

**DSWD OPINION NO. 98 S. 2024**

DRN: LS-L-10-24-05-81860-C

**MEMORANDUM**

**FOR : MR. WILLIAM B. GARCIA, JR.**  
FOI Receiving Officer

**FROM : THE ASSISTANT SECRETARY FOR GASSG AND**  
**CONCURRENT OFFICER-IN-CHARGE OF THE LEGAL**  
**SERVICE**

**SUBJECT : REQUEST OF A COPY OF STATEMENT OF ASSETS,**  
**LIABILITIES AND NET WORTH (SALN) OF SECRETARY REX**  
**GATCHALIAN**

**DATE : 13 MAY 2024**

This is in reference to your request sent via email to the Legal Service seeking our legal opinion pertaining to the request of Ms. Micah Rachel Eugenio, Ms. Mary Grace Cortez, and Mr. Dave Carlos Jacinto from the Polytechnic University of the Philippines (PUP) for a copy of the Statement of Assets, Liabilities, and Net Worth (SALN) of Secretary Rex Gatchalian from 2006-2023.

As stated in the request, the purpose of requesting a copy of the SALN of Secretary Rex Gatchalian is to create an article about the SALN of a public employee or official as part of their mid-term and final requirements in Media Laws.

***Duty of Public Officials;***  
***Public's right to be informed;***

Executive Order No. 2, series of 2016 (EO 2, s. 2016)<sup>1</sup> recognizes the Constitutional right of the people to information on matters of public concern, and reminds the public officials to file and make available for scrutiny their SALN, to wit:

**"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.

xxx

**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." (Emphasis Supplied)

<sup>1</sup> 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

One of the existing laws relative to the abovementioned provisions is Section 8 of Republic Act No. 6713 (RA 6713), otherwise known as the "*Code of Conduct and Ethical Standards for Public Officials and Employees*", wherein it provides that public officials and employees have the obligation to accomplish and submit their respective SALNs under oath, and that the public has the right to know their assets, liabilities, net worth and financial and business interests, including those of their spouses, and of their unmarried children under eighteen (18) years of age living in their households.

Assuming arguendo that the Department may disclose the requested information, it is a pre-requisite that the identity of the requester is established. It may be done through submission of their current and updated identification cards issued by the institution to assess that they are indeed active students of the institution.

Section 9 of Executive Order (E.O) No. 02 series of 2016 provides the procedure on the filing and processing of request for access to information.

"Section 9. Procedure. The following shall govern the filing and processing of request for access of 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 described the information requested, and the reason for, or purpose of, the request for information.**" (Emphasis Supplied)

In this case, there was no valid proof of identification to verify the identities of these students as well as the school's authority pertaining to the request and the letter may not be considered as genuine as it did not contain the signature of the students but only the electronic signature of Ms. Lian Buan, a part time lecturer in the institution.

Further, upon verification of the identities of the requester, we coordinated with the College of Communication of the Polytechnic University of the Philippines, this level was informed that any written request from their student must be signed and duly approved by their professor as well as the Dean of the College. The request must be officially endorsed by the college through the dean and the adviser professor, on the contrary, the letter endorsed to this level did not course through the proper university procedure.

***Request for a copy of SALN;  
Official Repository of the SALN;***

While the right of access and information to a public official's SALN is provided under the Constitution and RA 6713, the same is not an absolute vested right. The power to regulate the access by the public to these documents stems from the inherent power of the custodian to control its very office to the end that damage to, or loss of, the records may be avoided; that undue interference with the duties of

the custodian of the books and documents and other employees may be prevented and that the right of other persons entitled to make inspection may be insured.<sup>2</sup>

In this case, the Civil Service Commission (CSC) promulgated CSC Resolution No. 1500088 clarifying the proper agencies where particular officers and employees should file their SALNs, to wit:

*"2. Section 5 of CSC Resolution No. 060231 dated February 1, 2006 in relation to paragraph B(7) – Review and Compliance Committee of the Guidelines is hereby amended to read as follows:*

