

RESTON COMMUNITY CENTER

Policy & User Manual

MAY 2024



*Enriching Lives.
Building Community.®*

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Welcome

May 2024

On behalf of the Board of Governors of Reston Community Center (RCC), I welcome your attention to our Policy and User Manual. This third edition identifies RCC policies, procedures and patron guidelines that inform our relationship to our community members and theirs to us. You will find the legal documents that govern RCC and the agreements that govern our services to our patrons. We hope you find the materials here helpful and provide all you need to have a positive experience with us. Printed copies are available at our Customer Service Desks upon request. The most current versions of the Policy and User Manual and all RCC forms will always be available on our website.

Thank you for taking the time to familiarize yourself with RCC's Policy and User Manual and for being a part of Reston Community Center.



Beverly Ann Cosham, Chair
Board of Governors

Reston Community Center Board of Governors

Paul Berry
William G. Bouie
William Penniman
Lisa Sechrest-Ehrhardt
Dick Stillson
Paul Thomas
Vicky Wingert
Shane Ziegler

Leila Gordon, Executive Director
BeBe Nguyen, Deputy Director

About RCC

Vision

- Reston Community Center enriches lives and builds community for all of Reston.

Mission

To create positive leisure, cultural and educational experiences that enhance the quality of life for all people living and working in Reston by:

- Providing a broad range of programs in arts, aquatics, recreation, enrichment and lifelong learning.
- Creating and sustaining community traditions through special events, outreach activities and facility rentals.
- Building community through collaboration and celebration.

Values

In accomplishing our mission and vision, Reston Community Center will be:

- A respectful, diverse organization that supports and nurtures its patrons, partners, volunteers, and staff.
- An organization that embraces inclusion and diversity, and actively promotes racial and social justice.
- An accountable steward of Reston's resources, sense of place and community traditions.
- An accepting and open organization free of physical, financial and cultural barriers.

About RCC

History of RCC

In March 1975, Small District 5 was created to pay for the construction and ongoing operation and maintenance of Reston Community Center. On April 1, 1977, construction bonds were issued in the amount of \$2,600,000. Final payment was made in August 1999 (FY00). The boundaries of Small District 5 are similar to the present Reston Master Plan boundaries. However, Small District 5 extends beyond the Reston Master Plan somewhat in all four map quadrants. Most properties in the 20190, 20191 and 20194 zip codes are in Small District 5.

The special tax rate levied on all residential and commercial property in the tax district is \$.047 per \$100 of assessed valuation. This special tax creates an annual revenue stream to support the cost of RCC operations (personnel and programs) and maintenance (repair and replacement). The tax revenues subsidize the offerings of RCC and fund appropriate reserve accounts for capital projects, maintenance, feasibility studies, and program and economic contingencies. In addition to tax revenues, RCC generates revenues from fees (registration, admissions, rentals and box office receipts). Another source of revenue for RCC is interest income; it varies depending on financial conditions from year to year.

Key Features of a Small Tax District

Small tax districts are authorized by the Code of Virginia, Title 21 (Chapter 2, entitled Sanitary Districts). These tax districts have an extraordinary range of powers, such as the authority to:

- Levy and collect taxes.
- Construct, maintain, operate and acquire assets.
- Issue bonds (subject to voter approval by referendum).
- Borrow money.

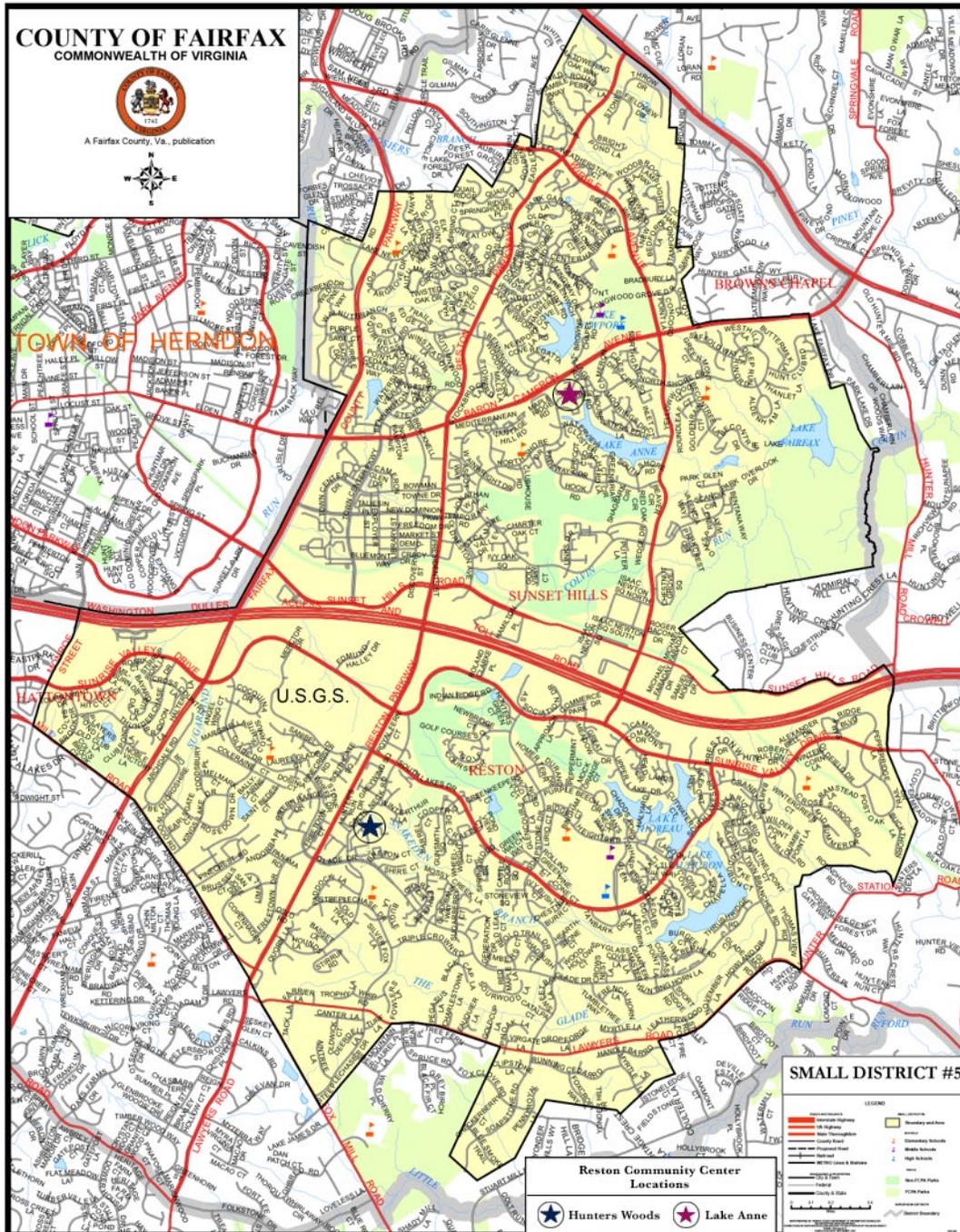
A small tax district can be created by the Fairfax County Board of Supervisors after a petition of 50 qualified voters is submitted and a public hearing is held. These tax districts are financing mechanisms used to raise revenue from community-wide property taxes.

- No referendum is required to establish the tax district; taxes can be levied and decreased or increased without the consent of the residents.
- By state law, the County has final authority over a tax district, hence ultimate budget control rests with the Board of Supervisors, not tax district residents, except for bond referenda.

The County owns the Reston Community Center facility at Hunters Woods. RCC Lake Anne is a leased property.

About RCC

Small District 5 Map



About RCC

Locations & Contact Information

RCC Hunters Woods

2310 Colts Neck Rd
Reston, VA 20191

Includes the Terry L. Smith Aquatics Center, the CenterStage, Woodshop, Community Room and meeting rooms.

RCC Lake Anne

1609-A Washington Plaza
Reston, VA 20190

Includes the Jo Ann Rose Gallery, Ceramics Studio, Art Studio, Fitness & Wellness Studios and 3D Gallery.

Main Phone: 703-476-4500 **TTY:** 711

Main Fax: 703-476-8617

Aquatics: 703-390-6150

Aquatics Fax: 703-476-0563

Booking Fax: 703-476-2488

Registration Fax: 703-476-2488

Email: RCCContact@fairfaxcounty.gov

About RCC

Hours of Operation

The Customer Service desk is typically open at both locations during the following hours:

Monday - Saturday: 9:00 a.m. – 9:00 p.m.
 Sunday: 9:00 a.m. – 8:00 p.m.

Holiday Hours of Operation

Below is a list of typical holiday hours for all holidays observed by Fairfax County; dates and times may be adjusted each calendar year, particularly if a holiday falls on a weekend.

Please call 703-476-4500 for updated hours.

Holiday	RCC Hunters Woods	Terry L. Smith Aquatics Center	RCC Lake Anne
New Year's Day	12:00 p.m. – 5:00 p.m.	1:00 – 4:00 p.m.	CLOSED
Martin Luther King, Jr's Day	9:00 a.m. – 9:00 p.m.	6:00 a.m. – 9:00 p.m. Normal hours	9:00 a.m. – 9:00 p.m.
George Washington's Day	9:00 a.m. – 9:00 p.m.	Normal hours	9:00 a.m. – 9:00 p.m.
Memorial Day	9:00 a.m. – 1:00 p.m.	7:00 a.m. – 12:00 p.m.	CLOSED
Juneteenth	9:00 a.m. – 9:00 p.m.	Normal hours	9:00 a.m. – 9:00 p.m.
Independence Day	9:00 a.m. – 1:00 p.m.	7:00 a.m. – 12:00 p.m.	CLOSED
Labor Day	CLOSED	CLOSED	CLOSED
Election Day	9:00 a.m. – 9:00 p.m.	Normal hours	9:00 a.m. – 9:00 p.m.
Veterans Day	9:00 a.m. – 9:00 p.m.	Normal hours	9:00 a.m. – 9:00 p.m.
Thanksgiving	9:00 a.m. – 1:00 p.m.	9:00 a.m. – 12:00 p.m.	CLOSED
Day After Thanksgiving	9:00 a.m. – 9:00 p.m.	Normal hours	CLOSED
Christmas Eve	9:00 a.m. – 1:00 p.m.	9:00 a.m. – 12:00 p.m.	CLOSED
Christmas Day	CLOSED	CLOSED	CLOSED
New Year's Eve	9:00 a.m. – 1:00 p.m.	7:00 a.m. – 12:00 p.m.	CLOSED

In addition to the above County-observed holidays, all RCC facilities close for a staff event on the third Wednesday of December. RCC Lake Anne and the TLS Aquatics Center will be closed 12:30 p.m. – 4:30 p.m. and RCC Hunters Woods will be closed 1:00 p.m. – 4:00 p.m.



