

**ACCESS TO INFORMATION POLICY**

**2023**

**DRAFT COPY**

**Biosafety Appeals Board**

**Vision Statement**

A dynamic expeditious Biosafety dispute resolving Board in the world.

**Mission Statement**

To provide an efficient & effective process for realization of fair Biosafety dispute

**Core Values**

Integrity

Excellence

Fairness

Timeliness

Transparency

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# ABBREVIATIONS

**AIP** - Access to Information Policy

**ATI** - Access to Information Act

**BETA** – Bottom-Up Economic Transformation Agenda

**BSAB-** Biosafety Appeals board

**CAJ -** Commission on Administrative Justice

**IAO –** Information Access Officer

**NBA** - National Biosafety Authority

# DEFINITION OF TERMS

**Board-** Biosafety Appeals Board

**Chairperson –** Chairperson to the BSAB Board

**Quasi-judicial body** –Tribunal

**Citizen -** means any individual who has Kenyan citizenship, and any private

entity that is controlled by one or more Kenyan citizens.

**information access officer** - means any officer of a public entity or private

body designated under section 7 of ATI Act**.**

# FOREWORD

On behalf of the Biosafety Appeals Board, it is my distinct pleasure to introduce this Access to Information Policy, as our commitment to transparency, accountability, and the fundamental principles that underpin the right of every individual to access information.

In the realm of biosafety, where decisions profoundly impact the delicate balance between scientific advancements and environmental considerations, ensuring public access to information is of paramount importance. This policy not only signifies our dedication to openness but also serves as a guide for fostering an informed and engaged community.

The Biosafety Appeals Board is steadfast in its mission to provide a fair and accessible platform for addressing appeals related to biosafety decisions, and this policy is a vital step in fortifying that commitment.

This document outlines the procedures and principles that will govern the access to information process within our organization. It emphasizes our belief that an informed public is an empowered one, capable of contributing meaningfully to the discourse surrounding biosafety and adaptation of biotechnological advancements.

I extend my sincere appreciation to the committee that has contributed to the development of this policy. May it serve as a cornerstone for fostering a culture of openness and collaboration within the Biosafety Appeals Board and resonate with our stakeholders as a testament to our unwavering dedication to transparency and accountability.

Judy Wamae

Ag. Chief Executive Officer

Biosafety Appeals Board

# ACKNOWLEDGEMENT

Following the enactment of the Access to Information Act of 2016, as provided under Article 35 of the Constitution, every Kenyan citizen has the right to access information held by the State, public, private entities, or another person. The right to access information extends to situations where the information is required to exercise or protect a human right or fundamental freedom.

Every citizen's right to access information is unaffected by any reason the person gives for seeking access or the public entity's belief about those reasons. Access to information held by a public entity or a private body shall be made available as soon as possible and at a reasonable cost.

The Biosafety Appeals Board Access to Information Policy for 2023 has been prepared through a participatory process involving the Board's staff and representatives from the Ministry of Education, State Department for Higher Education and Research, and the Commission on Administrative Justice.

It is my belief that, based on this policy, the BSAB will be able to serve citizens in a transparent and accountable way, earning public trust for effective and efficient service delivery.

…………………………………..

Chairperson

Biosafety Appeals Board

# INTRODUCTION

The Constitution of Kenya, 2010 explicitly guarantees access to information for citizens under Article 35. Subsequently, a comprehensive Access to Information law was enacted in 2016 (the Access to Information Act, 2016) which operationalized the right of access to information in Kenya.

In addition to the Constitutional guarantee and the enactment of the ATI Act 2016, there are other laws which enhance the realization of access to information in different contexts. The Public Service (Values and Principles) Act provides for transparency and the provision of timely and accurate information stating that a public officer shall not give inaccurate information and not to unduly delay the provision of information where required.

The Act of Parliament conferred the Commission on Administrative Justice (CAJ) with the oversight and enforcement functions and powers and for connected purposes.

**1.1 Institutional Background**

The Biosafety Appeals Board is established by section 35 of the Biosafety Act 2009. The Board is a quasi-judicial body mandated to adjudicate appeals emanating from the decisions made by the National Biosafety Authority (NBA). The Board in its full execution of the Kenyan constitution 2010, has developed the Draft Rules and Regulations which will guide them on how the appeals will be filed and managed.

