



Sangguniang Panlalawigan

BATAAN CAPITOL, BALANGA CITY



EXCERPT FROM THE MINUTES OF THE 109TH REGULAR SESSION
VIA ZOOM MEETING OF THE SANGGUNIANG PANLALAWIGAN OF BATAAN
HELD AT THE PROVINCE OF BATAAN ON NOVEMBER 22, 2021

PRESENT:

Hon. Ma. Cristina M. Garcia, Vice Governor and Presiding Officer

FIRST DISTRICT:

- Hon. Benjamin C. Serrano, Jr., Board Member
- Hon. Jomar L. Gaza J.D., Board Member
- Hon. Reynaldo T. Ibe, Jr., Board Member
- Hon. Godofredo B. Galicia, Jr., M.D., Board Member

SECOND DISTRICT:

- Hon. Maria Margarita R. Roque, Board Member
- Hon. Manuel N. Beltran, Board Member
- Hon. Edgardo P. Calimbas, Board Member
- Hon. Jose C. Villapando, Sr., Board Member
- Hon. Romano L. Del Rosario, Board Member
- Hon. Doroteo M. Austria, Board Member (FABC President)
- Hon. Noel Joseph L. Valdecañas, Board Member (PCL President)
- Hon. Precious D. Manuel, Board Member (SKF President)
- Hon. Rosita N. Sison, Board Member (IPM Representative)

ABSENT:

Hon. Maria Khristine G. Dela Fuente, Board Member

**PROVINCIAL ORDINANCE NO. 24
Series of 2021**

**AN ORDINANCE OPERATIONALIZING FREEDOM OF INFORMATION IN
THE PROVINCIAL GOVERNMENT OF BATAAN AND PROVIDING
GUIDELINES THEREFOR.**

**Authored by: Hon. Romano L. Del Rosario
Sponsored by: Hon. Edgardo P. Calimbas**

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

WHEREAS, Section 7, Article III of the 1987 Constitution guarantees the right of the people to information on matters of public concern;

WHEREAS, on 23 July 2016, President Rodrigo R. Duterte issued Executive Order No. 2 entitled "Operationalizing in the Executive Branch the People's Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor;"

ALBERT S. GARCIA
Provincial Governor

"EXCELLENT PUBLIC SERVICE TOWARDS A BETTER QUALITY OF LIFE FOR ALL"

SANGGUNIANG PANLALAWIGAN
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WHEREAS, the said Executive Order is limited in scope to government offices under the Executive Branch, and merely encourages local government units to observe and be guided accordingly;

WHEREAS, recognizing the importance of the people's right to government information, and guided by the President's Executive Order, the Provincial Government deems it necessary to improve the local mechanism for its offices where the people's right to information is respected and upheld, subject to exceptions provided by law and jurisprudence;

NOW THEREFORE, be it Ordained by the Sangguniang Panlalawigan that:

SECTION 1. Title. This ordinance shall be known as the "**Bataan FOI Ordinance of 2021.**"

SECTION 2. Declaration of Policy. The Province of Bataan recognizes and upholds public office as a public trust. As such, public officers and employees must at all times be accountable to the people. Through this Ordinance, the Province of Bataan adopts a policy of transparency, public disclosure, and open records, as part of an effort to take effective measures toward good governance, a higher level of public accountability, and the empowerment of Bataeños.

SECTION 3. Definition of Terms. For the purpose of this Ordinance, the following terms shall mean:

- (a) "**Government office**" refers to any office, department, agency, instrumentality, board, or any other public body with legal authority of the provincial government;
- (b) "**Information**" shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored data, any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of any government office under the Provincial Government of Bataan pursuant to law, ordinance, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office under the Provincial Government of Bataan;
- (c) "**Official record**" shall refer to information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty;
- (d) "**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 identify an individual;

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ALBERT S. GARCIA
Provincial Governor

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- (e) "**Public record**" shall include information required by laws, executive orders, rules, or regulations to be entered, kept and made publicly available by a government office.