About RCC

Inclement Weather Policy

In the event of inclement weather, we advise our patrons and rental clients to call us at 703-476-4500 for the most complete and up-to-date information. In general, Reston Community Center decisions regarding inclement weather are included in all Fairfax County Government announcements but are listed separately from other County agencies for ease of reference for RCC patrons and employees. For general guidance, please see the below RCC procedures in the event of inclement weather events that affect Fairfax County Government operations:

If Fairfax County Government declares unscheduled leave for employees:

- RCC facilities, including the TLS Aquatics Center, will open at 9:00 a.m. and all RCC classes are canceled.
- Make-up classes will be scheduled if possible.
- No refunds will be issued.
- Rental activities are unaffected unless canceled by the rental client.

If Reston Community Center OR Fairfax County Government is delayed in opening:

- Aquatics Center will open at 9:00 a.m. and all RCC classes scheduled to start prior to noon are canceled.
- No refunds will be issued.
- Normal programming and operating hours resume at noon.
- Rental activities are unaffected unless canceled by the rental client.

If Reston Community Center OR Fairfax County Government declare “early closing”:

- All classes/workshops scheduled to start at or after 5:00 p.m. are canceled.
- No refunds will be issued.
- Normal programming and operating hours resume the next day pending other weather-related announcements.
- Rental activities are unaffected unless canceled by the rental client.

If Reston Community Center OR Fairfax County Government is closed:

- RCC will be closed.
- All classes are canceled; make-up classes will be scheduled if possible; no refunds will be issued.
- Canceled rentals or performances will be refunded.



About RCC

Patron Satisfaction

Our goal is to make your experience of RCC a positive one. Please let us know if you have any concerns or issues.

Feedback Options

Board of Governors Meetings – First Monday of every month at 8:00 p.m. If the first Monday is a holiday, the meeting will be held on the second Monday.

Satisfaction Surveys – Distributed on the last day of classes and during all other activities.

Comment Cards – Available at each customer service desk at both facilities.

Customer Feedback

By Email: RCCContact@fairfaxcounty.gov

Mailing address:
Reston Community Center
2310 Colts Neck Rd.
Reston, VA 20191

Phone numbers:
703-476-4500
TTY 711

Annual Report

RCC's Annual Report is distributed at the Board of Governors Annual Public Hearing for Programs and Budget, generally held on a Monday in June that doesn't conflict with the celebration of Juneteenth.



Governance & Organization

RCC Board of Governors

The Fairfax County Board of Supervisors established the RCC Board of Governors to represent the interests of Small District 5 in the operation of the Community Center. Board members serve as community volunteers. Board appointments are made by the Fairfax County Board of Supervisors after residents of Small District 5 have made their preferences known in an annual poll. Board members work together to establish the overall policy for the Center and oversee its facilities, programs, services, and fiscal operations. Board members also represent Reston Community Center at social, recreational, cultural and educational activities throughout the small tax district.

Board Member Job Description

The Board of Governors of Reston Community Center is responsible for the development of policies, long-range plans and fiduciary oversight for the center's operation, programming, personnel, and financial management. The Board of Governors collectively accomplishes that through these activities:

- **STRATEGIC PLANNING:** Assures that Reston Community Center has a Strategic Plan to guide RCC annual priorities for programs, facilities and services.
- **POLICY ADMINISTRATION:** Develops, adopts and oversees policies that advance the purposes, governing principles and functions of Reston Community Center.
- **PUBLIC AND COMMUNITY RELATIONS:** Understands and interprets the work of Reston Community Center to the community. Relates Reston Community Center to the work of other community organizations; members may be assigned specific liaison roles for various community organizations.
- **FIDUCIARY OVERSIGHT:** Reviews regular financial performance reports; prepares for and conducts Reston Community Center's Annual Public Hearing for Programs and Budget.
- **PERSONNEL:** Selects and employs the Executive Director; the Chair of the Board of Governors evaluates RCC's Executive Director's performance annually.

Annual Preference Poll

The Reston Community Center Preference Poll is an annual community event to select three members to serve on the Reston Community Center Board of Governors. Candidates must be residents of Small District 5 and at least 18 years of age. Residency will be verified through Small District 5 property tax records. Candidate Filing begins August 1, and balloting usually runs from early September through early October. Appointment to the Board is made at the Fairfax County Board of Supervisors meeting that follows the closing of the Preference Poll. Online and mail-in balloting options are available. Walk-in voting will be conducted at RCC Hunters Woods and RCC Lake Anne. To increase participation in the Preference Poll and to assure the integrity of online and mailed balloting, the RCC Memorandum of Understanding (MOU) was changed with approval by the Fairfax County Board of Supervisors in June 2009 to allow for one vote per residential and commercial property.

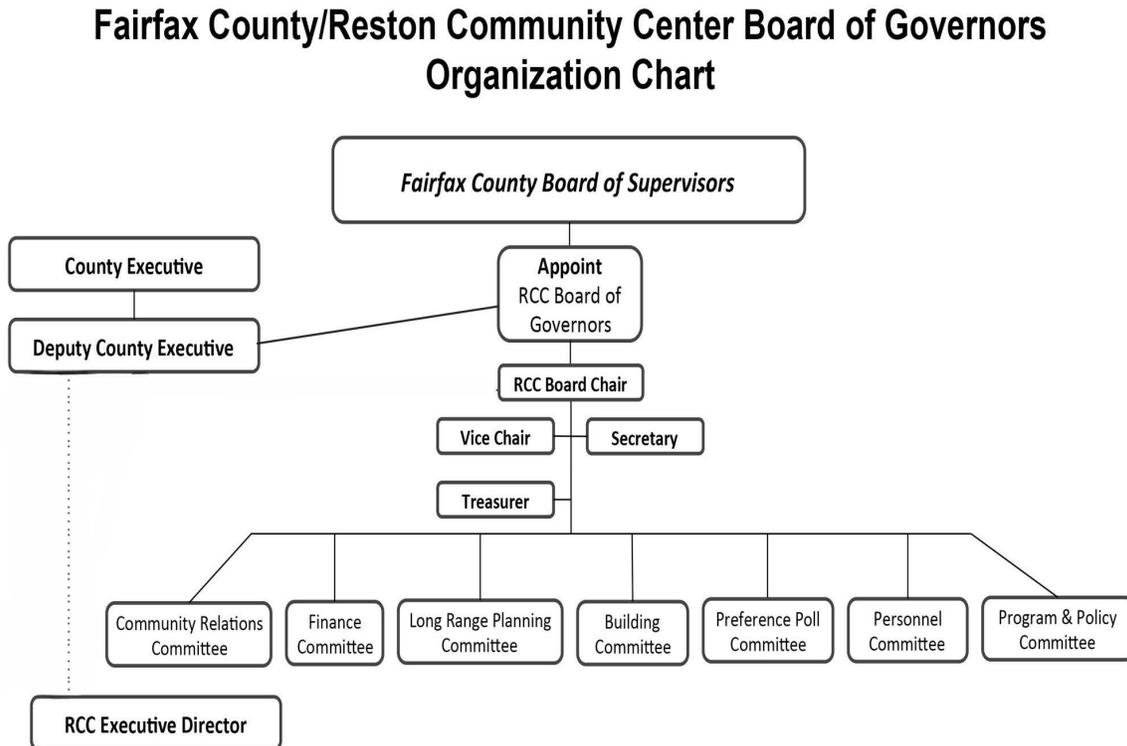
Fairfax County Government

Fairfax County operates as an Urban County form of Government. The organization chart for the County can be found on the web here: <https://www.fairfaxcounty.gov/topics/sites/topics/files/assets/documents/pdf/county-org-chart.pdf>



Governance & Organization

RCC Board of Governors Organization Chart



Governance & Organization

Memorandum of Understanding



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA,
AND THE GOVERNING BOARD OF THE RESTON COMMUNITY CENTER**

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Governance & Organization

Memorandum of Understanding

Section 1 Purpose

The purpose of this Memorandum of Understanding between the Fairfax County Board of Supervisors and the Governing Board of the Reston Community Center is to establish the roles, responsibilities, and duties of both entities in regard to the governance and the operation of the Reston Community Center.

Section 2 Definitions

When used in this Memorandum of Understanding, the following words and phrases shall have the meanings ascribed to them in this section except in those instances in which the context clearly indicates a different meaning:

“Board of Supervisors of Fairfax County, Virginia” or “Board of Supervisors” means the governing body of Fairfax County, Virginia, which also serves as governing body of all the sanitary, small, and local tax districts within the County, as provided by Virginia law.

“Chairperson” means the member of the Governing Board of the Reston Community Center who shall preside at meetings of the Governing Board and shall be responsible for the actions set forth below.

“Governing Board” means the Governing Board of the Reston Community Center in Small District No. 5.

“Meeting” means a meeting of the Governing Board or any committee or subcommittee of the Governing Board, as a body or entity or as an informal assemblage, where the business of the Reston Community Center is discussed, when as many as three members or a quorum, if less than three, are present, whether or not votes are cast, and as further defined by the Virginia Freedom of Information Act.

“Reston Community Center” and “RCC” mean the current and future facilities, services, and programs, provided by Small District No. 5 to the persons who reside and/or are employed within Small District No. 5.

“Small District No. 5” means Small District No. 5 as originally created within portions of the Centreville Election District of Fairfax County, Virginia, and now located within the Hunter Mill Election District of Fairfax County, Virginia, as established and defined in the action of the Board of Supervisors of March 24, 1975, as amended on November 20, 2006, and as may be amended thereafter.

Section 3 Responsibilities of the Governing Board

A. The Governing Board shall be responsible for the development of policies and plans for the Reston Community Center’s operation, programming, personnel, and financial



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Memorandum of Understanding

management, as set forth below. Such policies and plans shall be in accordance with established policies of Fairfax County.

B. Operations

The Governing Board shall provide a written policy governing the use of the buildings, and it shall undertake long-range planning of operational needs. The Governing Board shall hold public meetings as deemed necessary and maintain other channels for resident input.

An Executive Director shall manage the daily operations of the Reston Community Center, and the staff of the Reston Community Center shall be responsible for providing the services, programming, and activities authorized by the Governing Board. The Executive Director also shall maintain files for the Memorandum of Understanding and for documentation of the Reston Community Center's history, the minutes of the Governing Board and its decisions, and the operation of the Center.

