



REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE
Tanggapang Pampanguluhan sa Operasyong Pangkomunikasyon
Malacañang, Manila

FOI – MC No. 5, s. 2020

**FREEDOM OF INFORMATION
MEMORANDUM CIRCULAR**

FOR : **ALL AGENCIES OF THE EXECUTIVE BRANCH,
GOVERNMENT-OWNED OR CONTROLLED
CORPORATIONS (GOCCs), AND STATE UNIVERSITIES
AND COLLEGES (SUCs)**

SUBJECT : **GUIDELINES ON VEXATIOUS FREEDOM OF
INFORMATION REQUESTS AND ABUSE OF RIGHTS
THEREUNDER**

WHEREAS, the State, by virtue of Section 7, Article III of the 1987 Constitution, recognizes the right of the people to information on matters of public concern. Hence, 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 citizens, subject to such limitations as may be provided by law;

WHEREAS, President Rodrigo R. Duterte, on 23 July 2016, issued Executive Order (EO) No. 2, s. 2016 to operationalize the Constitutional mandate of the people's right to information;

WHEREAS, the Presidential Communications Operations Office (PCOO), by virtue of Memorandum Order (MO) No. 10, s. 2016, was designated as the lead agency in the implementation of EO No. 2, s. 2016, or the FOI and electronic FOI Programs;

WHEREAS, there has been a growing number of reports regarding vexatious requests and abuse in invoking rights under EO No. 2, s. 2016, or the FOI and electronic FOI Programs, which vexatious requests and abuse disenfranchise citizens with legitimate requests as well as add unnecessary burden to the affected government agencies' operations;

WHEREAS, the PCOO must ensure that the freedom of information is both an enforceable right for citizens with legitimate and reasonable requests, as well as a protected right free from vexatious requests and abuse;

WHEREAS, in order to address the foregoing concerns, the PCOO has deemed it necessary to promulgate guidelines therefor;

NOW, THEREFORE, in consideration of the foregoing, strict adherence to the following is hereby ordered:

Section 1. Coverage. These guidelines shall cover all agencies under the Executive Branch, 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 2. Vexatious FOI Request. A request is considered vexatious if it is frivolous, malicious, made in bad faith, intends to harass, vilify or embarrass, or if it poses an actual or imminent danger to the office, its officials or employees.

Section 3. Determination of a Vexatious Request. The concerned government agency shall consider all relevant circumstances in determining whether or not a request is vexatious. The following may be taken into consideration in evaluating requests:

- a) language of the request;
- b) burden on the concerned government agency;
- c) purpose, motive, or intention for making the request;
- d) value of the requested information; or
- e) history and context of the request.

Section 4. Presumptions. A Request is presumed to be vexatious if it involves:

- a) *Frequent or overlapping requests* – occurs when a requesting party submits a correspondence involving the same issue frequently, or submits the same request over a period of time before the office can have the opportunity to address the earlier request. However, there is no frequent or overlapping request when the information that was previously released has been updated or has already changed.

The government office shall not be required to act upon an unreasonable subsequent identical or substantially similar request

from the same requesting party whose request has already been previously granted or denied by the same government office¹;

- b) *Personal grudges* – occurs when the requesting party submits a correspondence on a particular government official or employee against whom he/she has some personal enmity; or the said request is made to express hatred to a particular official or employee;
- c) *Unfounded accusations* – occurs when the request makes completely unsubstantiated accusations against the public authority or specific employees;
- d) *Unreasonably complex request* – Complex information means requests involving more than one subject matter which can only be processed within thirty-five (35) working days or more. In requests for *complex information*, a valid reason/valid explanation should always be provided by the requesting party;
- e) *Reprocessed data* – means requests for information that will require the agency to *re-process* the data. Re-processed data means that the data was already proactively disclosed or the data was requested and was previously disclosed.

Premature requests or requests that are yet to be processed by the agency – means information which will soon be published, or the disclosure of which would be premature in relation to a planned announcement or publication; or

- f) All other requests that are meant to harass, embarrass or put into actual or imminent danger the life or property of the agency, its officials or employees.

Section 5. Effects. Government agencies are not precluded from seeking clarification from the requesting party/ies. In case of doubt as to the nature of the request, the concerned government agency may grant the requesting party the opportunity to clarify and/or modify the request; the government agency shall not immediately deny the same, but shall instead extend advice or assistance so that a valid request may be filed.

Despite clarification and extension of reasonable assistance to the requesting party the request still falls under Section 4, the proper authority may deny

¹ Section 11 of Executive Order (EO) No. 2, s. 2016

the request, clearly setting forth the ground/s for denial and the circumstance/s on which the denial is based.

Section 6. Appeal. Denial of request on the ground that the same is vexatious may be appealed in accordance with the appeals process provided under EO No. 02, S. 2016 and FOI Memorandum Circular No. 001, S. 2019.

Section 7. Separability Clause. If, for any reason, any part or provision of this Memorandum Circular is declared invalid or unconstitutional, any part or provision not affected thereby shall remain in full force and effect.

Section 8. Effectivity. This Memorandum Circular shall take effect immediately.


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_____ Manila, Philippines