BSAB is aware that Kenyan citizens have right to access information and therefore recognizes that any information held by it, as an agent of the government, should be made available subject to the provisions of the Biosafety Act. It’s on this basis that this Access to Information Policy has been developed. BSAB through the Bottom-up Economic Transformation Agenda (BETA) has outlined broad policy strategies addressing: agricultural productivity, Healthcare, and Micro, Small and Medium Enterprises to enhance public service delivery and access to information.

 **1.2 Legal framework grounding the policy**

In formulation of this policy, the following legislation have been relied upon:

1. Constitution of Kenya, 2010
2. Access to Information Act No.31 of 2016
3. Data Protection Act No. 24 of 2019
4. Public Archives and Documentation Service Act Cap 19
5. Public Officer Ethics Act No. 4 of 2003
6. Whistleblower Act 2010 and
7. The Biosafety Act. 2009 section 34.

**1.3 Guiding principles**

The policy is premised on the national values and principles as provided for in the Constitution of Kenya which include but are not limited to human dignity, equity, social justice, inclusiveness, equality, human rights, protection of the marginalized, good governance, integrity, non-discrimination, transparency, and accountability.

# POLICY OBJECTIVES

The overall objective of the Biosafety Appeals Board Access to Information Policy is to promote the sharing of information to the public in a transparent and accountable manner. The specific objectives of the policy are to:

1. To ensure compliance with the Access to information Act, 2016.
2. To provide a framework for information access from BSAB to the public and Vice Versa;
3. To enhance the capacity of the Board on information access.
4. To simplify the procedures to access information for efficiency and effectiveness in service delivery.

# SCOPE

This policy covers records managed and held by BSAB which are of accurate, authentic and useable manner.

# APPLICATION

This policy shall apply to BSAB Staff, relevant stakeholders, and all citizens seeking to access information.

# PROACTIVE DISCLOSURE

BSAB will Subject to section 6, of Access to information 2016 proactively disclose information and update that information yearly. This is information will include but not limited to:

1. Information about the organization’s location, contacts, management structures, functions and duties of the organization, powers and duties of the officers and employees.
2. Decision making procedures including channels of supervision and accountability.
3. Salaries of officers by grade recurrent and development budget.
4. Operational documents on dealing with the public and corporate bodies.
5. Information held by public entity, subject to which the information relates, location of indexes for inspection.
6. Public works commissioned, goods acquired or rented, services contracted, scope of service and references contract sum, name of service provider/contractor and time period of contract.

# LIMITATION ON ACCESS TO INFORMATION

BSAB shall not provide access to information which:

1. Undermine Kenya’s national security
2. Impede the due process of law
3. Endanger the safety, health or life of an individual
4. Deprive one’s right to privacy
5. Substantially prejudice an institution’s commercial interests
6. Substantially harm the government’s ability to manage the economy
7. Undermine an entity’s ability to give adequate and judicious consideration over a matter concerning which no final decision has been taken and which remains the subject of active consideration
8. Damage an entity’s position in any actual or contemplated legal proceedings
9. Infringe professional confidentiality as recognized in law or by rules of a registered association of a profession.

# REACTIVE DISCLOSURE

**7.1 Submission of an application**

Access to information application at BSAB shall be made in writing either in English or Kiswahili through a prescribed form.

Where an applicant is unable to make a written request due to illiteracy and or disability, a BSAB officer shall assist the applicant in a manner that meets their needs.

**7.2 Receipt and acknowledgement**

Upon receipt of an application, a designated BSAB officer shall acknowledge receipt of the application immediately and assign it a reference number which shall be made known to the applicant for tracking purposes.

**7.3 Documentation**

All applications made shall be recorded in the access to information register.

The register shall contain among other things; the particulars of the applicant, a summary of information needed, and the action taken by BSAB.

**7.4 Fees**

BSAB shall not charge a fee for the provision of information requested by an applicant. However, fees shall only be charged as per the ATI regulations prescribing fees payable for expenses incurred in providing information to an applicant.

**7.5 Processing of an Application**

BSAB shall process an application within twenty-one days (21) upon receipt of the application and ultimately decide on whether to grant or reject the same.

