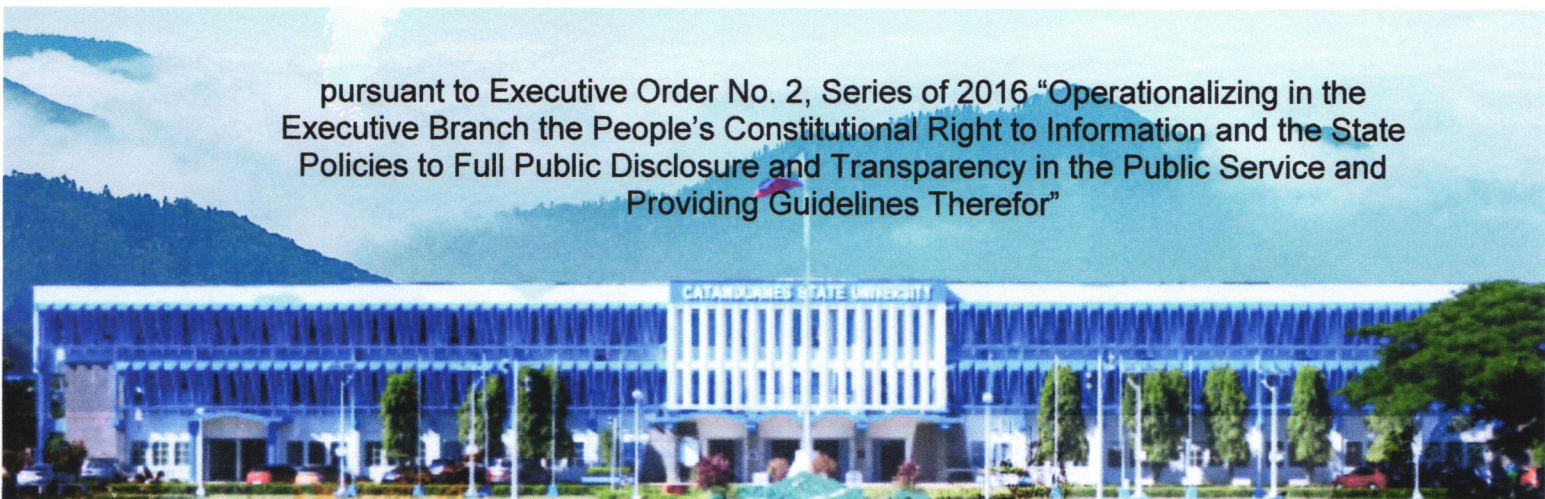




CATANDUANES STATE UNIVERSITY
Virac, Catanduanes

FREEDOM OF INFORMATION MANUAL

pursuant to Executive Order No. 2, Series of 2016 "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"



PREFACE

On July 23, 2016, recognizing the Constitutional right of the people to information on matters of public concern, President Rodrigo R. Duterte issued Executive Order (EO) No. 2, otherwise known as the Freedom of Information (FOI) EO, which seeks to operationalize in the Executive Branch the people's Constitutional right to information and the State Policies to full public disclosure and transparency in public service.

The EO mandated all executive offices, including but not limited to the national government and all its offices, departments, bureaus, offices, and instrumentalities, including government-owned or –controlled corporations, and state universities and colleges to give every Filipino access to information, official records, public records and to documents and papers pertaining to official acts, transactions or decisions, as well as government research data used as basis for policy development. It further directed all government agencies under the Executive Branch to prepare and submit their respective FOI Manual containing the implementing details and guidelines specified in the EO.

In compliance with the foregoing directive in the EO and to facilitate its implementation in the University, the University formulated this FOI Manual providing the guidelines and procedure in the processing and handling of requests for information as approved by the Board of Regents (BOR) of the University on September 7, 2017. This FOI Manual was revised and approved per BOR No. 106, s. 2023 dated October 24, 2023.

TABLE OF CONTENTS

| | Page |
|---|----------|
| PREFACE | i |
| TABLE OF CONTENTS | ii |
| 1. OVERVIEW | 1 |
| Purpose | 1 |
| Objectives of the Manual | 1 |
| Coverage of the Manual | 1 |
| Responsible Officer | 1 |
| 2. DEFINITION OF TERMS AND ACRONYMS USED | 2 |
| 3. PROMOTION OF TRANSPARENCY IN GOVERNMENT | 3 |
| Access to Information | 3 |
| Duty top Publish Information | 4 |
| Safekeeping of Records | 4 |
| 4. Protection of Privacy | 5 |
| 5. Standard Procedure | 5 |
| Request for Information | 5 |
| Manner of Making a Request | 5 |
| Receipt of Request for Information | 6 |
| Information Exempted from the Coverage of the Manual | 7 |
| Period to Respond | 7 |
| Action by the FDM | 8 |
| Approval of Request | 8 |
| Denial of Request | 9 |

| | |
|--|-----------|
| Notice of requesting Party of the Approval/ Denial of the Request | 9 |
| No Wrong Door Policy | 9 |
| 6. Remedies in Case of Denial of Request | 10 |
| 7. Request Tracking System | 10 |
| 8. Fees and Undertaking | 10 |
| No Request Fee | 10 |
| Exemption from Fees | 10 |
| Undertaking | 10 |
| 9. Administrative Liability | 11 |
| Non-compliance with FOI | 11 |
| Procedure | 11 |
| Provisions for More Stringent Laws, Rules and Regulations | 11 |
| 10. Miscellaneous Provisions | 11 |
| 11. Annexes | |
| Executive Order No. 02, S.2016 | 12 |
| List of Exceptions to FOI | 17 |
| FOI Request Flow Chart | 29 |
| FOI Request Form | 30 |
| FOI Response Templates | 31 |
| FOI-MC No. 21-05 | 36 |

SECTION 1: OVERVIEW

1. **Purpose:** The purpose of this CatSU FOI Manual (Manual) is to provide the process by which the Catanduanes State University (CatSU) shall deal with requests for information received under Executive Order (E.O.) No. 2, Series of 2016, on Freedom of Information (FOI). (**Annex “A”**)
2. **Objectives of the Manual:** This Manual sets out the rules and procedures to be followed by the colleges, units, and offices of the University whenever a request for access to information is received. The University President shall be responsible for all actions carried out under this Manual and may delegate this responsibility to a specific officer to act as the Decision Maker (DM), who shall have overall responsibility for the initial decision on FOI requests, (i.e. to decide whether to release all the records, partially release the records or deny access).
3. **Coverage of the Manual:** The Manual shall cover all requests for information directed to all the colleges, units, and offices of the University as well as the procedures for the appeal on request for information.
4. **Responsible Officer:**
 - 4.1. **FOI Receiving Officer:** There shall be an FOI Receiving Officer (FRO) designated at the CatSU. The Records Services Officer shall be the FRO and all FOI requests pertaining to the University shall be filed with and/or submitted to this officer. The FRO shall hold office at the Records Services in the CatSU Main Building.

