shall act as Chairman of the Commission.

The Privacy Commissioner shall be assisted by two (2) Deputy Privacy Commissioners, one be responsible for Data Processing Systems, while one to be responsible for Policies and Planning. The Privacy Commissioner and the two (2) Deputy Commissioners shall be appointed by the President of the Philippines for a term of three (3) years, and may be reappointed for another term of three (3) years. Vacancies in the Commission shall be filled in the same manner in which the original appointment was made.

The Privacy Commissioner must be at least thirty- five (35) years of age and of good moral character, unquestionable integrity and known probity, and a recognized expert in the field of information technology and data privacy. The Privacy Commissioner shall enjoy the benefits, privileges, and emoluments equivalent to the rank of Secretary.

The Deputy Privacy Commissioners must be recognized experts in the field of information and communications technology and data privacy. They shall enjoy the benefits, privileges, and emoluments equivalent to the rank of Undersecretary.

The Privacy Commissioner, the Deputy Commissioners, or any person actin on their behalf or under their direction, shall not be civilly liable for acts done in good faith in the performance of their duties. However, he or she shall be liable for willful or negligent acts done by him or her which are contrary to law, morals, public policy and good customs even if he or she acted under orders or instructions of superiors: *Provided*, That in case a lawsuit is filed against such official on the subject of the performance of his or her duties, where such performance is lawful, he or she shall be reimbursed by the Commission for reasonable costs of litigation.

**Section 10. Secretariat.** The Commission is hereby authorized to establish a Secretariat. Majority of the members of the Secretariat must have served for at least five (5) years in any agency of the government that is involved in the processing of personal information including, but not limited to, the following offices: Social Security System (SSS), Government Service Insurance System (GSIS), Land Transportation Office (LTO), Bureau of Internal Revenue (BIR), Philippine Health Insurance Corporation (PhilHealth), Commission on Elections (COMELEC), Department of Foreign Affairs (DFA), Department of Justice (DOJ), and Philippine Postal Corporation (Philpost).

### **CHAPTER III PROCESSING OF PERSONAL INFORMATION**

**Section 11. General Data Privacy Principles.** – The processing of personal information shall be allowed, subject to compliance with the requirements of the Act and other laws allowing disclosure of information to the public and adherence to the principles of transparency, legitimate purpose, and proportionality.

Personal information must be:

(a) Collected for specified and legitimate purposes determined and declared before, or as soon as reasonably practicable after collection, and later processed in a way compatible with such declared, specified and legitimate purposes only;

(b) Processed fairly and lawfully;

(c) Accurate, relevant and, where necessary for purposes for which it is to be used the processing of personal information, kept up to date; inaccurate or incomplete data must be rectified, supplemented, destroyed or their further processing restricted;

(d) Adequate and not excessive in relation to the purposes for which they are collected and processed;

(e) Retained only for as long as necessary for the fulfillment of the purposes for which the data was obtained or for the establishment, exercise or defense of legal claims, or for legitimate business purposes, or as provided by law; and

(f) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected and processed: *Provided*, That personal information collected for other purposes may be processed for historical, statistical or scientific purposes, and in cases laid down in law may be stored for longer periods: *Provided, further*, That adequate safeguards are guaranteed by said laws authorizing their processing.

The personal information controller must ensure implementation of personal information processing principles set out herein.

**Section 12. *Criteria for Lawful Processing of Personal Information.*** – The processing of personal information shall be permitted only if not otherwise prohibited by law, and when at least one of the following conditions exists:

(a) The data subject has given his or her consent;

(b) The processing of personal information is necessary and is related to the fulfillment of a contract with the data subject or in order to take steps at the request of the data subject prior to entering into a contract;

(c) The processing is necessary for compliance with a legal obligation to which the personal information controller is subject;

(d) The processing is necessary to protect vitally important interests of the data subject, including his or her life and health;

(e) The processing is necessary for the purposes of the legitimate interests pursued by the personal information controller, or by a third party or parties to whom the data is disclosed, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution.