*Section 5. Transmittal of all submitted SALNs to the concerned agencies on or before June 30.*

*The Chief/Head of the Personnel/Administrative Division or Unit/Human Resource Management Office (HRMO) shall transmit all original copies of the SALNs received, on or before June 30 of every year, to the concerned offices, as specified below:*

<b>REPOSITORY AGENCY</b>	<b>OFFICERS AND EMPLOYEES</b>
xxx <i>Secretary of the House of Representatives</i>	xxx <i>Representatives (Congressmen/Congresswomen)</i>
xxx <i>Office of the President</i>	xxx <i>National executive officials, including, but not limited to the following: -Members of the Cabinet -Undersecretaries - xxx</i>
<i>Deputy Ombudsman in their respective region (Luzon, Visayas or Mindanao)</i>	xxx <i>City and municipal elective officials and employees including Mayors, Vice-Mayors, Sangguniang Bayan/Panlungsod Members and Barangay Officials;</i>  xxx

Section 8 (C)(2) of RA 6713 also provides for the availability of SALNs for copying or reproduction, to wit:

*"(C) Accessibility of documents. - xxx*

<sup>2</sup> *Biraogo vs Martires (GR No. 254516, 02 February 2021)*

(2) Such statements shall be made available for copying or reproduction after ten (10) working days from the time they are filed as required by law.” (emphasis supplied)

It is clear from the aforecited provisions that the repository agency or custodian of SALNs corresponds to the position of the concerned officer/employee. Therefore, the public can request a copy of the SALN filed by the Secretary to the Office of the President, which is the repository agency designated to provide copies to the requesting parties, after ten (10) working days from the time they are filed.

In addition, since the Secretary was appointed only on 31 January 2023, the public can request a copy of the SALNs filed with the Office of the Deputy Ombudsman for Luzon from the time he was elected as the Mayor of Valenzuela in 2013-2022 and to the Secretary of the House of Representatives from the time he was elected as a District Representative from years 2007-2013 and 2022-2023.

***Requested information not in the possession of the Department;  
Referral to the appropriate government agency***

According to DSWD Memorandum Circular No. 01, series of 2023 (DSWD MC No. 1, s. 2023)<sup>3</sup>, requested information not in the possession of the Department shall be referred to the concerned government agency, to wit:

“2.3 Initial Evaluation. Upon receipt of an FOI Request, the FRO shall evaluate the request.

Xxx

**2.3.3. Requested information is not in the possession of the Department. If the requested information is not in the possession of the Department (government agency 1 or GA1), but is available in another government agency (government agency 2 or GA2) under Executive Branch, the request shall be immediately referred by FRO to GA2 through the most expeditious manner but not exceeding three (3) working days from the receipt of the request. [FOI-MC No. 21-05 attached as ANNEX E]” (emphasis supplied)**

Referral to the appropriate government agency shall mean that another government office is the proper repository or custodian of the requested information or records, or have control over the said information or records.<sup>4</sup>

Thus, the FOI Receiving Officer (FRO) may refer the request to the Office of the President (OP)-Proper since the latter is the proper repository or custodian of the requested copy of the 2023 SALN under the Executive Branch. However, you may

<sup>3</sup> Amended Freedom of Information (FOI) Agency Manual

<sup>4</sup> FOI-MC No. 21-05, “Guidelines on the Referral of Requested Information, Official Record/s and Public Record/s to the Appropriate Government Agency Otherwise Known as the “No Wrong Door Policy for FOI”

verify with the Human Resources Management and Development Service if the 2023 SALN of the Secretary was already filed with the OP-Proper.

As to the previous SALNs of the Secretary, please be guided by the different repositories under Section 5 of CSC Resolution No. 060231 dated February 1, 2006.

We hope that we have sufficiently addressed the clarification sought for.

For your consideration.

Thank you.

Lastly, kindly fill-out the attached Customer Feedback Form and return to the Legal Service.



**ATTY. GINA V. WENCESLAO**

MCMUG/MMBP/DKB/LCA/10065