The FRO shall perform the following functions:

- (a) Serve as first point of contact to the public regarding FOI requests;
- (b) Receive on behalf of the CatSU all requests for information and facilitate such requests;
- (c) Ensure that the FOI Request Form is completely accomplished;
- (d) Provide assistance and support with regard to FOI;
- (e) Process and make an initial assessment of FOI requests and determine if the requests are fully compliant;
- (f) Deny or refuse to accept FOI requests based on the results of the initial assessment and based on the following grounds:
 - i. That the form is incomplete; or
 - ii. That the information is already disclosed in the official website of the University, foi.gov.ph or at data.gov.ph
- (g) Forward to the FDM the requests for information for appropriate action;
- (h) Monitor all FOI requests and appeals;
- (i) Provide assistance to the FOI Decision Maker (FDM) and provide assistance and support to the public with regard to FOI;

- (j) Compile statistical information as required;
- (k) Upon completion of the evaluation within the period set forth in EO No. 02, advise the requesting party of any decision on the request;
- (l) Collate and retrieve approved information and document for release from the appropriate office which has custody of the records; and
- (m) Prepare all other necessary FOI reports.

- 4.2. **FOI Decision Maker:** There shall be an FOI Decision Maker (FDM), designated by the University President, with a rank of not lower than a Division Chief or its equivalent, who shall conduct evaluation of the request for information and has the authority to grant the request, or deny it based on the following:
- a. The CatSU does not have the information requested;
 - b. The information requested contains sensitive personal information protected by the Data Privacy Act of 2012¹;
 - c. The information requested falls under the list of exceptions to FOI; or
 - d. The request is an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has already been previously granted or denied by the CatSU.

- 4.3. **FOI Appeals and Review Committee:** There shall be a central appeals and review committee composed of three (3) officials with a rank not lower than a Director or its equivalent, designated by the President of the CatSU to review and analyse the grant or denial of request of information. The Committee shall also provide expert advice to the CatSU Head on the denial of such request.

SECTION 2: DEFINITION OF TERMS AND ACRONYMS USED

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.

¹ 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"

OFFICIAL 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.

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.

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

SENSITIVE PERSONAL INFORMATION. As defined in the Data Privacy Act of 2012, 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 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 include, 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.

ACRONYMS USED:

CatSU – Catanduanes State University

EO – Executive Order

FOI – Freedom of Information

FRO – FOI Receiving Officer

FDM – FOI Decision Maker

SECTION 3. PROMOTION OF TRANSPARENCY IN GOVERNMENT

1. Access to Information: The CatSU recognizes the constitutional right of the people to information on matters of public concern and accordingly adopts a

policy of full disclosure, subject to the exceptions (**Annex “B”**), procedures, and limitations provided in E.O. No. 2 and the Manual. This right is indispensable to the exercise of the right of the people to effective and reasonable participation at all levels of social, political and economic decision-making. Therefore, the CatSU shall make its records and information available, provide for public access to its records and information, and protect its own records and information to the extent consistent with the requirements of public interest and personal privacy protection.

2. Duty to Publish Information. The CatSU shall regularly publish, print and disseminate at no cost to the public and in an accessible form, in conjunction with Republic Act 9485, or the Anti-Red Tape Act of 2007, and/or through its website, timely, true, accurate and updated key information including, but not limited to:

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

The following shall be posted under the Transparency Seal in the University Website:

- a. FOI Manual signed and certified by the University President
- b. One-page FOI Manual
- c. FOI reports

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

SECTION 4. PROTECTION OF PRIVACY

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

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

The right of access to information is without prejudice to the right of the CatSU to determine whether there are grounds to believe that: the identity of the requesting party is fictitious or otherwise not legitimate based on the credentials provided by him/her, the request is prompted by sheer idle curiosity, the request is being made with a plainly discernible improper motive such as harassment, the purpose of the request is contrary to law, morals, good customs or public policy, or the request is for any commercial purpose.

SECTION 5. STANDARD PROCEDURE

1. **Request for Information.** All requests for information shall:
 - (1) Be in writing and be accomplished using the request form; (**Annex "D"**)
 - (2) Provide the full name and contact information of the requesting party including a valid government identification card with photograph and signature; and
 - (3) Reasonably describe the information requested, and the reason for, or purpose of, the request for information
2. **Manner of Making a Request.** A request for information shall be made by the requesting party by delivering it personally to the CatSU, by sending it by mail, or by sending it by electronic email at catsu1961@catsu.edu.ph. In case the request is sent through email, the requesting party shall attach in the email a scanned copy of the FOI request form, and a copy of a duly recognized government ID with photo. In case of a proxy request, the request form must be accompanied by a letter of authority indicating that the applicant has authorized his representative to submit the request on his behalf, together with copies of two (2) valid evidence of identities for both the applicant and his representative.

In case the requesting party is unable to make a written request because of illiteracy or disability, he/she may make an oral request and the FRO shall reduce it into writing. The requesting party shall sign the form or affix his/her thumbmark thereon.

3. Receipt of Request for Information.

- 3.1. **Initial Evaluation.** The FRO shall evaluate the contents of the request and initially determine if the requested information fall under the exemptions as enumerated in Item 4 herein. If the requested information or document is exempted from the coverage of this manual, the FROs shall recommend the denial of the request for information to the FDM.

The FRO shall likewise check the completeness and compliance of the request of information with the required format. If there are any further details required to identify and locate the requested information, the FRO shall return the request for information in order for the requesting party to fill-in the required details. Only complete requests for information shall be received by the FRO.

