

UNIVERSITY OF THE PHILIPPINES Freedom of Information (FOI) Manual

PREFACE

The right of the people to information on matters of public concern is one enshrined in the 1987 Constitution. Pursuant to this constitutional mandate, the Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713) adopts a policy of transparency and accountability in acts or transactions of the government. Section 5 (e) of this law provides that all public officials and employees are obligated to make all public documents accessible to, and readily available for inspection by, the public within reasonable working hours.

Among the standards of personal conduct in the discharge and execution of official duties expected of public officers is that they should ensure openness of information. Consistent with the foregoing, Executive Order No. 2 series of 2016 was issued by the Executive Branch pursuant to which all agencies of the Executive Branch are mandated to come up with their respective People's FOI Manual.

The University thus adopts this FOI Manual to serve as a guide to University officials, faculty, staff, students and the general public in the processing of any request for information under Executive Order No. 2, series of 2016.

SECTION 1. PURPOSE AND OVERVIEW

1. Purpose:

The purpose of this FOI Manual ("Manual") is to guide and assist the University in dealing with requests for information received under Executive Order (E.O.) No. 2, series of 2016 on Freedom of Information (FOI) (Annex "A" hereof). The said EO was issued in order to implement Article III Section 7 of the 1987 Constitution which states:

"The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law."

This Manual shall set out the rules and procedures to be followed by the University whenever it receives a request for access to information pursuant to the abovementioned EO.

2. **Coverage of the Manual:** The Manual shall cover all requests for information directed to the University pursuant to the abovementioned EO following the prescribed procedure set forth herein.

SECTION 2. PROMOTION OF OPENNESS IN GOVERNMENT

1. **Duty to Publish Information.** The University shall, pursuant to Republic Act No. 9485, or the Anti-Red Tape Act of 2007, regularly publish, print and disseminate at no cost to the public and in an accessible form and through their website, timely, true, accurate and updated key information including, but not limited to:
 - a. A description of its mandate, structure, powers, functions, duties and decision-making processes;
 - b. A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
 - c. The names of its key officials, their powers, functions and responsibilities, and their profiles 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.
2. **Accessibility of Language and Form.** The University shall endeavor to translate key information into Filipino and English and present them in popular form and means accessible to the general populace.
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.

SECTION 3. PROTECTION OF PRIVACY

1. While providing for access to information on matters of public concern as well as government research data used as the basis for policy development, the University shall balance said right with that of the right to privacy, as follows:
 - a. 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, laws, regulations jurisprudence and University policies, rules and regulations;
 - b. General Data Privacy Principles. – The processing (collection, storage, use, destruction and other similar operations) of personal information shall be allowed, subject to compliance with the requirements of the Data Privacy 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:

(1) 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;

(2) Processed fairly and lawfully;

(3) 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;

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

(5) 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

(6) 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 lie 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. (Section 11, Data Privacy Act)

Consistent with the above principles and 3e of the IRR of RA 6713, the University shall redact unnecessary information in the document, record or information that is the subject of a granted FOI request.

- c. 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 (Section 11, Data Privacy Act). 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.
- d. 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:
 - (1) The data subject has given his or her consent;
 - (2) 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;
 - (3) The processing is necessary for compliance with a legal obligation to which the personal information controller is subject;
 - (4) The processing is necessary to protect vitally important interests of the data subject, including life and health;
 - (5) The processing is necessary in order to respond to national emergency, to comply with the requirements of public order and safety, or to fulfill functions of public authority which necessarily includes the processing of personal data for the fulfillment of its mandate; or
 - (6) 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 12, Data Privacy Act).
- e. The processing of sensitive personal information and privileged information shall be prohibited, except in the following cases:

(1) 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 the exchange have given their consent prior to processing;

(2) 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;

(3) 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;

(4) 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;

(5) The processing is necessary for purposes of medical treatment, is carried out by a medical practitioner or a medical treatment institution, and an adequate level of protection of personal information is ensured; or

(6) 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).

- f. The University shall protect personal information in its custody or under its control by making reasonable and appropriate security arrangements against unauthorized access, leaks or premature disclosure including physical, organizational and technical measures. The determination of the appropriate level of security under this section must take into account the nature of the personal information to be protected, the risks represented by the processing, the size of the organization and complexity of its operations, current data privacy best practices and the cost of security implementation (Section 20c, Data Privacy Act); and

- g. The FOI Receiving Officer, FOI Delegate, FOI Decision Maker, 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 the Constitution, laws, regulations jurisprudence and University policies, rules and regulations.

SECTION 4. DEFINITION OF TERMS

ADMINISTRATIVE FOI APPEAL is an independent review by the FOI Decision Maker of the initial determination by the FOI Delegate to approve or deny an FOI Request. Requesting parties who are dissatisfied with the initial determination on their FOI Request have a right to appeal such initial determination to the FOI Decision Maker, who will then conduct an independent review and will make a final determination whether to approve or deny the FOI Request.

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

COMPLEX REQUEST refers to a request which 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.

CONSTITUENT UNIVERSITY refers to an autonomous unit in the University System which is composed of a group of colleges and other academic institutions headed by a Chancellor, with a defined vision and purpose and which meets the requirements for its creation as prescribed by the Board of Regents.

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

efoi.gov.ph refers to the website that serves as the government's comprehensive FOI website for all information on the FOI. Among many other features, eFOI.gov.ph 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.

EXCEPTION refers to information that should not be released and disclosed in response to an FOI request because they are protected from disclosure by the Constitution, University rules and regulations, laws and jurisprudence.

FREEDOM OF INFORMATION (FOI) refers to the right of the people to information on matters of public concern, and the University's adoption and implementation of a policy of full public disclosure of all its transactions involving public interest, subject to the limitations provided in the Constitution, applicable laws and regulations, issuances including Executive Order No. 2 and applicable jurisprudence. This right is indispensable to the exercise of the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making.

FOI CONTACT refers to the name, address, phone number or email address at each University unit where the requesting party can make an FOI request.

FOI DECISION MAKER refers to the University official responsible for all actions carried out under this Manual and who has the primary duty of deciding whether to approve or deny an FOI Request lodged with their office or unit.

FOI DELEGATE refers to University officials to whom the FOI Decision Maker delegated the responsibility of making the determination with respect to an FOI Request, subject to appeal to the FOI Decision Maker.

FOI RECEIVING OFFICER refers to the primary contact person responsible for responding to inquiries regarding FOI processes and requests.

FOI REQUEST refers to a written request submitted to the University personally or by email asking for information on any matter of public concern pursuant to Article III Section 7 of the 1987 Constitution. An FOI Request can generally be made by any Filipino to any government office.

FREQUENTLY REQUESTED INFORMATION refers to information released in response to an FOI request that the agency determines has become or is likely to become the subject of numerous requests or of subsequent requests for substantially the same records.

INFORMATION refers to any records, documents, papers, reports, letters, contracts, minutes 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 the University pursuant to law, executive order, and rules and regulations or in connection with its performance or transaction of official business.

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

OFFICIAL RECORD/S refers to information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.