C. Programming

The Governing Board shall be responsible for establishing policies governing the programs, services and activities of the Reston Community Center and the use of its facilities. In addition, the Governing Board may approve offering recreational, arts, educational and related services, programs, and activities at locations other than the Reston Community Center(s), provided they are offered for the persons who reside and/or are employed within Small District No. 5.

The Governing Board shall make such reasonable efforts as it deems necessary to ascertain the current and future needs and interests of persons who reside and/or are employed within Small District No. 5 and to provide a wide selection of programs, services and activities to meet the diverse interests, ages, and physical capabilities of the community.

The Governing Board also shall evaluate the effectiveness of these policies and their implementation of RCC policies and programs with a variety of means and methods.

D. Personnel Management

In accordance with established Fairfax County personal service contract procedures, the Governing Board shall contract directly for the position of Executive Director, who will be responsible to the Governing Board. The Executive Director will serve as the appointing authority for all other employees (with the aid of the Fairfax County Department of Human Resources) and will assure compliance with existing personnel policies and procedures. All Reston Community Center employees shall be rated or reviewed in accordance with established County personnel policies and procedures under the direction of the Executive Director.



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The Governing Board will recommend the establishment of new positions and will develop appropriate job descriptions with the assistance of the Executive Director and the Department of Human Resources. The Department of Human Resources will recruit candidates and refer them to the Reston Community Center, according to established procedures. All personnel actions and payroll administration shall be processed in accordance with applicable ordinances and established procedures of the County of Fairfax.

E. Financial Management

The Governing Board shall create fiscal guidelines for both current and long-range objectives, and it shall develop a three-year financial forecast as part of the annual budget process. The Governing Board also shall oversee the preparation and submission of the annual budget and quarterly reviews for transmittal to the County Executive and to the Department of Management and Budget for review prior to submission to the Board of Supervisors for their final approval.

The Department of Management and Budget and other County agencies will provide budgetary and accounting support as needed. The Department of Management and Budget will review the annual budget and quarterly reviews and provide the same level of day-to-day fiscal monitoring as with other County agencies.

The Governing Board shall comply with Fairfax County standards of fiscal accountability and it shall ensure that annual expenditures remain within the level appropriated by the Board of Supervisors.

F. Income Management

Funds derived from the levy imposed on real property within Small District No. 5 and from user-fee schedules shall be maintained and administered as required by law and under procedures established and approved by the Board of Supervisors. The Governing Board may provide its recommendation on the levy to the Board of Supervisors and the Board of Supervisors shall establish the annual levy on real property within Small District No. 5. The Governing Board shall make policy decisions concerning the portions of operations and programs that shall be supported by tax revenues and by user fees. The Executive Director shall comply with those adopted policies.

The Governing Board also may accept gifts, endowments, and grants where not prohibited by State Law and County ordinances. Funds from such sources shall be allocated in the budget of the Reston Community Center at the discretion of the Governing Board, and these funds may be applied to capital expense, program costs, or operating and maintenance requirements.

G. Disbursement of Funds

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Small District No. 5 funds, including, but not limited to, taxes, user fees, gifts and grants and any interest derived from such funds, shall not be disbursed for any purpose other than for RCC programs, services and activities (which may include programs, services or activities undertaken jointly with other community organizations) and for the purposes of acquiring, constructing, maintaining or operating, or contracting for such acquisition, construction, maintenance or operation of the RCC facilities within Small District No. 5. Small District No. 5 funds shall be expended primarily for the benefit and/or use of constituents of Small District No. 5. Petty Cash shall be maintained in a place and manner subject to approval and review by the County Director of Finance.

H. Procedure to Contract for Goods and Services: The Governing Board may forward requests to enter into a contract for goods or services to the appropriate County department or agency for review and recommendation.

I. Capital Projects:

All capital projects, regardless of source of funds, shall be reviewed by appropriate County agencies as required by established County procedures. Capital projects shall be included in the Capital Improvement Plan. A comprehensive master capital plan, including justification, for all projects shown therein, and a three-year financial plan to support capital funding requests shall be prepared annually by the Governing Board and submitted for approval to the Board of Supervisors. Provision will be made by the Governing Board for soliciting resident input regarding the advisability of embarking on major capital projects. The Board of Supervisors shall approve all capital construction projects and any major changes in the scope of work of any such project.

Section 4 **Composition of the Governing Board, Terms, Selection of Members, and Removal from Office**

A. The Governing Board shall consist of nine members, each of whom shall be at least 18 years of age and shall reside within Small District No. 5. In a process to be concluded in October of each year, residents of Small District No. 5 may select three (or, in the case of unfilled vacancies, more) of the nine members for the Governing Board in a Preference Poll. All residential property households and each commercial property address in Small District No. 5 shall be eligible to cast one vote per property address (residential or commercial.) The Governing Board shall use reasonable efforts to identify eligible property addresses. The means and method of the Preference Poll shall be determined by the Board of Governors and shall be constituted in such a manner as to facilitate voting, to permit a secure process that assures only those who are eligible participate, and to assure that the results of said voting are tallied independently of the members of the Board of Governors, candidates, candidates' supporters, and Reston Community Center employees. The Preference Poll shall be conducted to allow for a published period of voting and tallying of the results.

The results of the preference poll shall be reported to the Board of Supervisors within one week of completion of the poll for consideration in the appointment of members. Subject to



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the approval of the Board of Supervisors, those persons receiving the greatest number of votes will then be appointed to the Governing Board. The results of the annual preference poll, including names and numbers of votes, shall be retained by both the Governing Board and the Clerk to the Board of Supervisors.

B. Except as otherwise provided herein to fill a vacancy, each member shall be appointed for a three-year term. Terms shall be staggered to permit continuity of experience. Three members shall be selected each year for three-year terms. Members may be selected for less than a three-year term, if necessary, to fill out the balance of an unexpired term under the provisions of this section. Members of the Governing Board may be reselected at the will of the people as long as they meet the residency requirements.

C. Any resident of Small District No. 5 shall be eligible to file for appointment to the Governing Board if he or she is at least 18 years of age and applies for a place on the ballot in the manner approved by the Governing Board; provided, however, that no household shall be represented by more than one family member.

D. In the event of the death, disability, or resignation of a member of the Governing Board, or if a member no longer is a resident of Small District No. 5, then there shall be a vacancy on the Governing Board. Vacancies on the Governing Board occurring between preference polls may be filled by appointment by the Board of Supervisors. The Governing Board may recommend the names of eligible candidates from the preceding Governing Board Preference Poll. Such appointment shall be valid for the balance of the unexpired term.

E. The Board of Supervisors shall have sole authority to remove members of the Governing Board for cause. The Governing Board may, by vote of two-thirds of its members, establish criteria for non-performance or actions detrimental to Small District No. 5. If a member of the Governing Board violates these criteria, then the Governing Board may vote, by a two-thirds majority of the members of the entire Governing Board, to inform the Board of Supervisors of the violation and request that the vote of the Governing Board be taken into consideration by the Board of Supervisors. Should a member of the Governing Board be removed in this manner, then there shall be a vacancy, which shall be filled in accordance with the provisions of this Section.

F. Each year following the preference poll, the Chair of the Governing Board shall appoint a Preference Poll Committee composed of those members of the Governing Board who are not running for selection the following year. That Preference Poll Committee shall develop recommended procedures for selecting members for the following year. In addition, subsequent to each annual preference poll, the Selection Committee will submit a report to the Governing Board that analyzes selection procedures and recommends appropriate changes, if any.



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Section 5 **Officers of the Governing Board**

The Governing Board shall have the following officers, who shall have the duties and responsibilities described below:

Chairperson, who shall be elected annually by the members of the Governing Board from among its members, and who shall preside over all meetings, represent the Governing Board at official functions and ceremonial events, and perform such other duties as directed by the Governing Board.

Vice-Chairperson, who shall be elected annually by the Governing Board from among its members, and who shall preside at meetings in the absence of the Chairperson and perform such other duties as may be directed by the Governing Board.

Secretary, who shall be elected annually by the Governing Board from among its members, and who shall keep the official minutes of all regular and special meetings of the Governing Board, preserve those minutes in a manner outlined by the Governing Board, and prepare such correspondence as may be directed by the Chairperson or the Governing Board.

Treasurer, who shall be elected annually by the Governing Board from among its members, to act as the chief financial officer of the Governing Board.

Officers shall be elected at the first Governing Board meeting following the annual appointment of new Governing Board members by the Board of Supervisors; provided, however, in the event that there is a vacancy in the one or more of these offices, then the Governing Board shall appoint a successor or successors from among the members of the Governing Board.

Section 6 **Meetings of the Governing Board**

A. Regular Meetings shall be held each month on a day to be fixed by each Governing Board at its first meeting and announced to the public. The Chairperson or a majority of the Governing Board members may cancel such meetings when proper notice is given to the members of the Governing Board and the public.

B. Special Meetings may be called by the Chairperson or at the written request of two or more Governing Board members. The Chairperson is charged with the responsibility of assuring that all Governing Board members are given proper notice at least 24 hours in advance of said meeting. Proper notice shall be in writing delivered to a member or to the place of residence or business of a member, and such notice shall include purpose, time, and place of meetings. Every effort will be made to schedule special meetings on the same day of the week as the regular meetings; provided, however, such special meetings may be held at such other times as may be required. The Chairperson is responsible for notifying the Executive Director and the members of the Governing Board when special meetings are scheduled. The Executive Director shall cause the public to be notified of the time and place



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of any special meeting scheduled, which shall be done in accordance with the requirements of the Virginia Freedom of Information Act, as amended.

C. All regular and special meetings of the Governing Board shall be held within Small District No. 5; provided that the Governing Board may conduct an annual planning meeting at a location inside or outside Small District No. 5.