Should the information being requested be already posted and publicly available in the CatSU website or at foi.gov.ph or data.gov.ph, the FRO shall return the request for information and advise the requesting party of the said fact and provide them the website link where the information is posted, if known.

- 3.2. A duly accomplished and complete request for information shall be signed and stamped received by the FRO, indicating the date and time of the receipt of the written request, and the name, rank, title and position of the personnel who actually received it, with a corresponding signature and a copy furnished to the requesting party. In case of email requests, the email shall be printed out and shall follow the procedure mentioned above, and be acknowledged by electronic mail. The FRO shall input the details of the request on the Request Tracking System and allocate a reference number.

The date of receipt shall be:

- (1) The date when the request is personally delivered to the CatSU;
- (2) The date when the request is received by mail by the CatSU; or
- (3) The date when the request is electronically received by the CatSU

Where the request has been emailed to an absent member of staff which has generated an 'out of office' message with instructions on how to re-direct the message to another contact, the date of receipt shall be the day the request arrives in the inbox of that contact.

The FRO shall forward the request for information to the FDM within the same day of receipt of such request and record the date and time it was forwarded.

4. **Information Exempted from the Coverage of this Manual.** The following records/documents are exempted from the coverage of this Manual hence should not be released or disclosed:
- (a) Minutes of the meetings of the CatSU Board of Regents, its Financial Committee and other committees which it may create;
 - (b) Minutes of the meetings of the University Administrative Council
 - (c) Minutes of the meetings of the University Academic Council
 - (d) Judicial affidavits filed in all cases involving the University
 - (e) All pending cases involving the University and its employees
 - (f) 201 files of all employees
 - (g) Documents of the University Selection Board
 - (h) Statement of Assets Liabilities and Network
 - (i) BAC Minutes of Meetings
 - (j) Abstract of Bids
 - (k) TWG Recommendation
 - (l) OPCR and IPCR
 - (m) Financial Reports and financial documents not yet audited by the Commission on Audit
 - (n) Minutes of TWG meetings
 - (o) All reports not in the final form
 - (p) Inter-office and inter-agency memoranda/correspondences
 - (q) Student records
 - (r) Pay slips

The CatSU upon prior determination and approval of its Board of Regents, Academic Council and Administrative Council, may provide other information or documents which may be exempted from the coverage of this manual in addition to the foregoing enumeration.

5. **Period to Respond.**

- 5.1. The CatSU shall respond to the requesting party within fifteen (15) working days from the date of receipt of the request regardless of whether the request was forwarded from another agency.

In case the request for information, after it was forwarded to the FDM, was referred back to the requesting party for clarification of details in order to identify or locate the requested information, then such 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 no clarification is received from the requesting party after sixty (60) calendar days, the request shall be closed.

- 5.2. A working day is any day other than a Saturday, Sunday or a day which is declared a national public holiday in the Philippines. In computing for the period, Art. 13 of the New Civil Code² shall be observed.
- 5.3. The period may be extended whenever the request requires extensive search of the records facilities of the CatSU or examination of voluminous records, where the requested information needs to be consulted with another agency before it can be disclosed, or in case of the occurrence of fortuitous events, or other analogous cases. The FRO shall inform the requesting party of the extension, setting forth the reason for such extension.

In no case shall the extension exceed twenty (20) working days, unless exceptional circumstances warrant a longer period.

6. **Action by the FDM:** Upon receipt of the request for information from the FRO, the FDM shall assess and clarify the request if necessary as well as the recommendation of the FRO to deny the request on the basis that the requested information is exempted from coverage of this Manual, if any.

The FDM shall ensure that the complete information requested, if approved, 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 CatSU President or the designated officer, in case the submission is beyond the 10-day period.

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

- 6.1. **Approval of Request:** In case of approval of the request by the FDM, the FRO shall collate the information and document, ensure that all records that have been retrieved and considered be checked for possible exemptions, prior to actual release. The FRO shall thereafter notify the requesting party, direct the requesting party to pay the applicable fees, and advise the requesting party to get the information and document at the CatSU Records Services office on the designated day and time.

² “Art. 13. When the laws speak of years, months, days or nights, it shall be understood that years are of three hundred sixty-five days each; months, of thirty days; days, of twenty-four hours; and nights from sunset to sunrise.

If months are designated by their name, they shall be computed by the number of days which they respectively have.

In computing a period, the first day shall be excluded, and the last day included. (7a)”

6.2. **Denial of Request:** On the following grounds, the FDM may deny a request:

- (1) the request is not complete or not valid, in which case the requesting party shall be notified accordingly;
- (2) the requested information is substantially similar or identical to a previous request by the requesting party, whether the same has been granted or not, in which case the requesting party shall be notified accordingly;
- (3) the requested information is already available on the OVP website, in which case the requesting party shall be notified accordingly and provided with the website link where the information is posted, if known;
- (4) the requested information refers to a third party or other official repository or custodian of the information requested, or another government agency, in which case the requesting party shall be notified accordingly and provided with the contact details of that office, if known;
- (5) the reason for the request is contrary to laws, rules, or regulations, in which case the requesting party shall be notified accordingly;
- (6) the requested information contain personal and sensitive information pursuant to the Data Privacy Act of 2012³, in which case the requesting party shall be notified accordingly;
- (7) the request falls under the exceptions under the Inventory of Exceptions issued by the Office of the President of the Philippines (**Annex "B"**) or in Item No. 4 of this Section, in which case the requesting party shall be notified accordingly; or
- (8) the record and/or information requested does not exist or cannot be found, in which case the requesting party shall be notified accordingly.

7. **Notice of the Requesting Party of the Approval/ Denial of the Request:**

Once the FDM approved or denied the request, he shall immediately notify the FRO who shall prepare the response to the requesting party either in writing or by email (**Annex "E" and "E-1"**). In case of denial of the request wholly or partially, the notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based.

8. **"No Wrong Door Policy" In compliance with FOI-MC No 21-05 or the Guidelines on the Referral of Requested Information (Annex "F"), Official Record/s and Public Record/s to the Appropriate Government Agency otherwise known as the "No Wrong Door Policy for FOI,"** the CatSU will not deny FOI requests for information and/or records not under its possession but instead refer the request to the appropriate government agency which is the proper repository or custodian of the requested information or records, or have control over the said information or records. The University shall observe the No Wrong Door Policy flowchart provided in the said guidelines.