OPEN DATA as defined in Joint Memorandum Circular 2015-01 refers to datasets published by agencies that shall be machine-readable, in open formats, and released with open licenses. For any particular dataset to be deemed in compliance with this qualification of openness, the following must be present:

1. Publicly available and accessible by default. If the dataset qualifies for publication to the extent permitted by applicable laws and subject to individual privacy, confidentiality, national security, or other legally-mandated restrictions, it should be made available through the agency's website by default and obtainable by download;
2. Open and machine-readable format. This means that the dataset is in a format that is platform-independent, machine-readable, and made available to the public without restrictions that would impede the re-use, modification, or processing of that information. Datasets in machine-readable formats are ones which are able to have its data extracted and processed by computer programs easily; and
3. Open license. This means that the dataset is offered free and without restriction subject only to proper attribution to the publishing government agency. Should an agency adopt a particular license for any of its datasets, it should be an open license.

PERFECTED REQUEST refers to an FOI request, which reasonably describes the records sought and is made in accordance with the University's regulations and fully compliant with the requirements of subsection 1 (a) of Section 6.

PERSONAL INFORMATION refers to any information, whether or not recorded in a material form, from which the identify 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 initiative on the part of the University to make certain types of data and information readily available in its website/s.

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

READILY AVAILABLE INFORMATION refers to information made publicly or readily available by the University without need of a specific FOI Request, such as materials, documents, records or information concerning its functions which may be posted on its website/s, or are otherwise readily available in its offices without need of action by the FOI Decision Maker.

REFERRAL refers to the process wherein the University forwards an FOI Request to another agency for processing and final determination whenever the University locates a record that originated with, or is of primary interest to, such other agency.

SENSITIVE PERSONAL INFORMATION, as defined in Section 3 (1) of the Data Privacy Act of 2012, 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 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 refers to a request the response to which will not require or involve the extensive search of existing records, processing or generation of voluminous data, or does not raise questions of possible violation of the Data Privacy Act or other relevant laws.

UNIVERSITY refers to the University of the Philippines System, which includes the System offices and units, and all the Constituent Universities (CUs) and their offices, colleges, institutes, departments and units. The constituent universities include UP Baguio, UP Diliman, UP Los Banos, UP Manila, UP Visayas, UP Cebu, UP Mindanao, UP Open University, and such other constituent universities which may hereafter be created.

SECTION 5. RESPONSIBLE FOI OFFICERS

1. **FOI DECISION MAKER.** The FOI Decision Maker (FDM) is responsible for all actions carried out under this Manual and has overall responsibility for the final decision on FOI Requests made to its office. The FDM may modify or overturn the FOI Delegate's initial decision on an FOI Request on appeal.

In cases involving a possible violation of the Data Privacy Act or any other existing law, the procedure indicated in Section 6 (2) (g) shall be observed.

- a. The following are the FDMs for the concerned University units:
 - i. Executive Vice President or any person appointed by the UP President with respect to FOI Requests for information on the University System and its offices and units; and
 - ii. Vice Chancellors of the CU or any person appointed by the Chancellor with respect to information concerning their respective CUs.
2. **FOI DELEGATE.** In the interest of a more efficient and speedy administration of the FOI process, the FDM may delegate the functions and responsibilities under this Manual to an FOI Delegate (FDE) who must be a University official. The FDE shall have the authority to make the decision on all FOI Requests made to their office subject to appeal to the FOI Decision Maker. The following are the FDEs for the concerned University Units:
 - a. The Vice President for Public Affairs with respect to information in the custody of the University System.
 - b. The heads of offices within the CUs shall be the FDEs with respect to information in the custody of their respective offices. Where the organizational structure of their office so warrants, the heads of offices may delegate their functions to the heads of sub-units within their offices.
3. **FOI RECEIVING OFFICER.** There shall be an FOI Receiving Officer (FRO) for the University System, as well as one for each CU, who shall be an employee who exercises supervisory functions, duties and responsibilities. The FRO shall deputize an employee(/s) in office(s) within their respective jurisdictions e.g. System Offices for System FRO and all the Constituent University offices for the CU FRO to receive FOI Requests filed with such office, but the evaluation, referral and monitoring of FOI Requests should be done by the FRO.

The FRO shall have the following functions:

- a. receive on behalf of the University all FOI Requests made with their respective offices. However, the FRO shall delegate the clerical act of receiving of requests to an employee in offices within their respective jurisdictions e.g. System Offices for System FRO and all the Constituent University offices for the CU FRO to receive FOI Requests filed with such office, but the evaluation, referral and monitoring of FOI Requests should be done by the FRO;
- b. conduct initial evaluation of an FOI Request and refer or forward the same to the relevant office or FDE for appropriate action;
- c. monitor all FOI requests and appeals;
- d. provide assistance to the FDM or FDE;
- e. provide assistance and support to the public and staff with regard to the FOI;
- f. compile statistical information as may be required pertinent to FOI Requests; and
- g. conduct initial evaluation of the request and advise the office or agency concerned.

The FRO for the University System shall be an employee from the Office of the Secretary of the University.

SECTION 6. STANDARD PROCEDURE *(See Annex "D" for flowchart)*

1) Receipt of Request for Information.

- a) The FRO shall receive the FOI Request from the Requesting Party and check compliance with the following requirements:
 - i. The request must be in writing using the prescribed application form;
 - ii. The request shall state the name and contact information of the requesting party;
 - iii. Requesting party who shall be a Filipino citizen shall provide valid proof of identification. In the absence of a valid government-issued ID, the citizen may provide other documents to prove Filipino citizenship such as, but not limited to a birth certificate, etc. Requesting party shall also state under oath in the Application Form that he/she is a Filipino citizen. Authorization is required in the event that the FOI Request is coursed through a representative; and
 - iv. The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information. (See **Annex "[E]"**)

The request may be made through email, provided that the requesting party shall attach in the email scanned copies of the FOI application request form and valid proof of identification, which should be a valid government issued ID with photo, and, in case the FOI Request is coursed through a representative, authorization.

The request may also be made through the eFOI portal at efoi.gov.ph.

- b) In case the requesting party is unable to make a written request because of illiteracy or disability, he or she may make an oral request, and the FRO shall reduce it to writing in the presence of a neutral third party.
- c) 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.
- d) The request shall be stamped "RECEIVED" by the FRO or the person delegated by him or her to receive such, indicating the date and time of the receipt of the written request, and the name, rank, title and position of the public officer who actually received it, with a corresponding signature and a copy, furnished to the requesting party. In case of email requests, the email shall be printed out and shall follow the procedure mentioned above, and be acknowledged by electronic mail. The FRO shall input the details of the request on the Request Tracking System and allocate a reference number.
- e) In case an FOI Request is sent to a person or unit in the University other than the FRO, the action by the person or unit receiving the request will depend on the nature of the information requested:
 - a. **Information held by unit.** If the information requested is kept by the unit which received the FOI Request, but the unit has no employee deputized by the FRO to receive FOI Requests, the unit shall respond to the FOI Request on matters which are considered routine and report the particulars of the FOI Request and the action taken to the FRO. In case there is an employee deputized by the FRO, such deputy shall report to the FRO. In case the FOI Request involves a complex matter, the unit shall automatically refer the FOI Request to the FRO for evaluation.