**Section 13. *Sensitive Personal Information and Privileged Information.*** – The processing of sensitive personal information and privileged information shall be prohibited, except in any of the following cases:

(a) The data subject has given his or her consent, specific to the purpose prior to the processing, or in the case of privileged information, all parties to exchange have given their consent prior to processing;

(b) The processing of the same is provided for by existing laws and regulations: *Provided*, That such regulatory enactments guarantee the protection of the sensitive personal information and the privileged information: *Provided, further*, That the consent of the data subjects are not required by law or regulation permitting the processing of the sensitive personal information or the privileged information;

(c) The processing is necessary to protect the life and health of the data subject or another person, and the data subject is not legally or physically able to express his or her consent prior to the processing;

(d) The processing is necessary to achieve the lawful and noncommercial objectives of public organizations and their associations: *Provided*, That such processing is only confined and related to the *bona fide* members of these organizations or their associations; *Provided*,



*further*, That the sensitive personal information are not transferred to third parties: *Provided*, *finally*, That consent of the data subject was obtained prior to processing;

(e) The processing is necessary for the purpose of medical treatment, is carried out by a medical practitioner or a medical treatment institution, and an adequate level of protection of personal data is ensured; or

(f) The processing concerns sensitive personal information as is necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings, or the establishment, exercise, or defense of legal claims, or when provided to government or public authority.

**Section 14. *Subcontract of Personal Information.*** – A personal information controller may subcontract the processing of personal information: *Provided*, That the personal information controller shall be responsible for ensuring that proper safeguards are in place to ensure the confidentiality of the personal information processed, prevent its use for unauthorized purposes, and generally, comply with the requirements of this Act and other laws for processing of personal information. The personal information processor shall comply with all the requirements of this Act and other applicable laws.

**Section 15. *Extension of Privileged Communication.*** – Personal information controllers may invoke the principle of privileged communication over privileged information that they lawfully control or process. Subject to existing laws and regulations, any evidence gathered on privileged information is inadmissible.

#### CHAPTER IV RIGHTS OF THE DATA SUBJECT

**Section 16. *Rights of the Data Subject.*** – The data subject is entitled to:

(a) Be informed whether personal information pertaining to him or her shall be, are being or have been processed;

(b) Be furnished the information indicated hereunder before the entry of his or her personal information into the processing system of the personal information controller, or at the next practical opportunity:

(1) Description of the personal information to be entered into the system;

(2) Purposes for which they are being or are to be processed;

(3) Scope and method of the personal information processing;

(4) The recipients or classes of recipients to whom they are or may be disclosed;

(5) Methods utilized for automated access, if the same is allowed by the data subject, and the extent to

(6) The identity and contact details of the personal information controller or its representative;

(7) The period for which the information will be stored; and

(8) The existence of their rights, i.e., to access, correction, as well as the right to lodge a complaint before the Commission.

Any information supplied or declaration made to the data subject on these matters shall not be amended without prior notification of data subjects: *Provided*, That notification

under subsection (b) shall not apply should the personal information be needed pursuant to a *subpoena* or when the collection and processing are for obvious purposes, including when it is necessary for the performance of or in relation to a contract or service or when necessary or desirable in the context of an employer-employee relationship, between the collector and the data subject, or when the information is being collected and processed as a result of legal obligation;

**Section 33. *Combination or Series of Acts.*** – Any combination or series of acts as defined in Sections 52 to 59 shall make the person subject to imprisonment ranging from three (3) years to six (6) years and a fine of not less than One million pesos (Php1,000,000.00) but not more than Five million pesos (Php5,000,000.00).

**Section 34. *Extent of Liability.*** – If the offender is a corporation, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or by their gross negligence, allowed the commission of the crime. If the offender is a juridical person, the court may suspend or revoke any of its rights under this Act. If the offender is an alien, he or she shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties prescribed. If the offender is a public official or employee and he or she is found guilty of acts penalized under Sections 27 and 28 of this Act, he or she shall, in addition to the penalties prescribed herein, suffer perpetual or temporary absolute disqualification from office, as the case may be.

**Section 35. *Large-Scale.*** – The maximum penalty in the scale of penalties respectively provided for the preceding offenses shall be imposed when the personal information of at least one hundred (100) persons is harmed, affected or involved as the result of the abovementioned actions.

