

Who has the right to appeal

This article is the case of a state agency under the Official Information Act, B.E. 2540 (1997), requesting a person's personal information from another state agency for an inspection. However, the state agency that possesses the information refused the request. Let's see whether the state agency that requests such information could appeal it.

Agency A filed a document to Agency B requesting information regarding Mr. Tongta's criminal record for a complaint investigation. Agency B rejected the request since such information is considered personal under the Personal Data Protection Act B.E. 2562 (2019). The requested information is also regarded as official information under Section 15 (6), which shall not be disclosed unless the data subject has given consent following Section 24 of the Official Information Act B.E. 2540 (1997). Agency A, therefore, filed an appeal letter against Agency B's order prohibiting the disclosure of information to the Information Disclosure Commissioner.

The Information Disclosure Commissioner relating to society, public administration and law enforcement concluded that following Section 4 of the Official Information Act, B.E. 2540 (1997), "state agency" means a central administrations, provincial administrations, local administrations, state enterprises, government agencies attached to the National Assembly, courts only in respect of the affairs unassociated with the trial and adjudication of cases, professional supervisory organizations, independent agencies of the state and other agencies as prescribed in the Ministerial Regulation. Agency A is a professional supervisory organization; therefore, it is considered a state agency according to Section 4. The purpose of enacting the Official Information Act, B.E. 2540 (1997) is to ensure the public's right to access official information, enable citizens to express their opinions and exercise political rights accurately. Consequently, it will create the stability of democracy, fully increase people's awareness of rights and duties, and help protect individuals' interests. Thus, the Official Information Act, B.E. 2540 (1997) is intended to provide rights to people to access official information in the possession of the state agency. The Act does not give rights to any state agency to request information in the possession of another state agency. Since Agency A is a professional supervisory organization according to the Official Information Act, B.E. 2540 (1997), it does not have the right to appeal the order prohibiting information disclosure following Section 35 of the same Act. For this reason, the Commissioner could not accept the appeal for consideration and eventually agreed to dismiss the appeal.

Should there be any inquiries on practices regarding the Official Information Act, B.E. 2540 (1997), please contact the Office of the Official Information Commission, the Office of Permanent Secretary, the Prime Minister's Office via telephone at 0 2283 4678-79.

"To disclose is the key, to conceal is the exemption"