SECTION 4. Coverage. This Ordinance shall cover all government offices under the Provincial Government of Bataan (PGB).

SECTION 5. Right to Access to Information.

- (1) Every person 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, in the custody of the PGB or any of its offices. This right shall include the right to publish or otherwise disseminate a public record or the information contained in a public record. The right to copy a public record shall include the right to take photographs, video or sound recordings, or to make physical copies through printing, photocopying, or other similar means;
- (2) No party requesting for information shall be required to provide any personal information, except as is reasonably needed to send either the information sought or a notice for the denial of the request, nor shall any person be required to make a personal appearance;
- (3) No party shall be asked to explain the reason for their request or interest in the subject matter of the request;
- (4) A government office shall not prevent the examination or copying of a public record by contracting with a non-governmental body to perform any of its duties or functions.

SECTION 6. Exceptions. The PGB may only deny a request or information such falls under any of the exceptions enshrined in the Constitution, existing law, or jurisprudence, or deemed confidential under one or more of the following categories:

- (1) Personal medical records, unless the release is necessary to protect the life and health of the subject of the information or another person, and the data subject is not legally or physically able to express his or her consent prior to the processing;
- (2) Personal information of students, including grades and disciplinary records but not including information on public scholarships and benefits that the student may have received from the provincial government;
- (3) Information falling under intellectual property rights and trade secrets pursuant to existing law;
- (4) Communications related to litigation during the pendency of legal proceedings, including communications falling under attorney-client privilege;

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- (5) Law enforcement records when the release would jeopardize an ongoing investigation or pose an imminent danger to an individual or public safety;
- (6) Security and emergency plans and procedures concerning public buildings, activities, and participants;
- (7) Identity and personal information of any person who furnishes information of violations of law;
- (8) Personal contact information not used for official business and home addresses;
- (9) Other information considered confidential pursuant to national law or jurisprudence.

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Provided, that the subject of such public records or information may waive their rights to confidentiality, and allow for the release of the same.

SECTION 7. Redactions from Public Records. When only a part or several parts of the requested public record falls under the confidentiality exceptions under the immediately preceding section, only those parts shall be withheld and the rest of the public record shall be released.

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SECTION 8. FOI Office. The Provincial Information Office (PIO) is designated to be the FOI Office tasked to oversee the implementation of this ordinance.

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SECTION 9. Deputy Information Officers. Each provincial government office shall designate a Deputy Information Officer who shall be responsible for coordinating with the Provincial Information Officer and shall be responsible for providing public records when their office is the custodian.

Provided, that Deputy Information Officers shall only approve or deny requests for information on the basis of the provisions of this Ordinance.

A Deputy Information Officer may also receive requests for information directly. In such a case where the requestor files a request directly with the Deputy Information Officer, said officer must notify the Provincial Information Officer within two (2) working days.

SECTION 10. Duties of the Information Officers. The Provincial Information Officer shall, with the assistance of the Provincial Information Office and the Deputy Information Officers, perform the following duties:

- 1. Prepare a People's Right to Information pursuant to Section 16 of this Ordinance;
- 2. Provide assistance to all provincial government officers and employees in matters of public access to information and the processes as required by this Ordinance and other applicable laws, ordinances, executive orders, memoranda, and rules and regulations;

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Provincial Governor

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3. Provide assistance to requestors of information, as needed;
4. Receive requests for information and conduct an initial evaluation of the same;
5. Refer requests for information to the appropriate Deputy Information Officer;
6. Record all incoming requests and actions taken by the PGB through an Information Request Log;
7. Maintain public email address by which requests for information may be sent;
8. Designate a temporary Provincial Information Officer, in case of official leave.

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SECTION 11. Information Disclosure Platform. The PGB shall, as soon as practicable, establish an online platform wherein any person can request for information through a website. The use of such platform shall be free of charge. The platform shall provide for a mechanism for anonymous requests.

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SECTION 12. 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 in the inventory of FOI exceptions.