**Section 36. *Offense Committed by Public Officer.*** – When the offender or the person responsible for the offense is a public officer as defined in the Administrative Code of the Philippines in the exercise of his or her duties, an accessory penalty consisting of disqualification to occupy public office for a term double the term of the criminal penalty imposed shall be applied.

**Section 37. *Restitution.*** – Restitution for any aggrieved party shall be governed by the provisions of the New Civil Code.

## CHAPTER IX MISCELLANEOUS PROVISIONS

**Section 38. *Interpretation.*** – Any doubt in the interpretation of any provision of this Act shall be liberally interpreted in a manner mindful of rights and interests of the individual about whom personal information is processed.

**Section 39. *Implementing Rules and Regulations (IRR).*** – Within ninety (90) days from the effectivity of this Act, the Commission shall promulgate the rules and regulations to the effectively implement the provisions of this Act.

**Section 40. *Reports and Information.*** – The Commission shall annually report to the President and Congress on its activities in carrying out the provisions of this Act. The Commission shall undertake whatever efforts it may determine to be necessary or appropriate to inform and educate the public of data privacy, data protection and fair information rights and responsibilities.

**Section 41. *Appropriations Clause.*** The Commission shall be provided with an initial appropriation of Twenty million pesos (Php20,000,000.00) to be drawn from the national government. Appropriations for the succeeding years shall be included in the General

Appropriations Act. It shall likewise receive Ten million pesos (Php10,000,000.00) per year for five (5) years upon implementation of this Act drawn from the national government.

**Section 42. *Transitory Provision.*** – Existing industries, businesses and offices affected by the implementation of this Act shall be given one (1) year transitory period from the effectivity of the IRR or such other period as may be determined by the Commission, to comply with the requirements of this Act.

In case that the DICT has not yet been created by the time the law takes full force and effect, the National Privacy Commission shall be attached to the Office of the President.

**Section 43. *Separability Clause.*** – If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

**Section 44. *Repealing Clause.*** – The provision of Section 7 of Republic Act No. 9372, otherwise known as the “Human Security Act of 2007”, is hereby amended. Except as otherwise expressly provided in this Act, all other laws, decrees, executive orders, proclamations and administrative regulations or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

**Section 45. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved:

**(Sgd.) FELICIANO BELMONTE, JR.**  
Speaker of the House of Representatives

**(Sgd.) JUAN PONCE ENRILE**  
President of the Senate

This Act which is a consolidation of Senate Bill No. 2965 and House Bill No. 4115 was finally passed by the Senate and the House of the Representatives on June 6, 2012.

**(Sgd.) MARILYN B. BARUA-YAP**  
Secretary General House of Representatives

**(Sgd.) EMMA LIRIO-REYES**  
Secretary of the Senate

Approved: August 15, 2012

**(Sgd.) BENIGNO S. AQUINO III**  
President of the Philippines

**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.

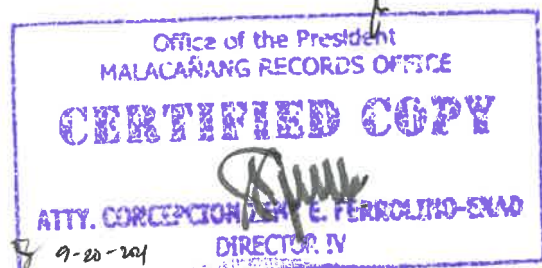
The foregoing list of exceptions shall be without prejudice to existing laws, jurisprudence, rules or regulations authorizing the disclosure of the excepted information upon satisfaction of certain conditions in certain cases, such as the consent of the concerned party or as may be ordered by the courts.

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 carnapped 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*.