D. All meetings, work sessions, or informal gatherings of at least three Board members shall be open to the public; provided, however, that the Governing Board may meet in closed session only when appropriate to do so and in accordance with the procedures set forth in the Virginia Freedom of Information Act, as amended. No closed meeting shall be held unless the Governing Board has taken an affirmative recorded vote in an open meeting approving a motion which (i) identifies the subject matter, (ii) states the purpose of the meeting, (iii) provides notice in accordance with Virginia Code § 2.2-3711, and (iv) makes specific reference to the applicable exemption from open meeting requirements provided in subsection A of Virginia Code § 2.2-3712. The matters contained in such motion shall be set forth in detail in the minutes of the open meeting of the Governing Board. No resolution, rule, contract, regulation, or motion adopted, passed or agreed to in a closed meeting shall become effective unless, following such meeting, the Governing Board reconvenes in open meeting and takes a vote of the membership on such resolution, rule, contract, regulation, or motion which shall have its substance reasonably identified in the open meeting. In conducting a closed session, the Governing Board shall restrict its discussion during the closed session only to those matters specifically authorized for such closed sessions by the Virginia Freedom of Information Act and identified in the motion adopted prior to the conduct of the closed session. At the conclusion of any closed session, the Governing Board shall immediately reconvene in public session in an open meeting and shall take a roll-call vote certifying that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (ii) only such public business matters as were identified in the motion by which the closed session was convened were heard, discussed, or considered by the Governing Board in closed session.

E. Public notice of meetings shall be provided in accordance with the requirements of the Virginia Freedom of Information Act by posting in the Reston Community Center. Except for special meetings, notice of any meeting shall be posted at least three working days prior to the meeting. Notice, reasonable under the circumstances, of special meetings shall be given contemporaneously with the notice provided to members of the Governing Board. Additional notice of meetings of the Governing Board shall be provided by electronic means on the Internet site maintained by Fairfax County and/or Reston Community Center.

Section 7 Quorum and Actions of the Governing Board

A. Except as specifically provided herein, in order to conduct business at any meeting of the Governing Board or a committee of the Governing Board, there shall be at least a quorum of the members who are physically assembled at a meeting location. A quorum is the minimum number of members who must be present at a Governing Board or committee



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meeting for the transaction of business. A majority of the members of the Governing Board or any committee of the Governing Board shall constitute a quorum of that body. The Chairperson or the presiding officer of the Governing Board shall be included and counted in determining the presence or absence of a quorum at all Board meetings. Committee Chairperson(s) will be included and counted in determining the presence or absence of a quorum at all Committee meetings. A temporary absence from the meeting room of members sufficient to constitute a quorum shall not be deemed to prevent the hearing of presentations or the discussion of matters submitted. The Secretary or Chairperson shall suggest the absence of a quorum prior to the taking of any action. If absence of a quorum is not noted by either of these officers, any member may suggest absence of a quorum. Failure to recognize or suggest absence of a quorum shall not be deemed to alter the effect of this rule requiring a quorum as a prerequisite to any action. However, a member may participate in a meeting of the Governing Board or a meeting of a committee of the Governing Board from a remote location pursuant to Virginia Code § 2.2-3708.1, but any such member who is participating from a remote location shall not be counted in determining whether a quorum is present.

Business conducted without a quorum present is not valid. In the absence of a quorum, those members in attendance can adjourn, recess, or take measures to establish a quorum. If a meeting opens with a quorum but a member leaves and a quorum has been lost, no other business can be conducted during that meeting unless and until the quorum is restored. In the absence of a quorum, members of the Governing Board may discuss matters relevant to the Reston Community Center, provided no action is taken.

B. Actions of the Governing Board shall be taken in one of these three ways:

Resolutions – shall be proposed in writing, and a copy shall be delivered to all members of the Governing Board at least 24 hours prior to a vote on its adoption.

Motions – where action of the Governing Board is required on matters simply stated, action may be taken upon oral motion.

Unanimous Consent – where no formal action is required and no objection is heard, a request of a member shall be deemed a request of the Governing Board without further action when such request is made at a meeting with a quorum present, and the Chairperson states that such a request shall be deemed a request of the Governing Board.

C. Votes shall be taken on motions and/or resolutions made and seconded by members of the Governing Board. All motions and resolutions submitted to the Governing Board for decision shall be determined by a vote of a majority of the members of the Governing Board present and voting on such questions except those questions related to contracts, which require the majority of the entire Governing Board. All motions and resolutions related to capital improvement projects or other substantial capital expenses involving expansion beyond the current facility footprint or any recommended change to the Small District No. 5 tax rate shall require a two-thirds majority vote of the entire Governing Board. A roll call shall be taken when requested by any member of the Governing Board.

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Prior to taking any vote on any motion or resolution, the Chairperson shall restate the motion or resolution, or alternatively, the Chairperson may designate another member of the Governing Board to restate the motion or resolution to expedite voting on the motion or resolution. Any member may propose or second any motion, and all members present may vote on any motion or resolution before that body. The Governing Board may reconsider an action only upon the motion of a member voting with the prevailing side on the original vote, which must be made at the same or subsequent regular or special meeting. A motion to reconsider may be seconded by any member.

Section 8 **Order of Business**

A. The Governing Board shall conduct its meetings using the procedures set forth in *Robert's Rules of Order Newly Revised* (the most recent edition). However, the Governing Board may adopt alternative procedures by a majority of the Governing Board membership. The text of all proposed alternative procedures to *Robert's Rules of Order* shall be presented in writing and read at a regular meeting of the Governing Board. At the next scheduled regular meeting thereafter, the proposed amendments shall be reread after which time a vote shall take place. Any proposed alternative procedure shall be subject to further amendment by presenting such an amendment in writing at a regular meeting of the Governing Board for consideration at the next scheduled regular meeting of the Governing Board. However, the Governing Board may vote to suspend *Roberts Rules of Order* and any adopted procedures by a recorded vote of two-thirds vote of the members present and voting. In such event, the rules of procedure shall be deemed suspended only with respect to the specific matter or question not in accordance with the rules. The Executive Director shall keep available for reference by the Governing Board, and by members of the public, a copy of the most recent edition of *Robert's Rules of Order* and an updated copy of all alternative procedures that have been adopted by the Governing Board and are in force and effect.

B. Upon recommendation of the Chairperson, the Governing Board may appoint a member of the Governing Board to serve as the Parliamentarian to assist in the conduct of the meetings of the Governing Board.

C. Commencement of Meeting – the Chairperson shall call Governing Board meetings to order at the appointed time and shall direct the Secretary to make note of the presence or absence of members.

D. Agenda – The Chairperson, in consultation with other Governing Board officers, shall prepare an agenda for each meeting. At the start of all meetings, the agenda shall be announced or distributed in writing. The agenda shall be distributed to all Governing Board members as far in advance of the meeting date as possible, but in no instance shall it be distributed less than 24 hours in advance of the meeting. Members of the Governing Board shall be given an opportunity to make additions or revisions to said agenda prior to its approval. Items that require action shall be made known to Governing Board members at least 24 hours prior to any meetings. An item that requires action that has not had 24 hours notice requires a 2/3 vote of those present for approval. When special presentations or items under



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consideration hold wide public interest, business then pending, insofar as is practical, shall yield to the designated agenda item.

E. Approval of Minutes – the Secretary shall be responsible for the prompt recording of the minutes following completion of the meeting and shall submit copies to all Governing Board members at least 24 hours before the next regular meeting. Approval of minutes shall be the first item on the agenda of all regular meetings. They may be approved, or corrected and approved without reading.

F. Standards for Public Comment

(1) Recognition – shall be given only by the presiding officer. No person shall address the Governing Board without having first been recognized. When all public testimony has concluded, and the Governing Board is considering and discussing the matter, no person shall thereafter be recognized.

(2) Questions – by Governing Board members shall be reserved, insofar as possible, for the end of a presentation to avoid interrupting the speaker, disrupting the time-keeping process, and duplicating ground the speaker may cover.

(3) Time – the time limits provided herein or adopted by a vote of the Governing Board shall be followed. The Vice-Chairperson of the Governing Board shall be the official timekeeper and shall inform the speaker when his time is up. The Chairperson shall announce time limits before giving recognition to any public speaker.

(4) Argumentative Testimony – all public testimony will be made in the form of statements addressed to the Governing Board. Argumentative dialogue between two witnesses or between a witness and members of the Governing Board is not permitted.

(5) Repetitive Testimony – the Governing Board urges public speakers to use all reasonable effort to avoid repetitive testimony. Unless an individual public speaker has new testimony to present and has not utilized the time allotted to that speaker; he or she will not be recognized to speak a second time on the same subject.

(6) Regular and Special Meetings – the public will be granted an opportunity to address the Governing Board on all substantive matters on the agenda before a vote is taken. All such testimony must be germane to the agenda item currently before the Governing Board. Public speakers shall limit their remarks to three minutes, unless the time limit has been changed pursuant to subsection (3) above. Notwithstanding the above, the Governing Board may hear comments from the public at their regularly scheduled monthly meeting regardless of the agenda items subject to the same limitations of time and testimony in subsections (3) and (4) above.

(7) Hearings – persons wishing to address the Governing Board at a hearing may register with the Secretary in the manner announced. Persons addressing the hearing are



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encouraged to furnish the Secretary and members of the Governing Board with a written copy of their remarks at or before the hearing. After all registered speakers have addressed the Governing Board, the Chairperson may call for additional testimony from persons who have not registered to speak in advance of the hearing. The Chairperson, in making such a call, shall take into account the complexity of the matter, its importance in relation to other business to come before the Governing Board, and the time available during the hearing. Persons addressing the Governing Board shall limit their remarks to three minutes or to six minutes if speaking on behalf of an organization located within Small District No. 5, unless the time limit has been changed pursuant to subsection (3) above.

Section 9 **Committees of the Governing Board**

The Governing Board may establish such committees and subcommittees as it deems necessary to fulfill its responsibilities. A member of the Governing Board shall not be restricted as to the number of committees and subcommittees on which he or she serves. Committee appointments shall be made by the Chairperson with the consent of the Governing Board. Subject to the approval of the Governing Board, persons who are not members of the Governing Board may serve as non-voting members on any committee or subcommittee, but the chairperson of each committee and subcommittee shall be a member of the Governing Board.

Section 10 **Executive Director**

The Executive Director shall be the chief administrative officer of the Reston Community Center. The Executive Director shall be appointed by the Governing Board, and the Executive Director shall carry out the policies and directives set forth by the Governing Board. The Executive Director also shall supervise the staff of the Reston Community Center.

Section 11 **Coordination with County Agencies**

Comparable to a County Agency, the Governing Board may utilize the services provided by County Departments and other County agencies for assistance in connection with any aspect of the operation of the Reston Community Center and in the site selection, architectural selection, design or construction phases of any Reston Community Center facility or addition which it is to govern.

Section 12 **Future Amendments**

Amendments to this Memorandum of Understanding may be made only by action of the Fairfax County Board of Supervisors. Any proposed amendment to the Memorandum of Understanding shall be transmitted to the County Executive for review before submission of the proposed amendment to the Board of Supervisors for its consideration.