The determination of the applicability of any of the exceptions to the request shall be the responsibility of the Deputy Information Officers, which is in custody or control of the information, public record or official record, or the responsible provincial or field officer duly designated by him in writing.

In making such determination, the Deputy Information Officer 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 13. 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, pursuant to the Data Privacy Act of 2012 (Republic Act No. 10173), as follows:

- (a) Each government office 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 ordinance or existing law, rules or regulations;
- (b) Each government office must protect personal information in its custody or control by making reasonable security arrangements against leaks or premature disclosure of personal information, which unduly exposes the individual, whose personal information is requested, to vilification, harassment or any other wrongful acts; and

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Provincial Governor

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- (c) Any employee, official or director of a government office 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 ordinance or pursuant to existing laws, rules or regulation.

SECTION 14. 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, including through personal delivery, postal mail, or electronically with the Provincial Information Office (PIO), or the government office concerned. The request may state the name and contact information of the requesting party and reasonably describe the information requested, and how the same may be sent to the requestor;
- (b) The Deputy Information Officer shall provide reasonable assistance, free of charge, 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 or if filed electronically, acknowledged by the Provincial Information Officer or the concerned government officer, indicating the date and time of receipt and the name, rank, title and position of the Deputy Information Officer 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 Provincial Information Officer or the concerned government officer 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;
- (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 Provincial Information Officer or the concerned government officer 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 15. Presumption of Freedom of Information. All official records, public records, and information shall be presumed open and accessible to the public, unless they are deemed confidential pursuant to Section 6 of this ordinance. Any ambiguity in this Ordinance shall be resolved in the favor of freedom of information and transparency in governance.

ALBERT S. GARCIA
Provincial Governor

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Section 16. People's Right to Information Manual. The Provincial Information Officer shall, with guidance and assistance of the Provincial Information Office, Provincial Legal Officer and Deputy Information Officers, prepare a People's Right to Information Manual (Manual) for the PGB within sixty (60) calendar days from the date of effectivity of this Ordinance. The manual shall be readily available to the public at no charge and shall be published on the official website of the provincial government. The said manual shall contain the following:

- (a) The name, location, and contact information of Provincial Information Officer and all the Deputy Information Officers;
- (b) The procedure for the filing and processing of the request;
- (c) The standard forms for the submission of requests;
- (d) The process for the disposition of requests;
- (e) The remedies and procedure for the administrative appeal of any denial;
- (f) Applicable fees;
- (g) Inventory of exception as provided for in Section 6;
- (h) List of administrative and disciplinary sanctions provided for provincial officials in violation of this Ordinance; and
- (h) A complete copy of the text of this Ordinance.

SECTION 17. Fees.

- (a) Government offices shall not charge any fee for accepting requests for accepting requests for access to information. Likewise, there shall be no charge for obtaining information in digital format (i.e. PDF, JPEG, etc.). However, the following schedule of fees is imposed for printing, photocopying, and certification services rendered by a government office:

Certification of Official Records	₱50.00/page for the 1 st copy ₱5.00/page for succeeding copies;
Printing (colored ink)	₱5.00/page;
Printing (black ink)	₱2.00/page;
Photocopying	₱1.00/page;
Mail	Actual postage rates.

- (b) The fee shall be paid to the Provincial Treasurer. The Official Receipt number, the amount of the total fees, and the date of payment shall be indicated at the bottom of the certificate;

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Provincial Governor

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- (c) The PIO or the concerned government office may exempt any requesting party from payment of fees, upon request stating the valid reason why such party should not pay the fee.

SECTION 18. Notice of Denial. If the Provincial Information Officer or the concerned government officer 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, or within twenty (20) working days in case of extension, whichever is applicable, 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 approval of the request for access to information.

SECTION 19. 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 Governor.