# ANNEX F

## FOI Request Form

### DOrSU FREEDOM OF INFORMATION

### REQUEST FORM

(Pursuant to Executive Order No. 2, s. 2016)

FOI Tracking No. \_\_\_\_\_

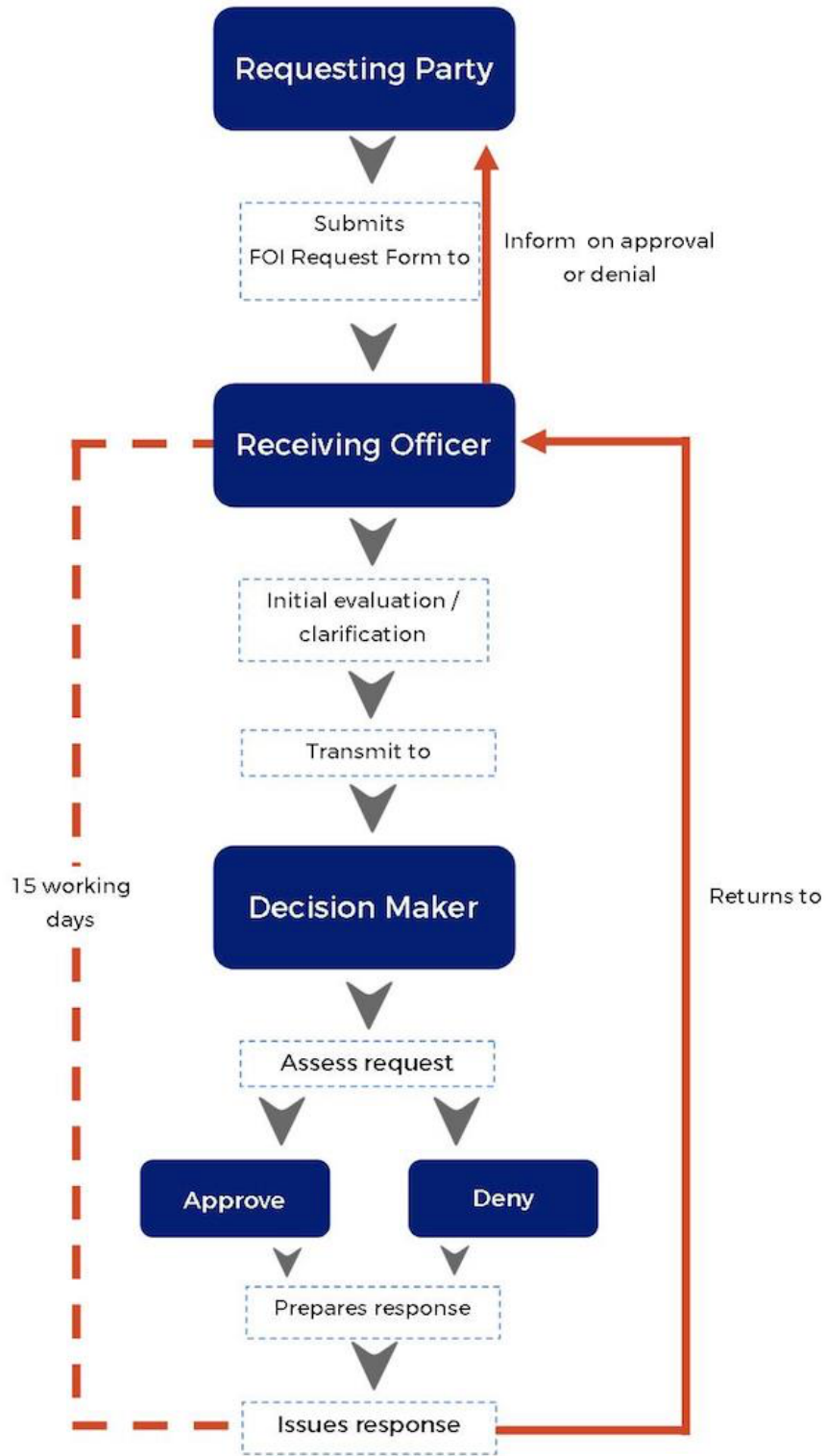
Please read the following information carefully before proceeding with your application. Use blue or black ink. Write neatly and in BLOCK letters. Improper or incorrectly-filled out forms will not be acted upon. Tick or mark boxes with "X" where necessary. Note: (▶) denotes a MANDATORY answer.