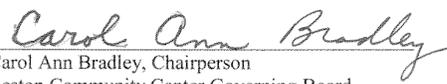
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Section 13 Approval of the Memorandum of Understanding

The Fairfax County Board of Supervisors and the Governing Board of the Reston Community Center hereby agree to the roles, responsibilities, and duties of the respective parties as set forth in the following Memorandum of Understanding governing the operation of the Reston Community Center.

9/3/09 
Date Sharon S. Bulova, Chairman
Fairfax County Board of Supervisors

9/10/09 
Date Carol Ann Bradley, Chairperson
Reston Community Center Governing Board

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BY-LAWS OF THE GOVERNING BOARD, RESTON COMMUNITY CENTER

I. PURPOSE

The following By-Laws implement and supplement the Memorandum of Understanding ("MOU") between the Fairfax County Board of Supervisors ("BOS") and the Governing Board of the Reston Community Center adopted July 25, 1983 and amended December 4, 2000, and July 27, 2009. This document may be changed at any time by a two-thirds vote of the Governing Board ("Governing Board"). In the event of conflict between the By-Laws and the MOU, the MOU will govern.

II. ADOPTION AND AMENDMENT

These By-Laws shall be adopted by a two-thirds vote of the members of the Governing Board, and may only be amended by a similar two-thirds vote provided written notice of any proposed amendment shall have been given to all members at least one week in advance of the meeting at which such amendment is considered.

Furthermore, these By-Laws dated December 5, 2011, shall supersede any and all policies heretofore adopted by the Reston Community Center Governing Board if in conflict with this document.

III. GOVERNING BOARD ORGANIZATION

A. Function of the Governing Board

The Governing Board is responsible for establishing and reviewing the policies dealing with the Reston Community Center(s') ("RCC") operations, programs, personnel, and financial arrangement. Members have a duty to keep themselves informed about the affairs of the RCC, but it is not the function of the Governing Board or individual members to become involved in the day-to-day management of the Reston Community Center. That is the delegated responsibility of the Executive Director, who manages the RCC in accordance with the policy directives of the Governing Board and reports to the Governing Board on the results of RCC operations. Concerns of Governing Board members are to be

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directed to the Executive Director through the Chairperson of the Governing Board.

B. Officers of the Governing Board

The officers of the Governing Board shall consist of a Chairperson, a Vice-Chairperson, Treasurer, and Secretary, who shall be elected by majority voice vote, tallying to be done by the staff secretary, at the first regular Governing Board meeting following the Preference Poll and the subsequent appointment of new Governing Board members by the BOS.

1. Chairperson

The Chairperson shall have those duties prescribed in the Memorandum of Understanding and, in addition, shall:

- a. Have the responsibility to assure compliance with all terms of the Governing Board's Memorandum of Understanding with the BOS.
- b. Direct the Executive Director to carry out the motions of the Governing Board.
- c. Be the liaison between the Governing Board and the RCC staff (through the Executive Director) and between the Governing Board and the BOS and its staff; shall designate, at its pleasure, other Governing Board members or the Executive Director to act as liaison with the BOS, County staff, or the Public.
- d. Appoint all Committee Chairs and committee members and shall serve as ex officio member of each Committee.
- e. Ensure that the Long-Range Planning Committee convenes at least once a year.
- f. Convene an annual weekend Governing Board Conference in January, at a place outside the RCC complex(es) for long-

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range planning and other agenda items as deemed necessary and appropriate. Attendance shall be required of all Governing Board members and the Executive Director.

- g. Be the principal spokesperson for the RCC Board of Governors to the Public.
- h. Encourage leadership development among Governing Board members and appointed committee members by providing suitable opportunities for them to serve.
- i. At the end of each term the Chair must:
 - (1) Resolve all routine business issues before the Board pertaining to his/her tenure before new members are seated.
 - (2) Cause a written annual report to be provided to the members of the Governing Board and the BOS prior to the last Governing Board meeting prior to the Preference Poll.
 - (3) Cause an orientation for new Governing Board members to be conducted prior to the first regular meeting following their appointment to the Governing Board. This orientation shall include all Board of Governors' members and a presentation of the annual report.

2. Vice-Chairperson

In the Chairperson's absence, shall perform any or all of the chairperson's duties, as needed.

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3. Secretary

- a. Shall review for accuracy and sign all minutes and Governing Board Actions of each Governing Board meeting before those minutes are submitted for approval at a subsequent Governing Board meeting, and shall see that all such approved minutes and Governing Board Actions are preserved in a manner directed by the Governing Board. The Secretary shall also see that the Minutes and Actions for the previous year are available for reference at the Governing Board meetings.
- b. In the absence of the Chairperson and Vice-Chairperson, the Secretary shall perform any or all of the Chairperson's duties, as need to be performed.

4. Treasurer

- a. Shall serve as chief financial officer of the Governing Board.
- b. In the absence of the Chairperson, the Vice-Chairperson, and the Secretary, the Treasurer shall perform any or all of the Chairperson's duties, as need to be performed.

C. Vacancies

1. Vacancies on the Governing Board will be filled in accordance with the procedures set out in the MOU, paragraph 4. As a general rule, however, if a vacancy occurs more than six months after the last Preference Poll, it will be Governing Board policy to leave the seat vacant until the next Preference Poll, unless the filling of the vacancy is necessary to facilitate the obtaining of a quorum.
2. The Governing Board will fill vacancies in an office within a reasonable time after the vacancy has occurred.

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D. Removal of Board Members

The MOU, paragraph 4a (5) provides that the Governing Board may establish criteria upon which it may recommend removal of a member. The Governing Board may recommend to the BOS, in writing, such removal by a two-thirds vote, after affording the member an opportunity to be heard, for any of the following reasons:

1. Conviction by a court of a crime involving moral turpitude or a breach of a fiduciary obligation towards the RCC;
2. Failure to disclose a material, personal or economic conflict of interest on any matter on which he/she votes;
3. Failure to maintain a primary residence within Small District No. 5;
4. Absence from three consecutive Governing Board meetings without notifying the Chair and without having reasonable cause;
5. Absence from three consecutive meetings, without cause, of any committee to which he/she has been assigned;
6. Repeated failure to abide by the policies set forth in these By-Laws.

E. Removal of Officer

All officers, including the Chairperson, serve at the pleasure of the Governing Board and may be removed at any time upon a two-thirds vote of the entire Governing Board.

IV. GOVERNING BOARD MEETINGS

- A. The Governing Board shall hold its regular monthly meeting on the first Monday of each month, unless the date falls on a national holiday upon which the Board meeting is normally moved to the following Monday. Any cancellation or rescheduling of the regular meeting shall

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require adequate notice to all Governing Board members and to the public.

- B. All meetings of the Governing Board, with the exception of any meeting held in closed session, shall be open to the public. Notice of such meetings shall be posted in the RCC, and when possible, in the local media. The Annual Conference may be held at a location outside the RCC at the discretion of the Board of Governors.
- C. Governing Board meetings shall convene at a time to be determined by the Governing Board. Any action after 10:00 p.m. shall be permitted only by majority vote of those Governing Board members present at 10:00 p.m.
- D. At least three days prior to a Governing Board meeting, the Executive Director shall distribute to each Governing Board member a meeting packet containing the following: 1) Agenda, 2) Minutes, and Governing Board Actions, and 3) Committee reports, with recommendations and resolutions for votes highlighted.
- E. Where a committee report has not been made available to all Governing Board members at least 24 hours prior to a Governing Board meeting, a vote of two-thirds of those members present is required to place a committee report on that meeting's agenda.
- F. The Executive Director shall arrange to have present at each Governing Board meeting a staff person to take notes of proceedings and, later, to prepare minutes and Governing Board Actions which are to be submitted first to the Governing Board Secretary to review for accuracy and signature, and then, at the subsequent Governing Board meeting, to the Governing Board for approval.
- G. All official correspondence to and from any Governing Board member shall be available to any Governing Board member at his/her request.

V. COMMITTEES

- A. General Guidelines

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1. After officers of the Governing Board have been elected, the Governing Board Chair shall, from current Governing Board members, appoint chairpersons and committee members for standing and ad hoc committees.
2. Standing Committees shall be those committees that meet regularly to facilitate the business of the Board of Governors.
3. Ad Hoc Committees shall be created for temporary purposes.
4. Each Governing Board member shall be required to serve on at least two committees.
5. If requested in writing by the chairperson of a committee, and subject to the Governing Board's approval, the Governing Board Chairperson may appoint a non-board citizen of Small District No. 5 to that committee as a non-voting member.
6. All committee meetings are subject to the same notification requirements as Governing Board meetings and are open to the public.
7. The Governing Board may create additional committees and designate their respective responsibilities and composition. No committee shall have the authority to bind or act for the Governing Board.
8. Except in time-sensitive situations, any matter submitted to the Governing Board for action may be referred by the Chairperson to an appropriate committee for study. A resolution is then forwarded to the Governing Board as to action. As to time-sensitive matters, the Governing Board may constitute itself as a Committee of the Whole.
9. No committee meeting will be considered official unless a quorum (simple majority) of appointed committee members is present.

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10. Each standing committee shall meet on a regular basis. The Committee Chairperson, with Governing Board approval, may add, reschedule, or cancel sessions as appropriate to the scope of its business.
11. Any matter referred to a committee must be reported back to the Governing Board on the date requested by the Governing Board Chairperson.
12. A matter may be referred by one committee to another committee with the approval of the Governing Board Chairperson.
13. Whenever practical, committees should be comprised of an odd number of members so that quorum issues are easily identified and resolved.
14. Rules and procedures that apply to the Governing Board apply to committees as well. For instance, quorum, voting, and vacancy provisions that apply to the Governing Board apply to committees as well.

B. Committee Structure

Standing and ad hoc committees shall be structured with a minimum of two Governing Board members appointed to each committee. The Chairperson of the Governing Board will be the ex officio member of the Standing Committees.