- b. **Information held by another unit.** If the information requested is held by a unit other than the one which received the FOI Request, the receiving unit shall forward the same to the FRO for appropriate action.
 - f) 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.
- 2) **Initial Evaluation.** After receipt of the request for information, the FRO or the person deputized by him/ her to receive the request shall evaluate the contents of the request to determine whether it is fully compliant with the requirements in subsection 1.1.
- a. **Request relating to more than one office under the UNIVERSITY:**
If a request for information is received which requires compliance by more than one office within the UNIVERSITY, the FRO shall immediately forward such request to the FROs of said offices who must address the request within the timeframe provided under these Rules, and monitor its compliance. The FRO shall also clear with the respective FROs of such office that they will only provide the specific information that relates to their office.
 - b. **Requested information is not in the custody of the UNIVERSITY:**
If the requested information is not in the custody of the UNIVERSITY, following referral and discussions with the FDM, the FRO shall undertake the following steps:
 - i. If the information requested is in the custody of a department of the executive branch, the FOI request will be immediately endorsed to such appropriate department which may have the information and the FRO must inform the requesting party that the information is not held by the University within the 15-working day limit. The 15-working day requirement for the appropriate department commences the day after it receives the request.
 - ii. If the information is in the custody of 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.

- c. **Requested information is already posted and available on-line:** If the information being requested is already posted and publicly available in the UNIVERSITY website, data.gov.ph or efoi.gov.ph, the FRO shall inform the requesting party of the said fact and provide them the website link where the information is posted.
- d. **Requested information is substantially similar or identical to a previous request:** Should the FOI request be substantially similar or identical to a previous request by the same requesting party, the subsequent request shall be denied. The FRO shall inform the applicant of the reason for such denial.
- e. **Readily available information.** Requests for readily available information as defined in this Manual need not undergo the whole FOI procedure as mandated by EO No. 2 and may be responded to immediately by the University.
- f. **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.
- g. **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 FDE who, in turn, shall endorse the request to the FDM. The FDM shall, before resolving the Request, refer the matter to a duly constituted FOI Review Committee. The FOI Review Committee may recommend to the FDM the approval or denial of the Request.
 - i. **Composition of the FOI Review Committee.**
 - 1. One representative from the Office of the Vice President for Legal Affairs of the University of the Philippines System (excluding the Vice President for Legal Affairs) involving FOI requests to the UP System or representative from the Legal Office of the Constituent

University (excluding the Chief or Head of the Legal Office) involving FOI requests to the CU , who shall serve as the Chairperson

2. Data Protection Officer of the University of the Philippines System involving FOI requests to the UP System or Data Protection Officer of the Constituent University involving FOI requests to the CU.
3. One (1) University official appointed by the FDM who may be knowledgeable on the matter being requested

3) Period to Respond to FOI Request. The University must respond to Perfected Requests within fifteen (15) working days from the date of receipt of the request.¹ 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. 13² of the New Civil Code shall be observed.

The date of receipt of the FOI request shall either be:

- a. The date on which the request is physically delivered to the FRO, or received in the email inbox of the FRO; or
- b. The date on which a necessary clarification is received, if the University asked the requesting party for further details to identify and locate the requested information.

An exception to this is where the request has been emailed to an absent member of staff, and this has generated an “out of office” message with instructions on how to re-direct the message to another contact. Where this is the case, the date of receipt will be the day the request arrives in the inbox of that contact.

- a) **Request for an Extension of Time:** If the information requested requires extensive search of office records, examination of voluminous records, or other similar reasons, of the UNIVERSITY, or in case of the occurrence of a

¹ EO 2 wording - 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.

² Article 13 of the Civil Code of the Philippines provides:

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)

fortuitous event or other analogous causes which will require a longer period in order to comply with the request, the FDE shall inform the FRO.

If the request is within the jurisdiction of the University, the FRO shall inform the Requesting Party of the extension in writing, setting forth the reasons for such extension and specifying the date or the reasonable period of time when the matter will be disposed of and the name of the official or employee in charge thereof. 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.³

Where there is a need to submit additional information, requirements, or documents, the reply to the requesting party shall so state, specifying the reasonable period of time within which they should be submitted, and the name of the particular official or employee in charge thereof. When all the documents or requirements have been submitted to the satisfaction of the office or agency, the FRO shall inform the requesting party of the action to be taken and the reasonable period of time when such action or disposition can be expected, barring unforeseen circumstances.⁴

Reasonable period of time as used under this provision shall be based on the reasonable time defined under the Implementing Rules and Regulations of R.A. 6713⁵.

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.

If the request is outside the jurisdiction of the University, the FRO must acknowledge receipt of the request and thereafter transmit a reply that the

³ Section 3(a) (1), Rule VI, Implementing Rules and Regulations of R.A. 6713.

⁴ Section 3(b) (2), Rule VI, Implementing Rules and Regulations of R.A. 6713.

⁵ Section 4. All official papers and documents must be processed and completed within a reasonable time from the preparation thereof. Reasonable time shall be determined in accordance with the following rules: (b) When the law or the applicable rule issued in accordance therewith prescribes a period within which a decision is to be rendered or an action taken, the same shall be followed; (c) When the law or the applicable rule issued in accordance therewith does not prescribe a period, the head of department, office or agency shall issue rules and regulations prescribing, among other things, what is reasonable time, taking into account the following factors: (1) Nature, simplicity or complexity of the subject matter of the official papers or documents processed by said department, office or agency. (2) Completeness or inadequacy of requirements or of data and information necessary for decision or action; (3) Lack of resources caused by circumstances beyond the control of the department, office or agency or official or employee concerned; (4) Legal constraints such as restraining orders and injunctions issued by proper judicial, quasijudicial or administrative authorities; and (5) Fault, failure or negligence of the party concerned which renders decision or action not possible or premature; and (6) Fortuitous events or force majeure.

same will be referred to the proper department, office, or agency and attach a copy of the letter of referral to the proper department, office or agency.⁶

- 4) **Transmittal of Request by the FRO to the FDE:** After receipt and initial evaluation of the FOI Request, the FRO shall notify the FDE of such request. The copy of the request shall be forwarded to such FDE within one (1) day from receipt by the FRO of the written request. The FRO shall record the date, time and name of the FDE who received the FOI request with the corresponding acknowledgement of receipt of the request.
- 5) **Role of FDE in processing the request:** Upon receipt of the FOI request from the FRO, the FDE shall assess it and make clarifications if necessary. S/he shall make all necessary steps to locate and retrieve the information requested. The FDE shall ensure that the complete information requested is submitted to the FRO within ten (10) days upon receipt of such request.

The FRO shall note the date and time of receipt of the information from the FDE and report to the FDM in case the submission is beyond the 10-day period.

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

5.2 If the FDE determines that a record contains information of interest to another office outside of the UNIVERSITY such as when the information may be confidential or proprietary information and other similar circumstances the FDE shall consult with the agency concerned on whether the records may be disclosed before making any final determination.

- 6) **Notice to the Requesting Party of the Approval/Denial of the FOI Request:** Once the FDE decides to approve or deny the request, s/he shall immediately notify the FRO who shall prepare the response to the requesting party either in writing or by email.