³ R.A. 10173

SECTION 6. REMEDIES IN CASE OF DENIAL

1. In case of denial of a request for information, the requesting party may appeal to the FOI Appeals and Review Committee. The appeal shall be in writing, signed by the requesting party, citing the ground for the appeal, with copies of the request for information and the notice of denial attached, and shall be filed within fifteen (15) working days from the notice of denial.
2. The appeal shall be decided by the CatSU President upon the recommendation of the FOI Appeals and Review Committee within thirty (30) working days from the filing of said written appeal, unless circumstances warrant a longer period. Failure to decide within the 30-day period or as extended shall be deemed a denial of the appeal.
3. Upon exhaustion of administrative FOI appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

SECTION 7. REQUEST TRACKING SYSTEM

The CatSU shall establish a system to trace the status of all requests for information received by it, which may be paper-based, on-line or both.

SECTION 8. FEES AND UNDERTAKING

1. **No Request Fee.** The CatSU shall not charge any fee for accepting requests for access to information.

Reasonable Cost of Reproduction and Copying of the Information: The CatSU may charge a reasonable fee to reimburse necessary costs, including costs of reproduction, scanning, and mailing of the information or documents. A certification fee of Php30.00 shall be paid by the requesting party for every document or information, regardless of number of pages, certified by the CatSU. Before the party receives the requested information and document, proof of payment must first be provided to the FRO.

2. **Exemption from Fees:** The University may exempt any requesting party from payment of fees due to indigency, lack of funds or similar circumstances, upon request and subject to the showing of proof of any of such circumstances.
3. **Undertaking:** By receiving the requested information and document, the requesting party acknowledges that the same shall not be used for any purpose other than what is indicated in the request form as approved, shall not be used for any purpose that is contrary to law, morals, good customs, or public policy, and shall not be reproduced for any commercial use.

SECTION 9. ADMINISTRATIVE LIABILITY

1. **Non-compliance with FOI.** Failure to comply with the provisions of this Manual shall be a ground for the following administrative penalties:
 - a. 1st Offense- Reprimand;
 - b. 2nd Offense- Suspension of one (1) to thirty (30) days;
 - c. 3rd Offense- Suspension of one (1) month to six (6) months; and
 - d. 4th Offense – Dismissal from the service.
2. **Procedure.** The Revised Rules on Administrative Case in the Civil Service shall be applicable in the disposition of cases under this Manual.
3. **Provision for More Stringent Laws, Rules and Regulations.** Nothing in this Manual shall be construed to derogate from any law, rules, or regulation prescribed by any body or CatSU, which provides for more stringent penalties.

SECTION 10. MISCELLANEOUS PROVISIONS

1. **Saving clause.** Matters not covered by the provisions of this Manual shall be referred to the University President for appropriate action.
2. **Application of relevant laws and issuances.** The provisions of R.A. 9470⁴ and its IRR as well as other relevant issuances shall be suppletorily applied in all matters not covered by this Manual.
3. **Effectivity.** This policy shall take effect upon approval of the CatSU Board of Regents.

Attested:

PATRICK ALAIN T. AZANZA, Ph.D., J.D.
SUC President III 

Approved per Board Resolution No. 106, s. 2023 dated October 24, 2023

⁴ "National Archives of the Philippines Act of 2007" or "An Act to Strengthen the System of Management and Administration of Archival Records, Establishing for the Purpose the National Archives of the Philippines, and for Other Purposes"

ANNEX "A"

MALACAÑANG 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, offices, 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.
(c) Any employee, official or director 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 obtain information or submit requests;
(b) The person or office responsible for receiving requests for information;
(c) The procedure for the filing and processing of the request as specified in the succeeding section 8 of this Order.
(d) The standard forms for the submission of requests and for the proper acknowledgment of requests;
(e) The process for the disposition of requests;
(f) The procedure for the administrative appeal of any denial for access to information; and
(g) The schedule of applicable fees.

SECTION 9. Procedure. The following procedure shall govern the filing and processing of request 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 or updated inventory of exception as hereinabove provided.

- (b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable, to enable all requesting parties and 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 agency or 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 required, 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 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, in whole or in part, it shall as soon as practicable, in any case 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) 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 7 (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 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 case in the proper courts 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.

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

By the President:

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

ANNEX "B"

Office of the President of the Philippines Malacañang

MEMORANDUM FROM THE EXECUTIVE SECRETARY

TO: All Heads of Departments, Bureaus and Agencies of the National/Local Governments Including Government-Owned and Controlled Corporations (GOCCs), Government Financial Institutions (GFIs), and All Others Concerned

SUBJECT: **INVENTORY OF EXCEPTIONS TO EXECUTIVE ORDER NO. 2 (S. 2016)**

DATE: 24 November 2016

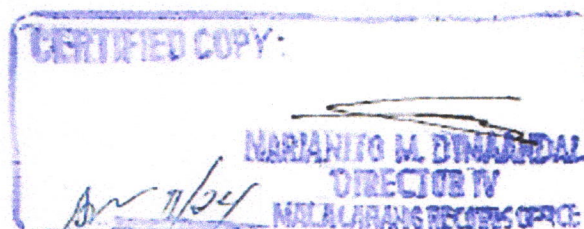
Pursuant to Section 4 of Executive Order (EO) No. 2 (s. 2016), the Office of the President hereby circularizes the inventory of exceptions to the right to access of information, for the guidance of all government offices and instrumentalities covered by EO No. 2 (s. 2016) and the general public.

The 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.

For your information and guidance.

N *sc*
SALVADOR C. MEDIALDEA *sc*



Exceptions to Right of Access to 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:¹

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.

¹ 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;² and
 - b. Matters covered by deliberative process privilege, namely:
 - i. advisory opinions, recommendations 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;³ and
 - ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;⁴
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;⁵
 - b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;⁶ and

² 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.

³ *Akbayan v. Aquino*, *supra*; *Chavez v. NHA*, G.R. No. 164527, 15 August 2007; and *Chavez v. PCGG*, *supra*. The privilege of invoking this exception ends when the executive agency adopts a definite proposition (*Department of Foreign Affairs v. BCA International Corp.*, G.R. No. 210858, 20 July 2016).

