



A Bill to Require State Agencies to Publish Federal Guidance Online

Be it enacted by the [General Assembly]:

Section 1. Title This Act shall be known and cited as the "Guidance Out of Darkness Act" or "GOOD Act."

Section 2. Findings and Purpose (a) The [General Assembly] finds that:

1. Transparency in government is essential to ensuring accountability and maintaining public trust.
2. Federal guidance, despite lacking force of law, nevertheless often influences state agency decision-making and regulatory enforcement, while simultaneously providing insight into federal agencies' interpretation of the law.
3. The public has a right to know what federal guidance documents are received by state agencies, and how those documents might impact state policies and procedures.

(b) The purpose of this Act is to require state agencies to proactively publish all federal guidance documents received from the federal government, and to organize such guidance in an online format to promote transparency and accountability.

Section 3. Definitions For the purposes of this Act:

(a) "State agency" means any agency, authority, board, bureau, commission, council, department, officer of the state, or other governmental entity receiving an appropriation by the General Assembly, including without limitation any state-supported institution of higher education.

(b) "Federal agency" has the meaning given to the term "agency" in section 551(1) of title 5, United States Code.

(c) "Federal guidance" means any statement of general applicability, other than a rule promulgated pursuant to notice and comment under section 553 of title 5, United States Code, issued by a federal agency and that either (1) sets forth a policy on any statutory, regulatory, or technical issue, or (2) provides an interpretation of a federal statute or regulation. Guidance may include, but is not limited to, written or electronic

communications such as directives, memoranda, notices, bulletins, letters, and policy statements.

(d) "Publicly accessible website" means a website maintained by a state agency that is freely available to the public without requiring a login, subscription, or payment.

Section 4. Publication of Federal Guidance (a) Each state agency shall create a dedicated page on its publicly accessible website on which it shall publish all federal guidance that it receives, insofar as such federal guidance:

- (1) Seeks to influence the state agency's interpretation, enforcement, or implementation of state laws, rules, or policies, or its administration of federal funds; or
- (2) Provides recommendations or instructions to the agency on compliance with federal laws or regulations.

(b) Any webpage publishing federal guidance, as required under subsection (a), shall provide the following:

- (1) The full text or an electronic copy of the federal guidance;
- (2) The date the federal guidance was received by the state agency;
- (3) A brief summary of the content of the federal guidance and its potential impact on the state agency's operations or policies.

Section 5. Timeliness of Publication (a) State agencies shall publish federal guidance documents within 30 days of receipt. (b) If federal guidance is marked as confidential or restricted by the issuing federal agency, the state agency shall:

- (1) Publish a notice on its website indicating the existence of the federal guidance and the reason for its non-disclosure; and
- (2) Seek clarification from the federal agency as to whether any portion of the document may be disclosed.

Section 6. Exemptions (a) Notwithstanding section 5, this Act does not require the publication of: (1) Federal guidance that has been properly classified under a presidential Executive Order, or that has been specifically exempted from public disclosure by a federal statute; (2) Personally identifiable information or sensitive security information; or (3) Internal state agency communications pertaining to federal guidance.

(b) Reasonably segregable portions of federal guidance that do not contain exempt information, as provided by subsection (a), shall be published in accordance with section 4.

Section 7. Enforcement and Compliance (a) The head of each state agency shall be responsible for ensuring compliance with the provisions of this Act. (b) The [Legislative Auditor] shall conduct an annual review of state agency compliance with this Act and report its findings to the Legislature.

Section 8. Severability If any provision of this Act or its application to any person or circumstance is held invalid, the remainder of the Act or the application of the provision to other persons or circumstances shall not be affected.

Section 9. Effective Date This Act shall take effect 90 days after enactment.