If the request concerns the life or liberty of a person, then BSAB shall provide the information subject to Section 6 ATI Act 2016 within forty-eight hours (48) upon receipt of the application.

BSAB may extend the period for processing and decision making on a single occasion by fourteen days (14) subject to the nature and quantity of information needed by the applicant.

**7.6 Appeal mechanism**

An appeal can be launched in the event the applicant is dissatisfied with a decision made by BSAB. The applicant can escalate the matter to the CAJ.

**7.8 Correction of Information.**

This relates to errors that may be identified in records held by BSAB where upon a written request by an applicant, public entity or private body BSAB shall within a reasonable time update or correct any personal information held by it that may be out of date, inaccurate or incomplete relating to the applicant, public entity or private body at its own cost.

**7.9 Protection of persons making disclosure**

BSAB shall protect persons making disclosure of information of public interest in good faith in accordance with the Whistleblowing policy.

**7.10 Transfer of application.**

In cases where an application received relates to information held by another public institution, BSAB shall upon identifying the specific institution transfer the application to it within five days. Upon the transfer, BSAB shall notify the concerned applicant on the same within seven days.

**7.11 Reporting**

On or before 30th day of June of each year, BSAB shall submit to CAJ a report covering the preceding year which shall include:

1. Number of requests of information received and number of information processed.
2. Number of determinations rejected by BSAB and the reasons for such determinations.
3. The average number of days taken by BSAB to process different requests.
4. The number of full-time staff devoted to process requests.

# ENFORCEMENT

**8.1 BSAB Board**

The Board shall approve and oversee the implementation of this Policy.

**8.2 Chief Executive officer**

The CEO has the responsibility of guiding and giving the requisite support for the implementation of the Access to Information policy. The CEO shall be the Information Access Officer (IAO) for purposes of this Act, but may delegate the performance of his or her duties to an information access officer to any BSAB officer.

**8.3 Heads of Directorates**

The Heads of Departments shall be responsible for implementation of this policy in their respective departments.

 **8.4 BSAB Staff**

Members of staff shall comply with the provisions of the ATI Act of 2016 in adherence to this policy.

# AWARENESS CREATION AND TRAINING

BSAB will take necessary measures to create awareness and inform the public on the right of access to information and to train its staff to enable them assist citizens in exercising their rights under this policy as well as its mandate to the public

# MONITORING AND EVALUATION

BSAB shall continuously monitor compliance and periodically evaluate performance of the Access and Information Policy. The Board will assess the effectiveness of the, learning lessons from its successes and shortcomings, and staying abreast of new technologies and practices.

# REVIEW OF POLICY

This policy will be reviewed every three years with effect from the date of approval or as need arises.

|  |  |
| --- | --- |
| **Approval and Review** | **Details** |
| **Approval Authority** |  |
| **Effective Date of the Policy** |  |
| **Review Date** |  |

REF NO: **.…………………**

DATE**…………………………**

# APPENDIX 1: APPLICATION FORM ACCESS TO INFORMATION

**A. PARTICULARS OF THE APPLICANT/REQUESTER**

1. Full Names………………………………………………………………………………………

2. ID/Passport No…………………………… Nationality………….…………………………….

4. Tel/Mobile No………………………..……… Email …………………………………………..

5. Address………………..…….Postal Code……………….………County………………….…..

**B. SUMMARY OF INFORMATION NEEDED**

**…………………………………………………………………………………………………………………………………………………………………………………………………………**

**C. MODE OF ACCESS**

Tick against mode of access required

Access through copies Access through Inspection

**D.OFFICIAL USE ONLY**

Type of Information Requested…………………………………………………………………

Comments by screening officer…………………………………………………………………

Action to be taken………………………………………………………………………………..

Name of screening officer :………………………… Signature:…………………………........ Date:…………………….......

# APPENDIX 2: ACCESS TO INFORMATION REGISTER

|  |
| --- |
| **TEMPLATE FOR ACCESS TO INFORMATION REGISTER**  |
| **Date Received** | **Name Of Applicant** | **Gender Of the Applicant** | **Requisition Channel** | **Type Of Information Requested** | **\*Decision****(Action Taken)** | **Date Of Communicating Decision** | **Number Of Days Taken to Process the Request** |
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