

Freedom of information act by essay examples

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The Freedom of Information Act maintains nine particular exemptions towards the general presumption of a mandatory disclosure. From the begin, the exemptions as intended by the Congress were to guard against disclosing information that would significantly injure the sectors of national defence, foreign policy, efficient operations of the functions of the government, the propriety of business interests and also various individual interests. An agency possesses the power of construing the exemptions for purposes of discretionary and not as a mandatory rule when no harm would be accrued from the disclosure of the intended information. When a document contains required information, the FOIS advocates for the release of the non-exempted portions. The following article will, therefore, analyse the fourth exemption and explain the significance of its availability.

The fourth exemption concerns the documents that reveal trade secrets, commercial and financial information that have been confidentially obtained from an individual within a state. This disclosure gives protection to two different kinds of information from the public. The first is the trade secrets. The second is the financial and/ or commercial information that have been got from a person, privileged and also confidential. The intention of the Congress in coming up with this exemption was to protect both the interests of its submitters and the government. The existence of the exemption encourages the voluntary submission of both the commercial, as well as, financial information to the state. An assurance of reliability is also furnished to the government.

Henry (2003) states that a trade secret can be said to be a valuable commercial plan, process or formula. Notably, it is a narrow, as well as, a

simple, recognisable type of information. The secret is used for the making, preparation, compounding or even the processing of various trade commodities. It can also be viewed as being the final product of innovation and a substantial effort. The additive formula used in gasoline is a good example of a trade secret. Courts also have, on the other hand, held that the commercially and financially protected information qualifies for their protection if the government's disclosure would cause a significant harm to the individual who submitted the information. An accurate information concerning the marketing plans of an enterprise, its profits and costs can all be regarded as confidential information of the business. Also, the exemption states that the information may be withheld if their release would impair the government's acquisition of a related information in the future. (Singleton, 2008, P. 32)

The protection of trade secrets has been recognised for the manufacture of various products and the application of the design information of the products. It has, however, been denied for the general information regarding the characteristics of the physical and the performance of a particular product. The denial has also been extended to the formula of the product when the release of the information concerning it would not bring to light the formula itself. Also, the courts have over time ruled that where the submitter or the perceived owner of the information held by the government agency grants the state the authority to release the information to the general public, the documents will no longer be guarded under the fourth exemption. It is for the reason that what had constituted the vital information has already been known far and beyond.

In conclusion, Gold (2012) mentions that the practical effect of the act of trade secrets is to limit the ability of an agency to release an exempted material discretionarily. Doing so would constitute the violation of an act of the trade secrets. It will thus be considered as a serious criminal offence and an abuse of the discretion of the agency. Such would only be redressable through the application of the FOIA suit. Therefore, in the absence of a proper regulation or statute that gives an agency the authority to release information, a tantamount determination by the agency that the information intended to be released falls under the fourth exemption is vital. The above article has thus conclusively tackled the importance of the fourth exemption as prescribed by Freedom of Information Act.

References

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