7) Action on the FOI Request

- a. **Approval of Request:** In case of approval, the FRO shall ensure that all records that have been retrieved and considered are checked for possible exceptions prior to actual release. The FRO shall prepare the letter or email informing the

⁶ Section 3(b)(1) and (2), Rule VI, Implementing Rules and Regulations of R.A. 6713.

requesting party within the prescribed period that the request was granted and be directed to pay the applicable fees, if any.

i. Partial grant. Where, in the determination of the FDE, the University will not be able to disclose all the records in full as where part of the request involves data or information which falls under the exceptions or some information, data or record cannot be located, the FDE through the FRO will disclose only such portions of the records as it may legally do so.

b. 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.

i. Grounds for Denial of Request. The following are grounds for denial of an FOI Request:

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

8) FRO to transmit the information to the requesting party: Upon receipt of the requested information from the FDE, the FRO shall collate and ensure that the information is complete. S/he shall attach a cover/transmittal letter signed by the FDE and ensure the transmittal of such to the Requesting Party within 15 working days from receipt of the request for information.

SECTION 7. 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 following information under the the Request Tracking System:

Status	Meaning
Accepted	Request has been validated and verified by the FRO and has been forwarded to the FOI Decision Maker (FDM)

Awaiting clarification	Request has incomplete details or missing field/s and has been returned to the requesting party
Processing	Request has been received by the FDM and is now being processed by the agency
Successful: Information has been disclosed	Request has been processed and information requested has been disclosed
Successful: Information already available online	Request has already been proactively disclosed via the website of the agency
Successful: Request has already been addressed	Requested information has already been requested before through the eFOI portal
Partially successful	Out of several queries in a single FOI Request, only a number of these information has been disclosed
Denied: Information under Exceptions List	Requested information is included or is under the scope of the categories of the Exceptions List
Denied: Wrong agency	Requested information is not with the agency and/or another agency holds the information
Closed	Request which has been returned to the requesting party for clarification and the requesting party failed to respond within 60 days
Red flags	Request went beyond the deadline of either 15 or 35 (for those with requested extension) days ⁷

⁷ Section 2 of FOI MC No. 5 series of 2017 on Standard FOI Registry

SECTION 8. FEES

1. **No Request Fee.** The UNIVERSITY shall not charge any fee for accepting FOI requests.
2. **Reasonable Cost of Printing or Reproduction of the Information:** The FRO shall immediately notify the requesting party in case there shall be a reproduction and copying fee in order to provide the information. Such fee shall be the actual amount spent by the UNIVERSITY in providing the information to the requesting party. The schedule of fees shall be posted by the UNIVERSITY in its website.
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 need not pay the fee.

SECTION 9. REMEDIES IN CASE OF DENIAL

A person whose FOI Request has been denied by the FDE may appeal said denial to the FDM concerned within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request. The appeal shall be decided by the FDM within thirty (30) working days from the filing thereof. The FDM may consult the Office of the Vice President for Legal Affairs or the Legal Office of the constituent university to ask for their recommendation before making a decision on appeal. Failure to decide within the 30-day period shall be deemed a denial of the appeal.

SECTION 10. ADMINISTRATIVE LIABILITY

Failure to comply with the provisions of this Manual shall be a ground for the imposition of administrative and disciplinary sanctions against the erring official or employee after notice and hearing as provided under existing laws and regulations.

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 Article 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:

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 9 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 9 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.

(Sgd.) SALVADOR C. MEDIALDEA

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:⁸

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.

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.

⁸ 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.

1. Information covered by Executive privilege:
 - a. Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings;⁹ 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;¹⁰ and
 - ii. information, record or document comprising drafts of decisions, orders, rulings, policy-decisions, memoranda, etc.;¹¹
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;¹²

⁹ 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.

¹⁰ *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).

¹¹ 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.

¹² *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."

- b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;¹³ and
 - c. Patent applications, the publication of which would prejudice national security and interests;¹⁴
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;¹⁵
 - 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;¹⁶
 - c. When disclosure of information would put the life and safety of an individual in imminent danger;¹⁷
 - d. Any information given by informants leading to the recovery of carnapped vehicles and apprehension of the persons charged with carnapping;¹⁸ and

¹³ *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.

¹⁴ 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).

¹⁵ Section 3(f), Rule IV, Rules on CCESPOE; *Chavez v. PCGG, supra*. May be invoked by law enforcement agencies.

¹⁶ *Akbayan v. Aquino, supra*; and Section 51, *Human Security Act of 2007* (RA No. 9372). May be invoked by law enforcement agencies.

¹⁷ Section 3(b), Rule IV, Rules on CCESPOE.

¹⁸ Section 19, *New Anti Carnapping Act of 2016* (RA No. 10883). May be invoked by law enforcement agencies.

- e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;¹⁹
- 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,²⁰ personal information or records,²¹ including sensitive personal information, birth records,²² school records,²³ or medical or health records;²⁴

Sensitive personal information as defined under the *Data Privacy Act of 2012* refers to personal information;²⁵

- (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.

¹⁹ Section 7, *Witness Protection, Security and Benefit Act* (RA No. 6981).

²⁰ Section 3(e), Rule IV, Rules on CCESPOE.

²¹ 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.

²² Article 7, *The Child and Youth Welfare Code* [Presidential Decree (PD) No. 603].

²³ Section 9(4), *Education Act of 1982* [Batas Pambansa (BP) Blg. 232].

²⁴ 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).

²⁵ Section 3(l), *Data Privacy Act of 2012*.

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 individual²⁶ 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.²⁷

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;²⁸

- b. Source of any news report of information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;²⁹ 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;³⁰
 - (2) children in conflict with the law from initial contact until final disposition of the case;³¹

²⁶ Article 26(2), *Civil Code*.

²⁷ Section 11, *Data Privacy Act of 2012*.

²⁸ Section 4, *Data Privacy Act of 2012*.

²⁹ *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.

³⁰ Section 12, *Family Courts Act of 1997* (RA Act No. 8369).

³¹ Section 43, *Juvenile Justice and Welfare Act of 2006* [RA No. 9344].

- (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;³²
- (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;³³
- (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;³⁴
- (6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;³⁵
- (7) names of victims of child abuse, exploitation or discrimination;³⁶
- (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;³⁷
- (9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;³⁸
- (10) names of students who committed acts of bullying or retaliation;³⁹
- (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; and⁴⁰

³² Section 13, *Anti-Child Pornography Act of 2009* (RA No. 9775).

³³ Section 31, A.M. No. 00-4-07-SC, *Re: Proposed Rule on Examination of a Child Witness*.

³⁴ 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.

³⁵ Section 7, *Anti-Trafficking in Persons Act of 2003* (RA No. 9208), as amended by RA No. 10364.

³⁶ Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act* (RA No. 7610).

³⁷ 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*.

³⁸ 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.

³⁹ Section 3(h), *Anti-Bullying Act* (RA No. 10627).

⁴⁰ Sections 60, 64 and 67, *Comprehensive Dangerous Drugs Act of 2002* (RA No. 9165).

- (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;⁴¹
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;⁴²
 - b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);⁴³
 - c. Records and reports submitted to the Social Security System by the employer or member;⁴⁴
 - d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;⁴⁵
 - 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;⁴⁶

⁴¹ Sections 2(b), 18, 30, and 32, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8504).

⁴² 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; 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*.

⁴³ Section 26, *Philippine Statistical Act of 2013* (RA No. 10625); and Section 4, *Commonwealth Act No. 591*. May be invoked only by the PSA.