⁴ 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.

⁵ *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; 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."

⁶ *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.

- c. Patent applications, the publication of which would prejudice national security and interests;⁷
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;⁸
 - 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;⁹
 - c. When disclosure of information would put the life and safety of an individual in imminent danger;¹⁰
 - d. Any information given by informants leading to the recovery of carnapped vehicles and apprehension of the persons charged with carnapping;¹¹ and
 - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;¹²
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:

⁷ 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).

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

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

¹⁰ Section 3(b), Rule IV, Rules on CCESPOE.

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

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

- a. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,¹³ personal information or records,¹⁴ including sensitive personal information, birth records,¹⁵ school records,¹⁶ or medical or health records;¹⁷

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

- (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 individual¹⁹ 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.²⁰

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

¹³ Section 3(e), Rule IV, Rules on CCESPOE.

¹⁴ 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.

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

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

¹⁷ 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).

¹⁸ Section 3(l), *Data Privacy Act of 2012*.

¹⁹ Article 26(2), *Civil Code*.

²⁰ Section 11, *Data Privacy Act of 2012*.

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;²¹

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;²² 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;²³
 - (2) children in conflict with the law from initial contact until final disposition of the case;²⁴
 - (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;²⁵
 - (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;²⁶
 - (5) cases involving violence against women and their children, including the name, address, telephone number, school, business, address, employer, or other identifying information of a victim or an immediate family member;²⁷
 - (6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;²⁸
 - (7) names of victims of child abuse, exploitation or discrimination;²⁹

²¹ Section 4, *Data Privacy Act of 2012*.

²² *An Act to Exempt the Publisher, Editor or Reporter of any Publication from Revealing the Source of Published News or Information Obtained in Confidence* (RA No. 53), as amended by RA No. 1477. May be invoked by government newspapers.

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

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

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

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

²⁷ 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.

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

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

- (8) 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;³⁰
 - (9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;³¹
 - (10) names of students who committed acts of bullying or retaliation;³²
 - (11) 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; and³³
 - (12) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;³⁴
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;³⁵

³⁰ 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*.

³¹ 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.

³² Section 3(h), *Anti-Bullying Act* (RA No. 10627).

³³ Sections 60, 64 and 67, *Comprehensive Dangerous Drugs Act of 2002* (RA No. 9165).

³⁴ Sections 2(b), 18, 30, and 32, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8504).

³⁵ 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); and *Revised Philippine Ports Authority Manual of Corporate Governance*.

- b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);³⁶
- c. Records and reports submitted to the Social Security System by the employer or member;³⁷
- d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;³⁸
- e. 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;³⁹
- f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;⁴⁰
- g. Documents submitted through the Government Electronic Procurement System;⁴¹
- h. 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*;⁴²
- i. 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;⁴³
- j. 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;⁴⁴

³⁶ Section 26, *Philippine Statistical Act of 2013* (RA No. 10625); and Section 4, *Commonwealth Act No. 591*. May be invoked only by the PSA.

³⁷ Section 24(c), *Social Security Act of 1997* (RA No. 1161, as amended by RA No. 8282).

³⁸ Section 29, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8504).

³⁹ 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.

⁴⁰ Section 81, EO No. 226 (s. 1987), as amended.

⁴¹ Section 9, *Government Procurement Reform Act* (RA No. 9184).

⁴² Section 32, *Electronic Commerce Act of 2000* (RA No. 8792).

⁴³ Section 94(f), *Philippine Mining Act of 1995* (RA No. 7942).

⁴⁴ 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).

- k. 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;⁴⁵
 - l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁴⁶
 - m. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;⁴⁷
 - n. Information on registered cultural properties owned by private individuals;⁴⁸
 - o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁴⁹ and
 - p. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;⁵⁰
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.⁵¹
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:

⁴⁵ Section 9(c), *Anti-Money Laundering Act of 2001*, as amended. May be invoked by AMLC, government banks and its officers and employees.

⁴⁶ Section 10, *Safeguard Measures Act*.

⁴⁷ Section 297 in relation with Section 295 and Section 356, *The Insurance Code* (as amended by RA No. 10607).

⁴⁸ Section 14, *National Cultural Heritage Act of 2009* (RA No. 10066).

⁴⁹ CHED Memorandum Order No. 015-13, 28 May 2013.

⁵⁰ 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).

⁵¹ Section 3(g), Rule IV, Rules on CCESPOE.

- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*;⁵²
- b. Matters involved in an Investor-State mediation;⁵³
- c. Information and statements made at conciliation proceedings under the *Labor Code*;⁵⁴
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);⁵⁵
- 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;⁵⁶
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;⁵⁷
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁵⁸
- 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*;⁵⁹
- i. Investigation report and the supervision history of a probationer;⁶⁰
- j. Those matters classified as confidential under the *Human Security Act of 2007*;⁶¹

⁵² 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.

⁵³ Article 10, *International Bar Association Rules for Investor-State Mediation*.

⁵⁴ Article 237, *Labor Code*.

⁵⁵ Section 7.1, Rule 7, *CIAC Revised Rules of Procedure Governing Construction Arbitration*.

⁵⁶ Section 142, *Corporation Code*. May be invoked by the SEC and any other official authorized by law to make such examination.

⁵⁷ Sections 13.4, 15.4, 29.2 (b), and 64.2 of the *Securities Regulation Code*.

⁵⁸ 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.

⁵⁹ DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

⁶⁰ Section 17, *Probation Law of 1976* [PD No. 968 (s.1976)].

⁶¹ Sections 9, 13, 14, 29, 33 and 34, *Human Security Act of 2007* (RA No. 9372).

- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶² 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;⁶³
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*); and
 - e. RA No. 9510 (*Credit Information System Act*);
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;⁶⁴
 - (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);⁶⁵ and
 - (3) Refugee proceedings and documents under the *1951 Convention Relating to the Status of Refugees*, as implemented by DOJ Circular No. 58 (3. 2012);

⁶² Section 14, Civil Service Commission Resolution No. 01-0940.

⁶³ 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.

⁶⁴ 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.

⁶⁵ Article 7, UNCITRAL Transparency Rules.