1. Standing Committees:

a. Community Relations

Functional Statement: The Community Relations Committee acts as a conduit between the RCC and the community to ensure that the RCC is fully responsive to community needs. In concert with the Program and Policy Committee, it seeks information from as many constituencies in Small District No. 5 as possible. It provides opportunities for public input. It functions as an ambassador to the community representing the RCC. It creates outreach activities to

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involve everyone in Small District No. 5 in the Governing Board's communications with its patrons.

b. Finance

Functional Statement: The role of the Finance Committee is to determine whether items submitted by the other committees through the Chair, or submitted by the Governing Board are appropriate given the financial situation. However, with the approval of the Board Chair, other committees may bring forward matters without Finance Committee approval. Where items have not been completely researched or are lacking in other critical elements, the Finance Committee will return them to the submitting committee or recommend that the Governing Board not approve the recommendation(s). Priority items for consideration by the Finance Committee are as follows:

1. Items requiring approval because of health and safety.
2. Items requiring approval because of maintenance to the physical plant.
3. Items of a program nature and of community concern.
4. Items of administration.
5. Items requiring special consideration (e.g. bond issue).

c. Personnel

Functional Statement: The mission of the Personnel Committee is to advise the Executive Director on personnel matters relating to organization, structure, and position management, and reports to the Governing Board on appropriate personnel matters.

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Its duties shall include:

1. To assess and conduct an annual review of the Agency organizational chart as it relates to personnel needs of the Reston Community Center as defined by the mission statement.
2. To define the need to establish new positions in accordance with the recommendations of the Executive Director for presentation to the Governing Board.
3. To act as an adviser to the Executive Director on personnel issues.
4. To recommend the position description of the Executive Director to the Governing Board.
5. To develop a selection process and selection criteria for the position of Executive Director.
6. To act as the Search Committee for the position of Executive Director when authorized by the Governing Board.

d. Program and Policy

Functional Statement: The Program/Policy Committee has the responsibility for recommending to the Governing Board programmatic directions of the Reston Community Center and developing and monitoring policies for consideration by the Governing Board.

The Program/Policy Committee has the following responsibilities:

1. Through the process of formal (public hearing) and informal networking, recommend new concepts

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to the Governing Board consistent with the RCC's mission statement and yearly goals.

2. Review plans and examine programs and services in order to monitor progress toward RCC goals.
3. Identify shifts in programs and services that affect policy and make necessary recommendations to the Governing Board.

e. Building Committee

Functional Statement: The Building Committee has the following responsibilities:

1. Review of the major capital project and capital maintenance schedules of RCC facilities and building systems.
2. Review and propose major capital projects to support progress toward RCC goals.
3. Solicit feedback from stakeholders where appropriate regarding major capital project and capital maintenance schedules of RCC facilities and building systems.
4. Identify major capital project and capital maintenance expenditures that should be undertaken and refer to the Finance Committee for consideration regarding budget feasibility.

f. Long-Range Planning Committee

Functional Statement: The Long Range Planning Committee is a committee of the whole which is convened for the purpose of conducting Governing Board Business which involves special consideration and needs the input of the majority of the Governing Board before final action can be taken. Examples of actions for this committee include property acquisition or major financial decisions.

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It shall consist of all Governing Board members.

2. Ad Hoc Committees

- a. Preference Poll
- b. Nominating - to prepare a slate of Governing Board officers.
- c. Other committees as determined and needed by the Board of Governors.

VI. OFFICIAL COMMUNICATION

1. All official communication between Governing Board members and the media shall be through the Chairperson or his/her designee. The Executive Director shall speak for RCC on matters of routine business.
2. All official communication between Governing Board members and the RCC staff shall be through the Chairperson or his/her designee.
3. All official communication between the Governing Board and the County (including the BOS, individual supervisors, and County staff or other County agencies) shall be through the Executive Director and/or Governing Board Chairperson or his/her designee.

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RCC Policy Framework (Updated May 2024)

This Policy Framework will supersede all prior Reston Community Center Board of Governors adopted policies. It was adopted at the Board of Governors meeting of September 10, 2012, and affirmed following Fairfax County Attorney review in its meeting of September 8, 2014. The Board of Governors reaffirmed the Policy Framework in November 2019 and again, with revisions, in May 6, 2024. The "Policy and User Manual" described in this Policy Framework is compiled by staff and reviewed as a referenced document in the context of the Policy Framework.

Governance

RESTON COMMUNITY CENTER BOARD OF GOVERNORS - Reston Community Center's Board of Governors shall at all times conduct itself and take actions that are consistent with the current Memorandum of Understanding (MOU) with Fairfax County Government and the Board of Governors Bylaws.

RESTON COMMUNITY CENTER EMPLOYEES - Reston Community Center's Executive Director serves at the pleasure of the Board of Governors and functions as the Agency Head. All Reston Community Center employees and volunteers shall at all times conduct themselves and RCC's business in a manner consistent with the policies and procedures of Fairfax County Government. RCC Operating Guidance Memoranda and Fairfax County policies and procedures govern how RCC employees conduct agency business, as well as how patrons are treated. They are routinely reviewed and updated at the Fairfax County Government and RCC levels.

Executive Director

SELECTION - Reston Community Center's Board of Governors shall be presented with the recommendations of its Personnel Committee when seeking a new Executive Director. The selection of the Executive Director shall be made by simple majority vote of the Board of Governors. A majority of the entire Board of Governors shall approve the Executive Director's employment contract and execution of the contract shall be accomplished by the Chairperson in accord with provisions of the MOU and Bylaws and in conjunction with the Director of Fairfax County Department of Human Resources.

PERFORMANCE REVIEW - Reston Community Center's Board of Governors members shall be consulted by the Chairperson of the Board for their input when the annual evaluation of the Executive Director is conducted.

TERMINATION OF EMPLOYMENT - Termination of the employment contract for the Executive Director shall be consistent with that contract's terms and only after approval by a simple majority vote of the Board.

Programs and Services

OFFERINGS - Reston Community Center programs and services shall be consistent with its mission, vision, and values, providing for diverse interests and perspectives. RCC programs and services shall be responsive to community concerns with which its mission and values intersect. Programs and services shall be delivered in ways that maximize the impact of RCC resources. Reston Community Center shall review programs and services regularly in a manner consistent with its governance policies as outlined in the Memorandum of Understanding and Bylaws, and as directed by the Board of Governors Strategic Plan.

PATRONS AND USERS - Reston Community Center makes available to patrons and users documentation of their rights, responsibilities and the legal, procedural and process requirements that govern their interaction with RCC. RCC's Policy and User Manual, prepared and maintained by the staff, and approved by the Board of Governors, shall cover use of RCC facilities and/or resources, participation in programs, obtaining RCC services, and any other aspect of interaction with RCC that is relevant to the user experience. RCC practices shall be consistent with the agency's mission, vision and values as well as all applicable laws and regulations.



Governance & Organization

RCC Policy Framework *continued*

Finance

BUDGET - Internally generated revenues shall offset no more than a maximum of twenty-five percent (25%) of the core personnel and operating expenses of the Reston Community Center. The balance of expenses shall be offset through tax revenues, interest (returns on investments) and/or utilization of Managed Reserve funds as directed by the Board.

Reston Community Center complies with Fairfax County Government budgeting requirements. To appropriately manage resources for future needs, RCC has established Managed Reserves. These reserve funds shall be allocated to four categories: 1) Maintenance Reserves equal to 12 percent of total projected annual revenues; 2) Feasibility Study Reserves equal to 2 percent of total annual revenues; 3) Capital Project Reserves of up to \$7 million and any remaining balance in 4) Economic and Program Contingency Reserves.

FEES FOR PATRONS - Reston Community Center pricing, fee structures for facility rentals, and procedures for refunds, discounts, and similar financial issues, shall be consistent with the mission and values of RCC, Fairfax County Government, and the practices of similar agencies, including but not limited to Fairfax County Park Authority and McLean Community Center. RCC staff shall conduct regular reviews of pricing for facility rentals, programs and services, and make adjustments consistent with the RCC Operating Guidance Memorandum FINANCE 01: Pricing.

Reston-qualified users shall be those people living and/or working within the boundaries of Small District 5 and members of their immediate family who reside with them. Reston-qualified patrons shall have a period of priority access to registered programs, the CenterStage Professional Touring Artist Series ticketing, and the annual opening of facility rentals to patrons and organizations. Non-Reston users of RCC programs, services and facilities shall be charged higher rates than Reston users. The use and pricing procedures applicable to both Reston and Non-Reston users shall be detailed in the Policy and User Manual, Operating Guidance Memoranda, and other RCC publications.

FINANCIAL ACCESSIBILITY - Reston Community Center established a Fee Waiver program to permit access for all Reston-qualified individuals to programs and services offered by RCC and administered with equitable standards of qualification based on Federal poverty guidelines. The program shall be offered with allocations on an individual and/or family basis of a prescribed and published fee waiver amount to permit broad choice on the part of qualified participants and full access, in particular, to summer youth program opportunities. Utilization of the Fee Waiver program resources shall be documented as a function of regular Board Finance Committee reporting and in the RCC Annual Report.



Governance & Organization

Strategic Planning

Reston Community Center plans for the future in increments of five-year periods. These plans focus on the long-range goals and strategies to achieve them in these areas:

- Facilities
- Equity
- Community Connections
- Programs and Services
- Communications
- Internal Capacity

Included in the Strategic Plan is a Methodology section that provides the means and resources for measuring success. These are identified to guide review processes associated with achievement of the Goals and Objectives of the Strategic Plan. These are described in the 2021 – 2026 document in the METHODOLOGY section of the plan.

To meet the goals and objectives of Reston Community Center's Strategic Plan 2021-2026, the Board of Governors and staff establish annual budgets, program plans, plan review processes and data collection practices. The data collected includes:

- Participation counts
- Customer satisfaction surveys
- Patron inputs from comment/suggestion cards
- Patron inquiries or input to RCCContact@fairfaxcounty.gov

Staff review programming and services delivery on an ongoing basis to ensure that these elements are considered:

- Pricing and cost recovery consistent with the RCC Policy Framework.
- Variety across age cohorts.
- Diversity of content.
- Delivery of programs and services to the entire community.
- Equitable resourcing where barriers related to status, economic means, disabilities or other factors inhibit the ability of patrons to participate.

Beyond these general approaches to achieving the Strategic Plan objectives, particular strategies are identified for each Pillar of the Strategic Plan that will provide evidence of success.

The Strategic Plan results are reviewed annually beginning in the Board of Governors Strategic Planning Meeting in early January. RCC programs, services and pricing are reviewed in the context of the February/March cycle of joint committee meetings of the Program/Policy and Community Relations Committees. During the month of April, the budget outline is constructed for the following fiscal year based upon meeting results from January through March deliberations.

RCC holds an Annual Public Hearing for Programs and Budget each June, where RCC's Annual Report is presented and the public weighs in one more time on RCC priorities and fiscal direction. The Board provides staff with the final direction on the budget at that time and, during the summer months, the upcoming fiscal year budget is prepared for adoption by the Board in September. The budget is then forwarded to the Fairfax County Department of Management and Budget.



