



A Bill to Require State Agencies to Publish Federal and State 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. This principle holds true at both the federal and state levels.
2. Guidance, despite lacking force of law, often informs state agency decision-making and regulatory enforcement. Federal guidance, moreover, can provide insight into federal agencies' interpretation of the law, as well as federal attempts to influence matters properly left to state and local authorities.
3. The public has a right to inspect guidance created by state agencies, to know what kinds of federal guidance are received by state agencies, and to understand how guidance impacts state policies and procedures.

(b) The purpose of this Act is to require state agencies to proactively publish their own guidance documents, as well as any guidance 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) "Guidance" means any statement of general applicability developed by a federal or state agency that either (1) sets forth a policy on any statutory, regulatory, or technical issue, or (2) provides an interpretation of, or otherwise implements, a federal or state statute, regulation, or executive order. Guidance includes, but is not limited to, written or

electronic communications such as directives, memoranda, notices, bulletins, letters, and policy statements, except that it shall not include a federal rule promulgated pursuant to notice and comment under section 553 of title 5, United States Code.

(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 Guidance (a) Each state agency shall create a dedicated page on its publicly accessible website on which it shall publish all guidance that it creates, develops, or otherwise adopts.

(b) Each state agency shall publish on its publicly accessible website all guidance that it receives from a federal agency, 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.

(c) Any webpage publishing guidance, as required under subsections (a) and (b), shall provide the following:

(1) The full text or an electronic copy of the guidance;

(2) The date the guidance was created or received by the state agency;

(3) A brief summary of the content of the guidance and its potential impact on the state agency's operations or policies.

Section 5. Timeliness of Publication (a) State agencies shall publish all guidance within 30 days of either creation, adoption, or receipt. (b) If guidance originating with a federal agency is marked by the federal agency as confidential or restricted from public dissemination, 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) Guidance from a federal agency 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 guidance issued by a federal agency.

(b) Reasonably segregable portions of 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.