- b. Testimony from a government official, unless pursuant to a court or legal order;⁶⁶
- 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
 - (2) any commercial purpose other than by news and communications media for dissemination to the general public;⁶⁷
- d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;⁶⁸
- e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;⁶⁹
- f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;⁷⁰ and
- g. Attorney-client privilege existing between government lawyers and their client.⁷¹

⁶⁶ *Senate v. Neri, supra; Senate v. Ermita, supra.*

⁶⁷ Section 8(D), *Code of Conduct and Ethical Standards for Public Officials and Employees.*

⁶⁸ *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.

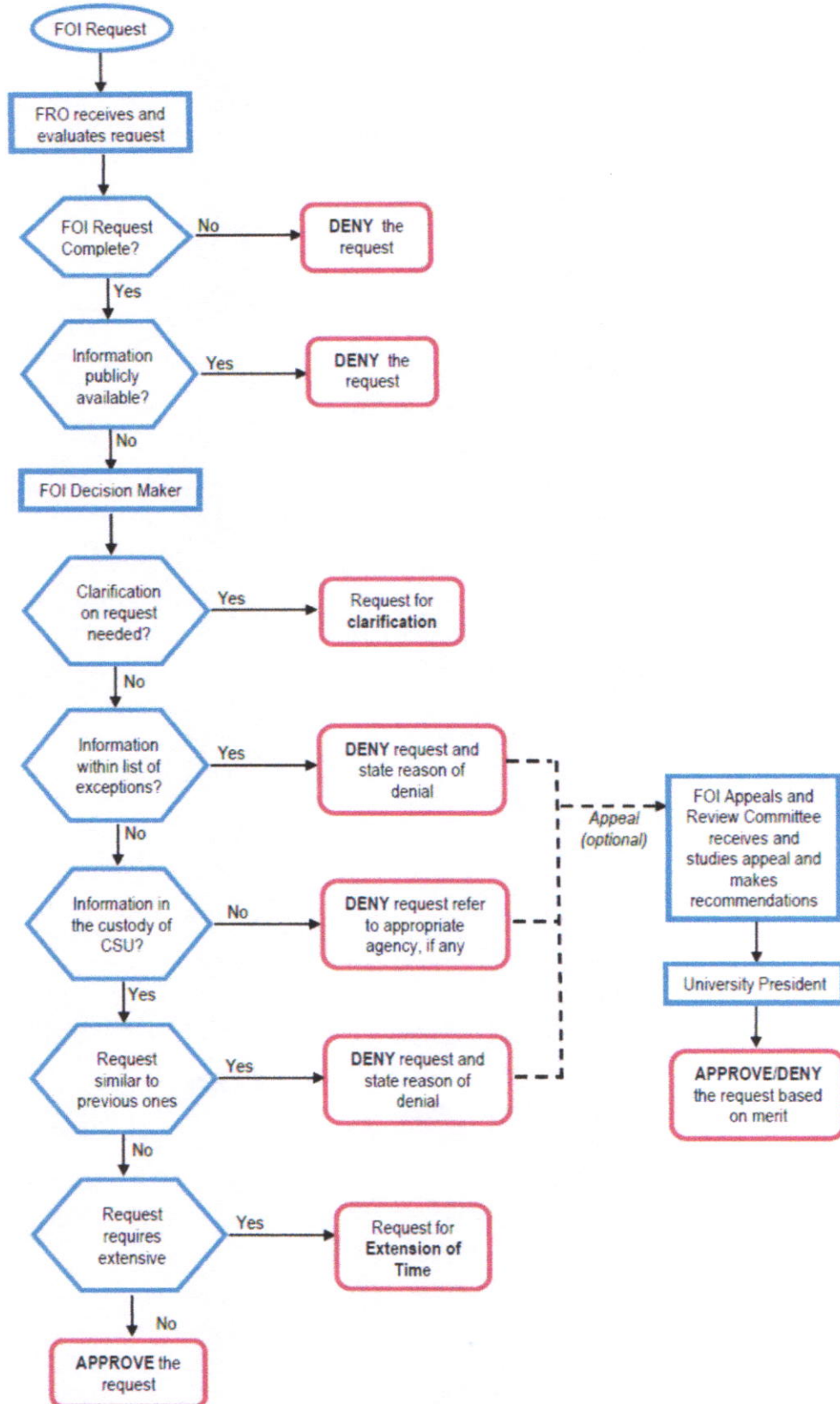
⁶⁹ Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending 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.

⁷⁰ *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

⁷¹ Canon 21 of the *Code of Professional Responsibility.*

ANNEX "C"

FOI REQUEST FLOW CHART



ANNEX "D"

FOI Request Form

Request No. _____

Date: _____
(mm/dd/yyyy)

PART I. INFORMATION ON REQUESTING PARTY/REQUESTER

1. Complete Name: _____
Last Name, First Name M.I.

2. Complete Address: _____

3. Company/Affiliation/Organization/School/Position _____

4. Type of Identification Given: _____

5. Contact Details and Preferred Mode of Communication:

Telephone/Fax Number/s: _____

Mobile Number/s: _____

E-mail: _____

6. Preferred Mode of Receipt of Reply/Response:

Pick-up (Office hours) Fax E-mail Postal Address

7. Name of Representative/Guardian (if applicable): _____

8. Valid Identification of Representative: _____

9. Proof of Authority (*Please attach*): _____

PART II. REQUESTED INFORMATION

10. Title/Description of information, official record/s, or public record/s requested: _____

11. Period Covered (*Year/Month/Week/Day*): _____

12. Purpose of request: _____

13. Undertaking and Signature:

I declare and certify that the information provided in this form is complete and correct. I am aware that in giving false or misleading information or using forged documents is a criminal offense. I bind myself and my principal to use the requested information only for the specific purpose stated and subject to such other conditions as may be prescribed by the Office of the President. I understand that the University may collect, use and disclose personal information contained in this request.

Signature of the Requester

| | |
|-----------------|------------------|
| Left thumb mark | Right thumb mark |
|-----------------|------------------|

FOR OFFICIAL/FRO USE ONLY

Received by: _____

Position: _____

Date & time received: _____

Remarks: _____

Signature: _____

ANNEX “E”

FOI Response Template - Answer

DATE

Dear _____,

Greetings!