Governance & Organization

Strategic Planning *continued*

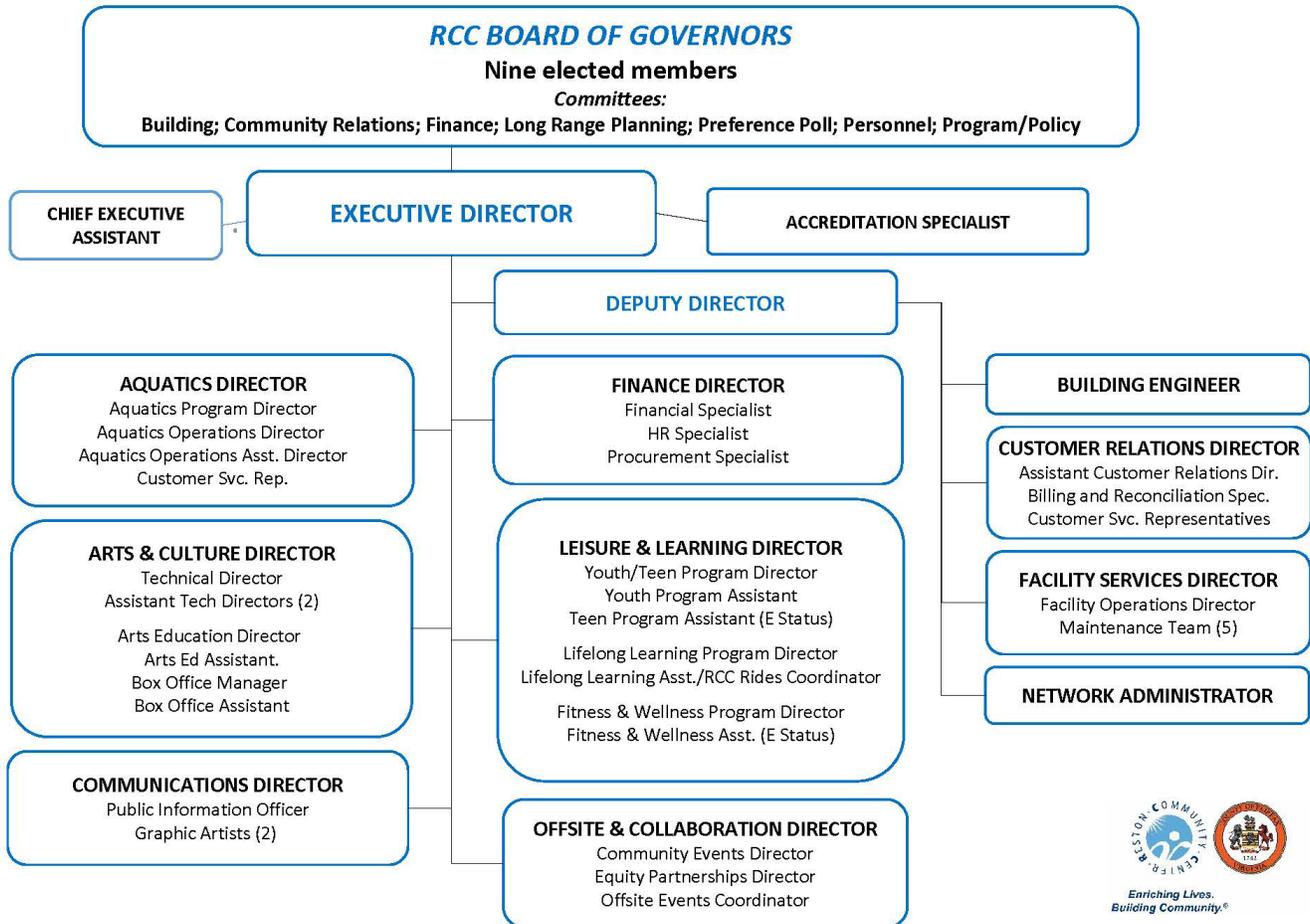
RCC's Board and staff regularly solicit public feedback and suggestions. In addition to the calendar of planning activities described, there are regular monthly meetings of the Board of Governors where the public may express their views. Staff members receive regular input from the public through a variety of mechanisms, including email, suggestion and comment cards, evaluations, focus group meetings and face-to-face conversations. We are always available and listening.



Governance & Organization

Reston Community Center Organization Chart

RESTON COMMUNITY CENTER ORGANIZATION CHART



Governance & Organization

Employment Overview (Full-time Employees)

Fairfax County Hiring Process Overview for Full-time (Merit) Employees

Fairfax County Government's application/selection process is described below; more details can be found at <https://www.fairfaxcounty.gov/hr/hiring-process-overview>.

Job Announcements

New jobs are posted on the county's Current Job Openings webpage. This page is updated each Saturday and jobs are advertised for a minimum of two weeks.

Applications

Jobseekers submit their application online before 5:00 p.m. on the announcement closing date. Steps include creating an account, uploading a resume and completing a series of steps which may include answering questions determined by the employer hiring for the job.

Review Process

After the job announcement has closed, applications and supplemental information are reviewed by Recruiters in the Department of Human Resources (DHR). Applications are reviewed against the job's qualifications and requirements – based on the information in the job announcement – to identify the applicants that are the closest match. Working from the resumes that have passed the first part of the review process, DHR creates a referral list of the top-rated applicants to move forward in the process.

The referral lists are forwarded to the agency.

Interviews

The hiring department decides which applicants from the referral list will be interviewed. Not every applicant on the list will be interviewed; however, no less than "half plus one" of the referral list applicants will be interviewed. Interviews are usually conducted by a panel of three or more people, and some include a job-related exercise or assessment.

Offer of Employment

An offer of employment is made to the applicant who was determined to be the best match for the position. All interviewed applicants who did not get a job offer are notified - by email or letter - of the final outcome of the selection process.

Background Checks

Prior to starting work, a background check will be made on most applicants offered employment. It may include criminal background record; driving record; credit history (for financial positions); education; professional licenses. Applicants are also subject to a check for Child Support obligations.

Visit <https://www.fairfaxcounty.gov/hr/hiring-process-overview> for more information about working for Fairfax County.



Governance & Organization

Employment Overview (Part-time, Seasonal and Temporary Employees)

A wide range of part-time and seasonal employment opportunities are available to qualified candidates. Job opportunities are posted at <https://restoncommunitycenter.com/things-to-do/work-volunteer/current-opportunities/>. Interested candidates should fill out and submit an application online. All forms are available online at www.restoncommunitycenter.com.

Volunteer Opportunities

RCC volunteers offer invaluable support to our programs, activities, and events. We encourage students who have community service requirements to look for meaningful ways to fulfill them by being an RCC volunteer. Registration is required for RCC volunteer opportunities; there is no fee to volunteer. Make a difference in your community by volunteering. For more information, see the “Volunteer Opportunities” section of each Program Guide or contact the Community Events Director at 703-390-6166.

Class/Program Proposals

Individuals who have particular skills, knowledge or abilities to offer as programming may complete the RCC Program Proposal Form to submit for consideration. Program planning time frames may necessitate several months to implement a class proposed that is deemed of interest to the Reston community. All forms are available online - www.restoncommunitycenter.com.

Partnerships and Sponsorships

Reston Community Center collaborates with many other community organizations to offer the broadest possible variety of programs and services to those living and working in Reston. Organizations interested in partnership possibilities should send an inquiry to RCCContact@fairfaxcounty.gov. The inquiry will be routed to the appropriate RCC manager for consideration. Parties seeking RCC sponsorship of Reston-based and/or Reston-benefitting experiences or events should similarly send their outreach to the agency inbox (RCCContact@fairfaxcounty.gov). Sponsorship agreements are generally managed by the RCC Communications Director.



Patron Guidelines: Codes of Conduct

Fairfax County Code of Ethics – For Employees and Volunteers

ADDENDUM NUMBER 2 TO CHAPTER 16

CODE OF ETHICS FOR THE MERIT SERVICE OF FAIRFAX COUNTY, VIRGINIA

Fairfax County Code of Ethics is intended to inspire a superior level of conduct, sensitivity and sound judgment for all employees.⁵ The code is intended to complement, not replace, all professional code of ethics. Employees should be aware of and abide by their respective professional values and requirements. All employees must perform their designated function in a manner that reflects the highest standards of ethical behavior. All employees must uphold their responsibility as trusted public servants. All employees are obligated to respect, honor, and uphold the Constitution, laws and legal regulations, policies and procedures of the United States, the Commonwealth of Virginia, and the County of Fairfax.

The Code of Ethics is supported by six core principles that form the ethical foundation of the organization: Honesty, Public Service, Respect, Responsibility, Stewardship, and Trust.

- I. **Honesty:** Be truthful in all endeavors; be honest and forthright with each other and the general public.
- II. **Public Service:** Ensure all actions taken and decisions made are in the best interest of the general public and enrich and protect quality of life.
- III. **Respect:** Treat all individuals with dignity; be fair and impartial; affirm the value of diversity in the workplace and in Fairfax County; appreciate the uniqueness of each individual; create a work environment that enables all individuals to perform to the best of their abilities.
- IV. **Responsibility:** Take responsibility for actions; work a full day; conduct all workplace actions with impartiality and fairness; report concerns in the workplace, including violations of laws, policies and procedures; seek clarification when in doubt; ensure that all decisions are unbiased.
- V. **Stewardship:** Exercise financial discipline with assets and resources; make accurate, clear and timely disclosures to the public; maintain accurate and complete records; demonstrate commitment to protecting entrusted resources.
- VI. **Trust:** Build regard for one another through teamwork and open communication; develop confidence with the public by fulfilling commitments and delivering on promises.

⁵ For the purpose of this document, the term employee includes all persons, volunteers and all elected and appointed officials working on behalf of Fairfax County.
County of Fairfax, Virginia-Personnel Regulations

July 30, 2013

16-11



Patron Guidelines: Codes of Conduct

RCC Code of Conduct

For your protection and comfort, Reston Community Center offers this Code of Conduct to show our commitment to providing a safe and welcoming environment for all our patrons and staff. To ensure safety and comfort for all, we ask individuals to act appropriately, behave in a mature and responsible way, and to respect the rights and dignity of others. Our Code of Conduct does not permit language or actions that can hurt or frighten another person or that falls below generally accepted standards of conduct. Specifically, this includes:

- Angry or vulgar language including swearing, name calling and shouting;
- Physical contact with another person in any angry or threatening way;
- Displaying an object or weapon that can be considered harmful or threatening;
- Any demonstration of sexual activity or sexual contact with another person;
- Behavior deemed lewd or lascivious;
- Harassment or intimidation with words, gestures, body language or other menacing behavior;
- Behavior that intends to or results in the theft or destruction of property;
- Leaving a child under 8 years of age unattended. A child is considered unattended if they are without adult supervision and wandering around the building;
- Intrusion upon an event to which one is not an invited or registered participant; and
- Being under the influence of alcohol or drugs.