⁴⁴ Section 24(c), *Social Security Act of 1997* (RA No. 1161, as amended by RA No. 8282).

⁴⁵ Section 29, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8504).

⁴⁶ 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.

- f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;⁴⁷
- g. Documents submitted through the Government Electronic Procurement System;⁴⁸
- 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*;⁴⁹
- 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;⁵⁰
- 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;⁵¹
- 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;⁵²
- l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁵³
- m. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;⁵⁴

⁴⁷ Section 81, EO No. 226 (s. 1987), as amended.

⁴⁸ Section 9, *Government Procurement Reform Act* (RA No. 9184).

⁴⁹ Section 32, *Electronic Commerce Act of 2000* (RA No. 8792).

⁵⁰ Section 94(f), *Philippine Mining Act of 1995* (RA No. 7942).

⁵¹ 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).

⁵² Section 9(c), *Anti-Money Laundering Act of 2001*, as amended. May be invoked by AMLC, government banks and its officers and employees.

⁵³ Section 10, *Safeguard Measures Act*.

⁵⁴ Section 297 in relation with Section 295 and Section 356, *The Insurance Code* (as amended by RA No. 10607).

- n. Information on registered cultural properties owned by private individuals;⁵⁵
 - o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁵⁶ and
 - p. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;⁵⁷
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.⁵⁸
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*;⁵⁹
 - b. Matters involved in an Investor-State mediation;⁶⁰

⁵⁵ Section 14, *National Cultural Heritage Act of 2009* (RA No. 10066).

⁵⁶ CHED Memorandum Order No. 015-13, 28 May 2013.

⁵⁷ 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 of 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).

⁵⁸ Section 3(g), Rule IV, Rules on CCESPOE.

⁵⁹ Section 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.

⁶⁰ Article 10, *International Bar Association Rules for Investor-State Mediation*.

- c. Information and statements made at conciliation proceedings under the *Labor Code*;⁶¹
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);⁶²
- 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;⁶³
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;⁶⁴
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁶⁵
- 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*;⁶⁶
- i. Investigation report and the supervision history of a probationer;⁶⁷
- j. Those matters classified as confidential under the *Human Security Act of 2007*;⁶⁸
- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶⁹ and
- l. Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment

⁶¹ Article 237, *Labor Code*.

⁶² Article 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

⁶³ Section 142, *Corporation Code*. May be invoked by the SEC and any other official authorized by law to make such examination.

⁶⁴ Sections 13.4, 15.4, 29.2(b), and 64.2 of the *Securities Regulation Code*.

⁶⁵ 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.

⁶⁶ DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

⁶⁷ Section 17, *Probation Law of 1976* [PD No. 968 (s. 1976)].

⁶⁸ Sections 9, 13, 14, 29, 33 and 34, *Human Security Act of 2007* (RA No. 9372).

⁶⁹ Section 14, Civil Service Commission Resolution No. 01-0940.

proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;⁷⁰

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;⁷¹
 - (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);⁷² 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);

⁷⁰ 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.

⁷¹ 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.

⁷² Article 7, UNCITRAL Transparency Rules.

- b. Testimony from a government official, unless pursuant to a court or legal order;⁷³
- 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;⁷⁴
- d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;⁷⁵
- e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;⁷⁶
- f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;⁷⁷ and
- g. Attorney-client privilege existing between government lawyers and their client.⁷⁸

⁷³ *Senate v. Neri, supra; Senate v. Ermita, supra.*

⁷⁴ Section 8(D), *Code of Conduct and Ethical Standards for Public Officials and Employees.*

⁷⁵ *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.

⁷⁶ 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.

⁷⁷ *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

⁷⁸ Canon 21 of the *Code of Professional Responsibility*.

ANNEX "C"

Non exhaustive list of examples of UP records, documents or information excluded from the coverage of E.O. No. 2

1. Information and documents e.g. transcripts, notes, minutes, reports memoranda and the like kept by various University offices covered by deliberative process privilege as explained in the case of Department of Foreign Affairs vs. BCA International Corporation G.R. 210858 June 29 2016

“Deliberative process privilege is one kind of privileged information, which is within the exceptions of the constitutional right to information. ...

The privilege is not exclusive to the Judiciary. We have in passing recognized the claim of this privilege by the two other branches of government in *Chavez v. Public Estates Authority* (speaking through J. Carpio) when the Court declared that -

[t]he information x x x like internal deliberations of the Supreme Court and other collegiate courts, or executive sessions of either house of Congress, are recognized as confidential. This kind of information cannot be pried open by a co-equal branch of government. A frank exchange of exploratory ideas and assessments, free from the glare of publicity and pressure by interested parties, is essential to protect the independence of decision-making of those tasked to exercise Presidential, Legislative and Judicial power. (Emphasis supplied)

In *Akbayan v. Aquino*, we adopted the ruling of the U.S. Supreme Court in *NLRB v. Sears, Roebuck & Co*, which stated that the deliberative process privilege protects from disclosure "advisory opinions, recommendations, and deliberations comprising part of a process by which governmental decisions and policies are formulated." We explained that "[w]ritten advice from a variety of individuals is an important element of the government's decision-making process and that the interchange of advice could be stifled if courts forced the government to disclose those recommendations"; thus, the privilege is intended "to prevent the 'chilling' of deliberative communications."

The privileged character of the information does not end when an agency has adopted a definite proposition or when a contract has been perfected or consummated; otherwise, the purpose of the privilege will be defeated.

The deliberative process privilege applies if its purpose is served, that is, "to protect the frank exchange of ideas and opinions critical to the government's decision[-]making process where disclosure would discourage such discussion in the future." In *Judicial Watch of Florida v. Department of Justice*, the U.S. District Court for the District of Columbia held that the deliberative process privilege's "ultimate purpose x x x is to prevent injury to the quality of agency decisions by allowing government officials freedom to debate alternative approaches in private," and this ultimate purpose would not be served equally well by making the privilege temporary or held to have expired. In *Gwich 'in Steering Comm. v. Office of the Governor*, the Supreme Court of Alaska held that communications have not lost the privilege even when the

decision that the documents preceded is finally made. The Supreme Court of Alaska held that "the question is not whether the decision has been implemented, or whether sufficient time has passed, but whether disclosure of these preliminary proposals could harm the agency's future decision[-]making by chilling either the submission of such proposals or their forthright consideration."

Traditionally, U.S. courts have established two fundamental requirements, both of which must be met, for the deliberative process privilege to be invoked. *First*, the communication must be **predecisional**, i.e., "antecedent to the adoption of an agency policy." *Second*, the communication must be **deliberative**, i.e., "a direct part of the deliberative process in that it makes recommendations or expresses opinions on legal or policy matters." It must reflect the "give-and-take of the consultative process." The Supreme Court of Colorado also took into account other considerations:

Courts have also looked to other considerations in assessing whether material is predecisional and deliberative. The function and significance of the document in the agency's decision-making process are relevant. Documents representing the ideas and theories that go into the making of policy, which are privileged, should be distinguished from "binding agency opinions and interpretations" that are "retained and referred to as precedent" and constitute the policy itself.