A. Requesting Party Information			
1. Title	2. Surname ▶	3. Given Name ▶	4. Middle Initial ▶
5. Complete Address (Apt/House Number, Street, City/Municipality, Province) ▶			
6. Landline/Fax		7. Mobile ▶	8. Email
9. Preferred Mode of Communication ▶	<input type="checkbox"/> Landline <input type="checkbox"/> Mobile Number <input type="checkbox"/> Email <input type="checkbox"/> Postal Address (Clarifications or Updates on the information requested will be notified with this manner)		
10. Preferred Mode of Reply ▶	<input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Postal Address <input type="checkbox"/> Pick-Up at Agency		
11. Type of ID Given ▶ (Please ensure your IDs contain your photo and signature)	<input type="checkbox"/> Passport <input type="checkbox"/> Driver's License <input type="checkbox"/> SSS ID <input type="checkbox"/> Postal ID <input type="checkbox"/> Voter's ID <input type="checkbox"/> School ID <input type="checkbox"/> Company/Agency ID <input type="checkbox"/> Others _____		

B. Requested Information	
12. Agency - Connecting Agency (if applicable)	▶
13. Title of Document/Record Requested (Please be as detailed as possible)	▶
14. Date or Period (MM/DD/YY)	▶
15. Purpose	▶
16. Document Type	▶
17. Reference Numbers (if known)	▶
18. Any Other Relevant Information	▶

# ANNEX E

## FOI Request Flow Chart



# ANNEX D

## Designated FOI Officers

Name	Position/Designation	Contact Details	
		Telephone No.	Email Address
Dr. Roy G. Ponce	Head of Agency/ University President	(087) 3883-195	op@dorsu.edu.ph
<b>FOI Officers</b>			
	FOI Decision Maker		
	FOI Receiving Officer		
<b>FOI Appeals and Review Committee (ARC)</b>			

<b>C. Declaration</b>	
<p><b>Privacy Notice:</b> Once deemed valid, your information from your application will be used by DOrSU where you have applied to or by the Agency you were referred, to deal with your application as set out in the Freedom of Information Executive Order No. 2. If the Department or Agency gives you access to a document, and if the document contains no personal information about you, the document will be published online in DOrSU or in the referred Agency's Disclosure log, along with your name and the data you applied, and if another person, company or body will use or benefit from the documents sought, the name of that person, entity or body.</p>	
<p>I declare that:</p> <ul style="list-style-type: none"> <li>• The information provided in the form is complete and correct;</li> <li>• I have read the Privacy Notice;</li> <li>• I have presented at least one (1) government –issued ID to establish proof of my identity.</li> </ul> <p>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 application.</p>	
<b>Signature:</b> ▶	<b>Date Accomplished:</b> ▶ <i>(MM/DD/YY)</i>

<b>D. FOI Receiving Officer (INTERNAL USE ONLY)</b>	
<b>Name (Print Name)</b>	▶
<b>Agency – Connecting Agency (if applicable, Otherwise N/A)</b>	▶
<b>Date entered on eFOI (MM/DD/YY) (if applicable, otherwise N/A)</b>	▶
<b>Proof of ID Presented</b> ▶ <i>(Photocopies of original should be attached)</i>	<input type="checkbox"/> Passport <input type="checkbox"/> Driver's License <input type="checkbox"/> SSS ID <input type="checkbox"/> Postal ID <input type="checkbox"/> Voter's ID <input type="checkbox"/> School ID <input type="checkbox"/> Company/Agency ID <input type="checkbox"/> Others _____
<b>The request is recommended to be:</b> ▶ <i>If Denied, please tick the Reason for the Denial</i>	<input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Invalid Request <input type="checkbox"/> Incomplete <input type="checkbox"/> Data already available online <input type="checkbox"/> Exception    Which Exception? _____
<b>Date Request Finished (MM/DD/YY)</b>	▶
<b>Date Documents (if any) Sent (MM/DD/YY)</b>	▶
<b>FOI Registry Accomplished</b>	▶
<b>RO Signature:</b> ▶	<b>Date (MM/DD/YY):</b> ▶