Thank you for your request dated <insert date> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>.

Response to your request

Your FOI request is approved. The answer to your request is <insert answer>.

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX “E-1”

FOI Response Template – Document Available Online

DATE

Dear _____,

Greetings!

Thank you for your request dated <insert date> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>.

Response to your request

[Some/Most/All] of the information you have requested is already available online from <add details of where that specific information can be obtained e.g. website data.gov.ph, foi.gov.ph or other government website>.

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to <insert name of the CSU President and postal or email address>. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Office of the President of the Philippines under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX “E-2”

FOI Response Template – Document Not Available

DATE

Dear _____,

Greetings!

Thank you for your request dated <insert date> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>.

Response to your request

While our aim is to provide information whenever possible, in this instance the University does not have [some of] the information you have requested. However, you may wish to contact <insert name of other authority/organization> at <insert contact details> who may be able to help you.

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to <insert name of the CSU President and postal or email address>. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Office of the President of the Philippines under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX “E-3”

FOI Response Template – Document Under Exception

DATE

Dear _____,

Greetings!

Thank you for your request dated <insert date> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>.

Response to your request

While our aim is to provide information whenever possible, in this instance we are unable to provide [some of] the information you have requested because an exception(s) under section(s) <insert specific section number(s) applicable to the requested information>. The reasons why that exemption(s) applies are explained in the annex to this letter.

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to <insert name of the CSU President and postal or email address>. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Office of the President of the Philippines under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX “E-4”

FOI Response Template – Identical Request

DATE

Dear _____,

Greetings!

Thank you for your request dated <insert date> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>.

Response to your request

While our aim is to provide information whenever possible, in this instance we are unable to provide [some of] the information you have requested because is substantially similar or identical to a previous request that you made on <insert date of previous request>, which we responded to on <insert date of response>.

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to <insert name of the CSU President and postal or email address>. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Office of the President of the Philippines under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX "F"



REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE
Tanggapang Pampanguluhan sa Operasyong Komunikasyon
Ermita, City of Manila

FOI-MC No. 21-05

FREEDOM OF INFORMATION MEMORANDUM CIRCULAR

FOR : ALL AGENCIES, DEPARTMENTS, BUREAUS, OFFICES AND INSTRUMENTALITIES OF THE EXECUTIVE BRANCH INCLUDING GOVERNMENT-OWNED AND/OR CONTROLLED CORPORATIONS (GOCCS), STATE UNIVERSITIES AND COLLEGES (SUCS), AND LOCAL WATER DISTRICTS (LWDS)

SUBJECT : GUIDELINES ON THE REFERRAL OF REQUESTED INFORMATION, OFFICIAL RECORD/S AND PUBLIC RECORD/S TO THE APPROPRIATE GOVERNMENT AGENCY OTHERWISE KNOWN AS THE "NO WRONG DOOR POLICY FOR FOI"

WHEREAS, Executive Order (EO) No. 02, s. 2016 was issued by President Rodrigo Roa R. Duterte to operationalize the Constitutional Right of Access to Information, and Policy of Full Public Disclosure in the Executive Department;

WHEREAS, Memorandum Order (MO) No. 10, s. 2016 designated the Presidential Communications Operations Office (PCOO) as the lead agency in the implementation of EO No. 02, s. 2016;

WHEREAS, Department Order No. 18, s. 2017, issued by the PCOO, created the Freedom of Information – Project Management Office (FOI-PMO) to exercise the mandate of MO No. 10, s. 2016;

WHEREAS, in order to ensure the policy of the President to have an open, transparent and accountable government, it is the mandate of the PCOO to develop programs and mechanisms to enhance the capacity of government agencies to comply with the FOI program;

WHEREAS, there is a need to break the prevailing "silo system" and lack of interconnection among government agencies, with the end goal of a government acting as a singular unit serving its primary client, its citizens;

NOW, THEREFORE, by virtue of PCOO's mandate to develop programs and mechanism to ensure compliance with the FOI program, particularly on addressing the issue regarding the referral of any requested information, official record/s, or public record/s to the appropriate government agency, these rules are hereby prescribed and promulgated for the information, guidance and compliance of all concerned:

Section 1. Purpose. – This rule seeks to set guidelines for the referral of any requested information, official record/s, or public record/s to the appropriate government agency by another agency which does not have in its possession or custody the requested information or records, or is not authorized to release the information to the public.

Section 2. Coverage. – This Order shall cover all government agencies under the Executive branch implementing the FOI Program, pursuant to EO No. 2, s. 2016 and all other related issuances, and applies to both paper-based and electronic form of requesting information.

Section 3. Request for Information. – Any person who requests for access to information shall comply with Section 9 of EO No. 02, s. 2016 and all other pertinent laws, existing rules and regulations, issuances, and orders. For purposes of this rule, information and records shall refer to information, official record/s, or public record/s as defined under EO No. 02, s. 2016.

Section 4. Acceptance of request. – As a general rule, all fully compliant requests for information shall be accepted by the FOI Receiving Officer (FRO) and FOI Decision Maker (FDM). No request for information shall be denied or refused acceptance by a government office unless the reason for the request is contrary to the Constitution, pertinent laws, existing rules and regulations, or it is one of the exceptions provided under the Inventory of Exceptions.

Section 5. Process of Referral. – When the requested information is not in the possession of a government agency (government agency no. 1 or GA1), but is available in another government agency (government agency no. 2 or GA2) under the Executive Branch, the request shall be immediately referred by GA1 to GA2 through the most expeditious manner but not exceeding three (3) working days from the receipt of the request. This shall be considered as the "**First Referral**" and a fresh period will apply.

Referral to the appropriate government agency shall mean that another government office is the proper repository or custodian of the requested information or records, or have control over the said information or records.

If GA1 fails to refer the request within three (3) working days upon its receipt, the FRO shall act on it within the remaining period to respond pursuant to EO No. 02, s. 2016. No fresh period shall apply.

If GA1, in good faith, erroneously referred the request to GA2, the latter shall immediately notify the former as well as the requesting party, that the information requested is not available in their agency.

GA2, to whom the request was referred under the First Referral may subsequently refer the request to another government agency (government agency no. 3 or GA3) under the procedure set forth in the first paragraph of this Section. This shall be considered as the "**Second Referral**" and another fresh period shall apply.