Furthermore, courts examine the identity and decision-making authority of the office or person issuing the material. A document from a subordinate to a superior official is more likely to be predecisional, "while a document moving in the opposite direction is more likely to contain instructions to staff explaining the reasons for a decision already made."

Finally, in addition to assessing whether the material is predecisional and deliberative, and in order to determine if disclosure of the material is likely to adversely affect the purposes of the privilege, courts inquire whether "the document is so candid or personal in nature that public disclosure is likely in the future to stifle honest and frank communication within the agency." As a consequence, **the deliberative process privilege typically covers recommendations, advisory opinions, draft documents, proposals, suggestions, and other subjective documents that reflect the personal opinions of the writer rather than the policy of the agency.** (Emphasis supplied)

Thus, "[t]he deliberative process privilege exempts materials that are 'predecisional' and 'deliberative,' but requires disclosure of policy statements and final opinions 'that have the force of law or explain actions that an agency has already taken.'"

In *City of Colorado Springs v. White*,⁴ the Supreme Court of Colorado held that the outside consultant's evaluation report of working environment and policies was covered by the deliberative process privilege because the report contained observations on current atmosphere and suggestions on how to improve the division rather than an expression of final agency decision. In *Strang v. Collyer*,⁵ the U.S. District Court for the District of Columbia held that the meeting notes that reflect the exchange of opinions between agency personnel or divisions of agency are covered by the deliberative process privilege because they "reflect the agency's group thinking in the process of working out its policy" and are part of the deliberative process in

arriving at the final position. In *Judicial Watch v. Clinton* the U.S. District Court for the District of Columbia held that handwritten notes reflecting preliminary thoughts of agency personnel were properly withheld under the deliberative process privilege. The U.S. District Court reasoned that "disclosure of this type of deliberative material inhibits open debate and discussion, and has a chilling effect on the free exchange of ideas." (citations omitted)

2. Student records under the Education Act of 1982 or Batas Pambansa 232

Section 2 of the Act states that it applies to "all levels of the entire educational system".

Sec. 9. Right of Students in School – In addition to other rights, and subject to the limitation prescribed by law and regulations, and student and pupils in all schools shall enjoy the following rights:

x x x

4. The right of access to his own school records, the confidentiality of which the school shall maintain and preserve.

However, parents have the right to access school records as follows:

Sec. 8. Rights of Parents – In addition to other rights under existing laws, all parents who have children enrolled in a school have the following rights:

x x x

2. The right to access to any official record directly relating to the children who are under their parental responsibility.

3. Documents defined as confidential under the U.P. Acceptable Use Policy for Information Technology approved by the UP Board of Regents at its 1165th Meeting on 31 October 2002

Section 3.b. *Confidential information* means data or information which on its face is not intended for unrestricted dissemination. Examples include student records, examination archives, proprietary technical information, disciplinary case records, administrative records, and the like.

4. Proceedings and records of anti-sexual harassment cases under the UP Anti Sexual Harrassment Code approved by the UP Board of Regents on its 1324th Meeting, 26 January 2017

Section 27. Confidentiality Clause. – All proceedings and records related to the case are strictly confidential. For purposes of dissemination of Decisions to pertinent University offices, only the dispositive portion shall be released.

Parties to the case as well as University personnel and students entrusted with duties and functions in connection with the implementation or enforcement of this Code, are enjoined from

disclosing any matters related thereto and to respect the individual privacy of all parties during the pendency of the case.

Any person who violates the confidential nature of such records shall be subject to appropriate disciplinary action.

The identity of the complainant in the final decision released by the University shall, upon request of the complainant, be under an assumed name; Provided, however, that where the respondent is found not liable for the offense charged, the name shall also be under an assumed name.

5. Records of student disciplinary cases under the UP Diliman 2017 Code of Student Conduct. As approved with amendments by the Board of Regents at its 1298th Meeting on 30 June 2014 and confirmed at its 1301st meeting on 29 September 2014; as recommended by the UP Diliman University Council at its 125th Special Meeting on 10 December 2012

V.7. Records

All proceedings before any disciplinary body shall be set down in writing by a competent official record keeper. Original records pertaining to student discipline shall be under the custody of the SDC and/or the Dean. Such records are hereby declared confidential and no person shall have access to the same for inspection or copying unless she/he is a party therein, or unless she/he has a legal right which cannot be protected or vindicated without access to or copying of such records, or unless authorized in writing by the Chancellor. Any person who violates the confidential nature of such records shall be subject to disciplinary action, without prejudice to the filing of appropriate cases in Court.

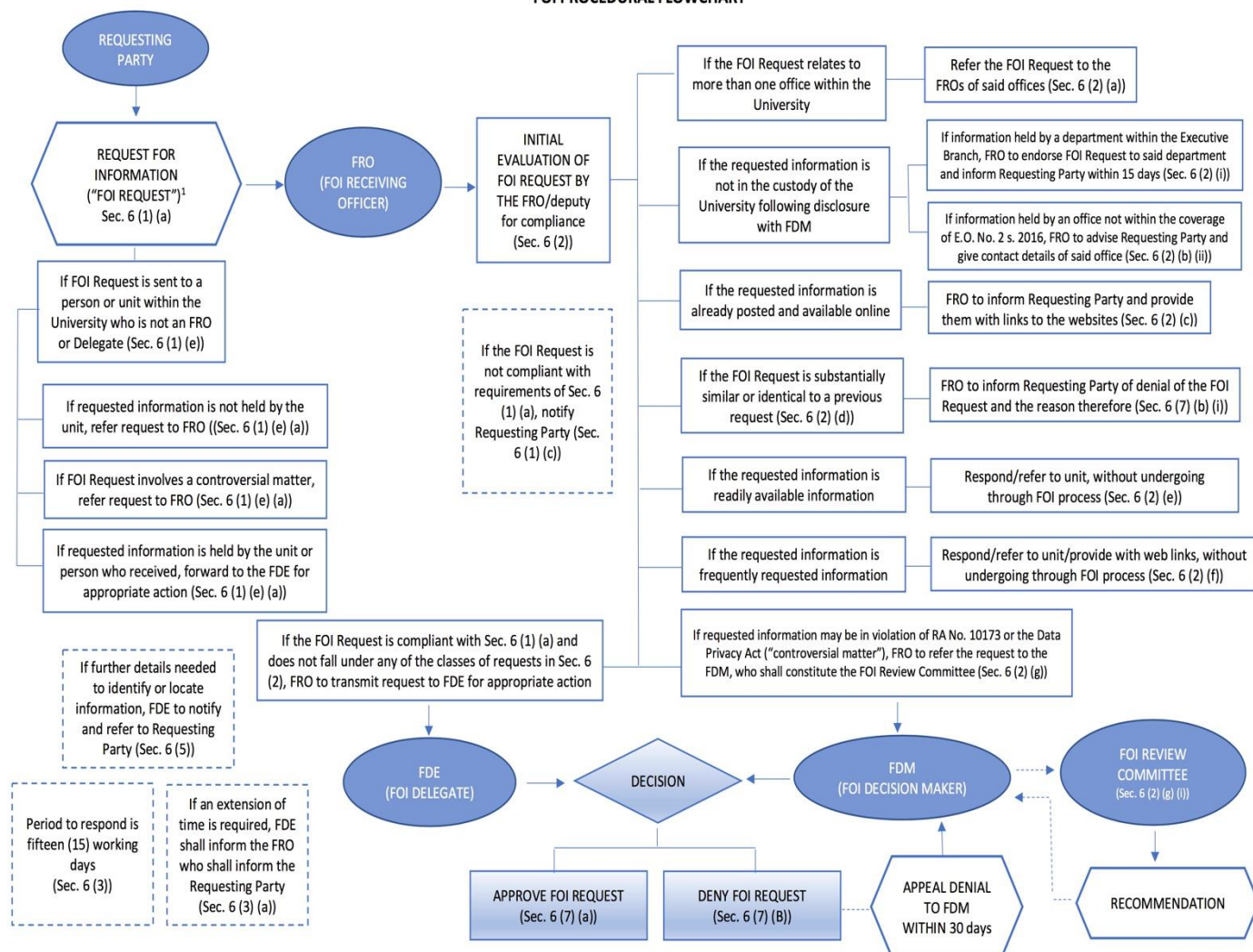
6. Information authorized to be kept confidential under the Technology Transfer Act of 2009 (R.A. 10055)