- (a) A written appeal must be filed by the same person making the request within thirty (30) calendar days from the receipt of notice of denial;
- (b) The appeal shall be decided by the Governor within fifteen (15) working days from the filing of said written appeal. Failure of the Governor to decide within the afore-stated period shall be deemed approval of the appeal;
- (c) Upon exhaustion of administrative appeal remedies, the requesting party may file the appropriate case in the proper courts in accordance with the Rules of Court.

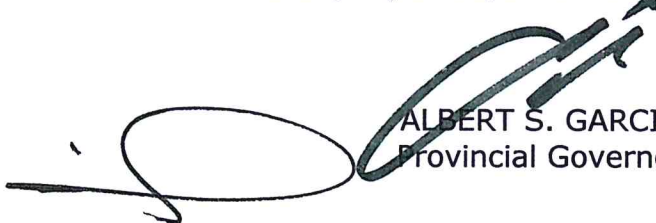
SECTION 20. Keeping of Records. Subject to existing laws, rules, and regulations, government offices shall create and/or maintain accurate and reasonably complete records of important information in appropriate formats, and implement a records management system that facilitates easy identification, retrieval and communication of information to the public.

SECTION 21. Penalties. Failure of any government officer to comply with the provisions of this ordinance shall be a ground for the following penalties:

- 1st Offense - Reprimand;
- 2nd Offense - Suspension of one (1) to thirty (30) days; and
- 3rd Offense - Dismissal from the service.

SECTION 22. Separability Clause. If any section or part of this ordinance is held unconstitutional or invalid, the other sections or provisions not otherwise affected shall remain in full force or effect.

SECTION 23. Repealing Clause. All other ordinances, orders, issuances, rules and regulations, which are inconsistent with the provisions of this ordinance are hereby repealed, amended or modified accordingly.


ALBERT S. GARCIA
Provincial Governor

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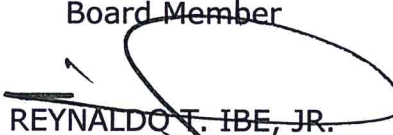
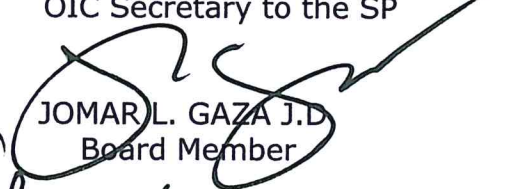


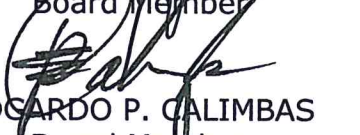





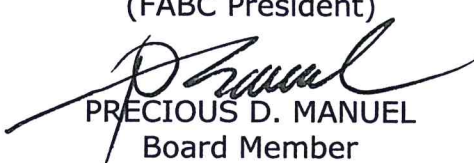

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SECTION 24. Effectivity. This ordinance shall take effect fifteen (15) days after publication.

ENACTED: November 22, 2021, in the Province of Bataan.


APPROVED UNANIMOUSLY.

 BENJAMIN C. SERRANO, JR. Board Member	 MARY ANN R. DE JESUS, MPA OIC Secretary to the SP
 REYNALDO T. IBE, JR. Board Member	 JOMAR L. GAZA J.D. Board Member
 MARIA MARGARITA R. ROQUE Board Member	 GODOFREDO B. GALICIA, JR., M.D. Board Member
 EDCARDO P. CALIMBAS Board Member	 MANUEL N. BELTRAN Board Member
 ROMANO L. DEL ROSARIO Board Member	 JOSE C. VILLAPANDO, SR. Board Member
 NOEL JOSEPH L. VALDECAÑAS Board Member (PCL President)	 DOROTEO M. AUSTRIA Board Member (FABC President)
	 PRECIOUS D. MANUEL Board Member (SKF President)
	 ROSITA N. SISON Board Member (IPM Representative)

ATTESTED:


MA. CRISTINA M. GARCIA
Vice Governor
(Presiding Officer)

APPROVED:


ALBERT S. GARCIA
Provincial Governor
Date: 12-07-2021