Referrals under this Order shall only be limited to two (2) subsequent transfers of request. A written or email acknowledgement of the referral shall be made by the FRO of the government agency where it was referred.

The requesting party shall be notified of the referral and must be provided with the reason or rationale thereof, and contact details of the government office where the request was referred.

Section 6. FOI Internal Messenger. - The FOI-PMO shall create a "**FOI Internal Messenger**". Such feature shall be included in the dashboards of FROs and FDMs, located at the eFOI portal or www.foi.gov.ph, where all FROs and FDMs can ask or confirm with each other on which agency has the control and custody of any information or record being requested.

Please see Annex "A" of this Circular for the No Wrong Door Policy Flowchart.

Section 7. Status of the Request. - A request that is referred to the appropriate government agency is considered **successful** if the same is acknowledged and the requested information is disclosed to the requestor.

If GA3, after the second referral, still cannot provide the information requested, it shall deny the said request and shall properly notify the requesting party.

In all phases of the referral, the requesting party shall be informed in writing, email, and/or through the eFOI of the status of his/her request.

Section 8. Inventory of Receiving Officers and Decision Makers, and Agency Information Inventory. - For the convenience of all FROs and FDMs

in implementing this Circular, an inventory of the names and contact details of all designated FROs and FDMs of government agencies, and an Agency Information Inventory (AII) shall be compiled by the FOI-PMO.

The FOI-PMO shall be the central repository of the inventory of all designated FROs and FDMs and shall collate and update the names and contact information of the designated FROs and FDMs of each government agency. The inventory shall be posted at the eFOI portal, www.foi.gov.ph. FOI-PMO shall strictly adhere to Republic Act No. 10173 or the Data Privacy Act of 2012.

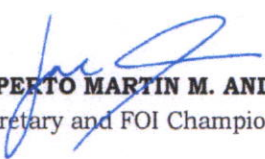
To assist the FROs in locating the requested information or record, an annual updating of the AII shall be required of all agencies on-boarded on the eFOI Portal. The consolidated inventory of information shall likewise be made available in the dashboard of the FRO and FDM for ease of access and information.

Section 9. Separability Clause. If, for any reason, any part or provision of this Memorandum Circular is declared invalid or unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

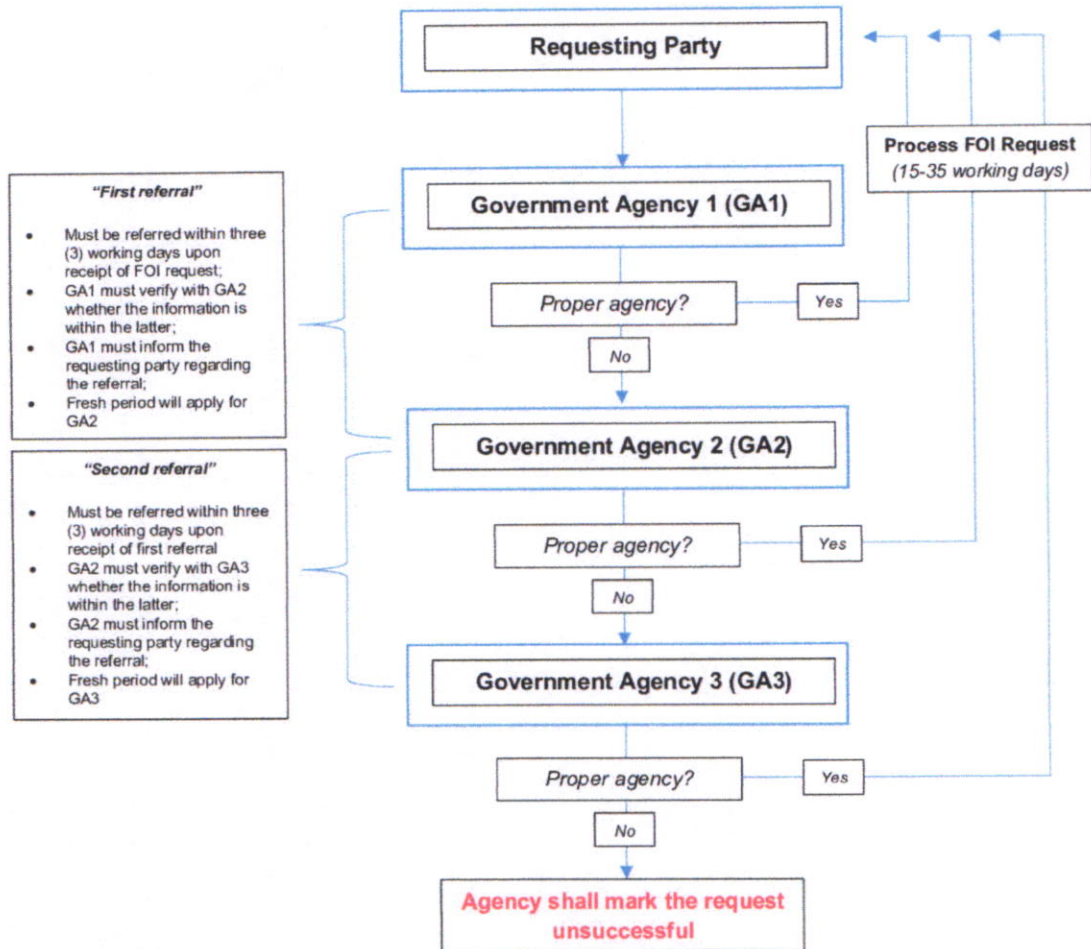
Section 10. Repealing Clause. All orders, rules and regulations, memoranda, circulars, and issuances or any part thereof inconsistent with the provisions of this Memorandum Circular are hereby repealed, amended or modified accordingly.

Section 11. Effectivity. This Memorandum Circular shall take effect immediately.

Manila, Philippines, 27th day of August 2021.


JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion

NO WRONG DOOR POLICY FLOWCHART



NOTE:

If GA1 fails to refer the request within three (3) working days upon its receipt, the FOI Receiving Officer (FRO) shall act on it within the remaining period to respond pursuant to EO No. 2, s. 2016. No fresh period shall apply.