Under Section 8 (h) Research and development institutions like the University of the Philippines are “authorized, within a reasonable time, to keep confidential from the public any document or information relating to potential IPRs that are not yet fully protected by law.”

ANNEX "D"

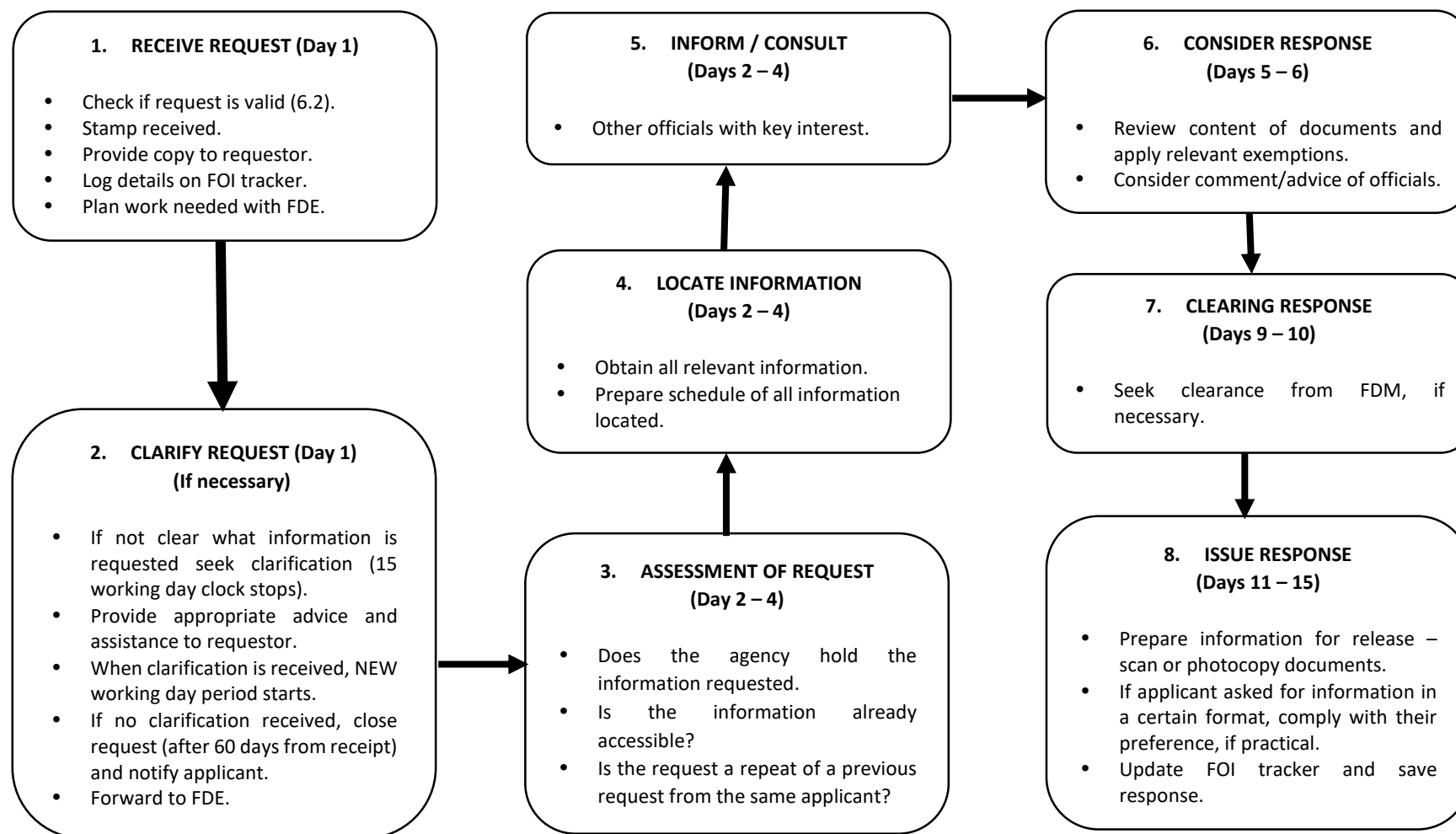
FOI Request Flow Chart

FOI PROCEDURAL FLOWCHART



ANNEX “D – 1”

DETAILED FOI REQUEST PROCESS



ANNEX “D – 2”

FOI REQUEST PROCESS IN DAYS

Day 1	Days 2 – 4	Days 5 – 8	Days 9 – 10	Days 11 – 15
RECEIVE REQUEST <ul style="list-style-type: none"> Check if request is valid. Stamp received. Provide copy to requestor. Log details on FOI tracker. Plan work needed with DM. CLARIFY REQUEST (If necessary) <ul style="list-style-type: none"> If not clear what information is requested seek clarification (15 working day clock stops). Provide appropriate advice and assistance to requestor. When clarification is received, NEW working day period starts. If no clarification received, close request (after 60 days from receipt) and notify applicant. Forward to FDE. 	ASSESS REQUEST <ul style="list-style-type: none"> Does the agency hold the information requested. Is the information already accessible? Is the request a repeat of a previous request from the same applicant? LOCATE INFORMATION <ul style="list-style-type: none"> Obtain all relevant information. Prepare schedule of all information located. INFORM / CONSULT <ul style="list-style-type: none"> Other officials with key interest. 	CONSIDER RESPONSE <ul style="list-style-type: none"> Review content of documents and apply relevant exemptions. Consider comment/advice of officials. 	CLEARING RESPONSE <ul style="list-style-type: none"> Seek clearance from Secretary or head of agency. If necessary. 	ISSUE RESPONSE <ul style="list-style-type: none"> Prepare information for release – scan or photocopy documents. If applicant asked for information in a certain format, comply with their preference, if practical. Update FOI tracker and save response.

Notes:

- The table sets our targets at various points within the 15 working day response period, for completion of key steps in the process of handling an FOI request.
- Each FOI request is different, so not all of these actions will be required in each case – some will be much simpler – and sometimes actions will be completed earlier or later than the targets in this table. However, it is always important to allow sufficient time for FOI Delegates, etc. to clear FOI responses before expiry of the 15 working day deadline.
- For any request, it is essential to start looking at it as soon as it is received, to assess what work needs to be done and to plan that work so that the request is answered on time. This table is intended to help with that planning.

ANNEX "E"

FOI Request Form

UNIVERSITY OF THE PHILIPPINES <i>Diliman, Quezon City</i> FOI Request Form	
DOCUMENT OR INFORMATION REQUESTED : _____ _____	
PURPOSE(S) _____ _____ _____	
NAME: _____	CONTACT Nos.: _____
GOVERNMENT ISSUED ID INDICATING CITIZENSHIP Passport No. /Driver's License OR ATTACH ANY OTHER PROOF OF FILIPINO CITIZENSHIP	
ADDRESS : _____	
HOW WOULD YOU LIKE TO RECEIVE THE INFORMATION ?	
<input type="checkbox"/> Email	_____
<input type="checkbox"/> Postal Address	_____
<input type="checkbox"/> Pick-up (<i>office hours</i>)	_____
I declare that:	
a. I am a Filipino citizen	
b. the information provided above is complete and correct	
c. I have read the Privacy Notice for the Processing of Freedom of Information Requests	
d. I understand that in the event my request is granted and information is provided by UP that I am duty bound to process or use the information only for the purpose(s) stated in my request pursuant to the provisions of EO 2 Series of 2016, RA 6713 and its IRR and the Philippine Data Privacy Act and related issuances and that I will hold UP free and harmless from all liabilities for the unauthorised use of the information provided to me.	
SIGNATURE _____	_____
	Person Administering Oath

ANNEX "F"

FOI RESPONSE TEMPLATE - DOCUMENT ENCLOSED

DATE

Dear _____,

This refers to your request dated <insert data> 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>.

Purpose/(s) stated for request

Response to your request

Your FOI request is approved. I enclose a copy of [some/most/all]* of the information you requested [in the format you asked for]

This is to respectfully remind you that the information provided to you by U.P. must be processed (used) only for the purpose/(s) stated in your request pursuant to the provisions of E.O. No. 2 Series of 2016, R.A. 6713 and its Implementing Rules and Regulations, the Philippine Data Privacy Act and other applicable laws. The DPA which is a criminal statute imposes the penalty of imprisonment and a fine for the unauthorised processing of personal and sensitive personal information.

We request you to kindly acknowledge receipt of this letter and that you understand that you are bound to comply with the provisions of, among others, the Philippine Data Privacy Act in using the information you requested and that you will hold the University free and harmless from all liabilities in the event that you process the information provided in violation of applicable laws.

Respectfully,

FOI Receiving Officer

ANNEX “F-1”

FOI RESPONSE TEMPLATE - ANSWER

DATE

Dear _____,

This refers to your request dated <insert data> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

Purpose/(s) stated for 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>

This is to respectfully remind you that the information provided to you by U.P. must be processed (used) only for the purpose/(s) stated in your request pursuant to the provisions of E.O. No. 2 Series of 2016, R.A. 6713 and its Implementing Rules and Regulations, the Philippine Data Privacy Act and other applicable laws. The DPA which is a criminal statute imposes the penalty of imprisonment and a fine for the unauthorised processing of personal and sensitive personal information.

We request you to kindly acknowledge receipt of this letter and that you understand that you are bound to comply with the provisions of, among others, the Philippine Data Privacy Act in using the information you requested and that you will hold the University free and harmless from all liabilities in the event that you process the information provided in violation of applicable laws.

Respectfully,

FOI Receiving Officer

ANNEX "F-2"

FOI RESPONSE TEMPLATE - DOCUMENT AVAILABLE ONLINE

DATE

Dear _____,

This refers to your request dated <insert data> 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>.

Purpose/(s) stated for request

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. data.gov.ph, foi.gov.ph or other government websites>.

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

This is to respectfully remind you that the information provided to you by U.P. must be processed (used) only for the purpose/(s) stated in your request pursuant to the provisions of E.O. No. 2 Series of 2016, R.A. 6713 and its Implementing Rules and Regulations, the Philippine Data Privacy Act and other applicable laws. The DPA which is a criminal statute imposes the penalty of imprisonment and a fine for the unauthorised processing of personal and sensitive personal information.

We request you to kindly acknowledge receipt of this letter and that you understand that you are bound to comply with the provisions of, among others, the Philippine Data Privacy Act in using the information you requested and that you will hold the University free and harmless from all liabilities in the event that you process the information provided in violation of applicable laws.

Respectfully,

FOI Receiving Officer

ANNEX "F-3"

**FOI RESPONSE TEMPLATE - DOCUMENT NOT IN THE CUSTODY OF THE
UNIVERSITY**

DATE

Dear _____,

This refers to your request dated <insert data> 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>.

Purpose/(s) stated for request

Response to your request

While our aim is to provide information whenever possible, in this instance this Office does not have (some of)* the information you have requested. (Note: Insert the following if applicable However, kindly refer to our letter referring your request to <insert name of other authority/organization> at <insert contact details> who may be able to help you.) The reasons why we do not have the information are explained in the Annex to this letter.

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX “F-4”

FOI RESPONSE TEMPLATE - UNDER EXCEPTIONS

DATE

Dear _____,

This refers to your request dated <insert data> 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>.

Purpose/(s) stated for request

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) of the List of Exceptions applies to that information. The reasons why that exception(s) applies are explained in the Annex to this letter.

Respectfully,

FOI Receiving Officer

ANNEX - "F-5"

FOI RESPONSE TEMPLATE - REFERRAL TO ANOTHER AGENCY

DATE

Dear _____,

This refers to your request dated <insert data> 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>.

Purpose/(s) stated for request

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 the University does not have custody of the same and that it is the <name of agency/office> which <has the said documents or information>. Nevertheless, we have endorsed your request to the <name of agency/office> for appropriate action on <date of endorsement>. Kindly refer to the attached referral.

You may inquire about the status of your request with <name of contact person in other agency/office> at <telephone number of agency> or through email at <email address of agency>.

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX - "F-6"

**FOI RESPONSE TEMPLATE - INFORMATION IN CUSTODY OF OFFICE NOT
WITHIN THE COVERAGE OF EO NO. 2**

DATE

Dear _____,

This refers to your request dated <insert data> 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>.
(For example, SALNs of incumbent members of the Judiciary, including prior SALNs)

Purpose/(s) stated for request

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 the University does not have the authority to provide the information requested and that it is the <name of office not within the coverage of EO No. 2> which <has the said documents or information>. Should you wish to make a request for information with <name of office not within the coverage of EO No. 2>, you may reach them through the following:

Address: <address of office not within the coverage of EO No. 2>

Telephone: <telephone number of office not within the coverage of EO No. 2>

Email address: <email address of office not within the coverage of EO No. 2>

(For example in the case of incumbent members of the Judiciary the Supreme Court ruling in A.M. No. 09-8-6-SC and 09-8-07-CA dated 13 June 2012 <http://sc.judiciary.gov.ph/jurisprudence/2012/june2012/09-8-6-SC.htm> and the Rule on Access to Information About the Supreme Court <http://sc.judiciary.gov.ph/transparency/The%20Rule%20on%20Access%20to%20Information%20About%20the%20Supreme%20Court.pdf> applies to your request.)

Respectfully,

FOI Receiving Officer