Patrons are responsible for their own personal comfort and safety and should ask any person whose behavior threatens their personal comfort to refrain. Staff members are expected to respond to any reported violation of our Code of Conduct.

Dismissal from a program or facility may result from any violation of the Code of Conduct. **No refunds will be given.**



Patron Guidelines: Codes of Conduct

Code of Conduct for Camp Participants

Camp participants and parents are required to affirm that both have read and agree to abide by all elements of the Camper Code of Conduct below and RCC's General Code of Conduct.

Parent Requirements

1. Provide all required documentation and forms by the deadline or the space for your child/ren may be forfeited.
2. Sign in and sign out child/ren per age guidelines and program requirements on time and with any required identification. Penalty fees will be applied for late pickups and participants may miss key program elements such as field trips if they are not brought to program sites on time.
3. Alert the program director if participant(s) will not be attending prior to the start time of the day's program activities.
4. Support the behavior requirements of the Code of Conduct.
5. Pick up or arrange for authorized person(s) to pick up a sick participant as soon as possible after being notified the participant is ill.
6. Pick up or arrange for authorized person(s) to pick up a participant as soon as possible if the participant's conduct is disrupting activities or he/she has been dismissed from the program.
7. Pick up or arrange for an authorized person to pick up participant on time each day.

Participant Requirements

1. At all times, participants in RCC programs must abide by RCC's General Code of Conduct, and must treat all staff, participants and all others in program areas, with respect.
2. Participants will treat others as they would want to be treated.
3. Participants will follow instructions given by program leaders.
4. Participants will maintain personal hygiene, wear safe and suitable clothing, and remain with their program group.
5. For safety reasons, participants must wear closed-toe shoes, and refrain from wearing sandals, Heelys, Crocs (or similar footwear) and jewelry while participating in RCC programs.
6. In order to guard against loss, participants should not bring valuables such as iPods, gaming systems or other expensive items. RCC is not responsible for the personal property of participants.
7. Eating and drinking will be permitted only in designated areas.
8. Due to individual allergy sensitivities, participants are prohibited from sharing food and drink under any circumstances. Participants should refrain from bringing food with nuts to camp.
9. Participants will not borrow money from other participants; should the need arise, staff will make appropriate arrangements.

We want everyone to have a great time, but not at the expense of others. We expect all participants to follow directions and to conduct themselves with respect for fellow campers, staff, property and the program boundaries. Behavior resulting in extreme disruption or intentional harm to self, others or property may result in removal from the camp at the discretion of program staff.

Grounds for Dismissal

1. Possession of any item used as a weapon and/or physical attack upon another person.
2. Harassment, verbally abusive language or similarly aggressive behavior toward any participant, staff member or member of the public. This includes inappropriate and/or unwanted touching.
3. Vandalism, destruction of property or proven theft by any participant.
4. Possession of any alcohol, tobacco, pharmaceutical or other unauthorized drug or substance by a participant.
5. Repeated violations of participant or parent requirements above.



Patron Guidelines: Codes of Conduct

Code of Conduct for Trip Participants

When attending Reston Community Center trips, patrons must follow the guidelines below.

1. To ensure other patrons' enjoyment of the trip experience, please do not speak during performances or while tour guides or trip leaders are speaking.
2. Please be respectful of the location of the trip. Do not touch artifacts or antiques displayed in historical homes and museums.
3. Turn mobile devices to "silent" during guided tours and performances; mobile phones should not be used during guided tours or performances.
4. No photography or recording devices may be used during performances or in any venue that prohibits photography.
5. While on the bus, speak quietly. Please respect others who may wish to read or nap on the bus. Cell phones should be used with headsets or earbuds only, so the sound is exclusive to the user. Users of cell phones who have audio on speaker or turned up loud enough to be heard by other passengers will be asked to turn off their phones.
6. Be sure to remain with the RCC group, and return to the designated departure point on time, to allow the bus to depart on time with the full roster of participants checked in as "present." RCC will wait for a total of 15 minutes past the departure time. If a patron has not returned by the designated departure time, and there is no good explanation for the delay, the bus will leave. Any patron who is left behind will be responsible for their own transportation back to Reston.
7. If you will be arriving to or leaving from the destination using a different mode of transportation, you must notify the appropriate Leisure and Learning program director prior to the trip.
8. There are some trips where alcohol is served or is available. Patrons are expected to manage their intake appropriately. Inebriated patrons may be asked to sit on the bus for the duration of the excursion. Inebriated patrons will be prohibited from participating in future RCC excursions.
9. Failure to abide by these trip guidelines may result in the patron being barred from participating in future trips. Your signature below acknowledging that you agree to follow these guidelines is required.



Patron Guidelines: Aquatics

Aquatics Usage Policies and Requirements

Aquatics Center: General Rules and Regulations

1. All persons entering the pools must register at the desk and pay the appropriate fee.
2. Children under the age of 8 must be accompanied by an adult 16 years or older.
3. Children 6 years and up must use appropriate locker rooms. The All Genders/ Accessible Dressing Room may be used, or either the women's or men's locker rooms.
4. Children under the age of 3, and any patron diagnosed with incontinence, are required to wear plastic pants underneath swim apparel.
5. All swimmers are encouraged to take a rinse shower before entering the pools. Persons leaving the pool area are required to shower before re-entering the pools.
6. Spitting or expunging water is prohibited.
7. Running, pushing and horseplay are prohibited.
8. Diving into water less than 8 feet in depth is prohibited. Back dives or flips from the side in any depth of water are prohibited.
9. Starting blocks are only available to swim lessons and rentals.
10. ADA and entry ramps are for entry and exit only. Open swimming and playing are prohibited on the Warm Water ramp or in areas of the beach entry used to access the Lap Pool.
11. Special equipment is for class use only (rings, noodles and barbells).
12. Kickboards are restricted to lap lanes only.
13. Masks must be marked "Tempered Glass" or "Plastic Lens."
14. Snorkels must be properly attached to a mask.
15. Fins are limited to the lap lanes.
16. Children using floatation devices require direct one-on-one adult supervision. Coast Guard-approved floatation devices are available for patron use in a variety of sizes. Devices brought to the pools must be Coast Guard-approved.
17. Food, drinks and chewing gum are prohibited in the pool areas or in the locker rooms.
18. Glass containers and/or breakable objects are prohibited throughout the Terry L. Smith Aquatics Center.
19. Non-swimmers ages 11 and under will wear an RCC-supplied wristband and are only allowed in the shallow ends of the pools.
20. Videography and photography of any kind, using any device, are prohibited during swim team practices unless authorized in writing by the swim team coach.
21. Talking to and visiting with a lifeguard who is on a stand or monitoring the pools are prohibited. Please see another Aquatics staff member in the office for assistance.
22. Any conduct that may endanger the welfare of other patrons is prohibited.
23. Appropriate swimwear is required. Only bathing suits or approved alternatives may be worn in the pools and/or spa. Excessively loose clothing or bathing garments will not be permitted due to safety reasons.
24. The pools may be closed, or their use limited, at the discretion of management due to technical problems, overcrowding or threatening weather conditions.
25. Prolonged underwater swimming or breath-holding are prohibited. Competitive or prolonged breath-holding can be deadly.

These rules will be enforced by the professional lifeguarding staff team of the Terry L. Smith Aquatics Center. Patron cooperation is appreciated.



Patron Guidelines: Aquatics

Aquatics Usage Policies and Requirements *continued*

Spa

1. Spa users must be 18 years of age or older.
2. Persons with respiratory or cardio-pulmonary problems, pregnant women or anyone with serious medical conditions are advised not to use the spa.
3. Any person having a skin disease, nasal or ear discharge, communicable diseases, or who is wearing any kind of bandage, will not be permitted in the spa. Persons having any considerable areas of exposed sub-skin tissue, open blisters, cuts, sunburn etc., are warned that these are likely to become infected if subjected to spa water.
4. It is recommended that persons remain in the spa for approximately 5 minutes. A maximum time limit of 10 minutes is strongly recommended.
5. The spa is co-ed; appropriate swimwear is required. Only bathing suits or approved alternatives may be worn in the pools and/or spa. Excessively loose clothing or bathing garments will not be permitted due to safety reasons.
6. No more than 15 people are permitted in the spa at one time.

Youth Swim Test

Children 11 years and younger may be required to pass a swim test or wear a wristband. The tests will be done during breaks, but if no break is expected, tests will be given on an "as needed" basis. The swim test consists of swimming one length of the pool using front crawl stroke in strong fashion, one length of the pool using any backstroke and treading water for two minutes. Children who are tested, and who do not pass the test, will be given an armband to be worn in the appropriate pool area. All swimmers wearing a wristband must remain in the shallow areas of the pools.

Locker Room Etiquette

The locker rooms in RCC's Terry L. Smith Aquatics Center are used by hundreds of people throughout the day. To ensure the health and safety of patrons, RCC has established these rules regarding our locker rooms:

1. Only unbreakable water bottles may be carried into the locker rooms; no other food or drink is permitted.
2. No cell phones or other communications devices may be used in the locker rooms. Please use these in the lobby areas of RCC.
3. Patrons share the space in the locker rooms; please keep in mind that many others are using them when placing items on surfaces, benches, or other areas.
4. Personal belongings should not be left in any locker room area before or after use.
5. We greatly appreciate everyone's efforts to keep the locker room areas as clean and tidy as possible. The showers and sinks should be used quickly; we request that people refrain from shaving as it creates plumbing challenges. If you must shave, please clean up any hair or other debris that shaving leaves behind. We appreciate your attention to hair that is shed from shampooing as well.
6. Children 6 years and older must use the locker room appropriate to their gender. Please keep that in mind when bringing children to the pool.
7. If you have arrived at RCC with mud or other debris on your shoes, we greatly appreciate you removing your shoes before walking in the locker rooms as those floors are wet and patrons in them are barefooted.



Patron Guidelines: Arts and Culture

Audience Guidelines

When attending performances presented at or by Reston Community Center, audience members should follow these guidelines:

1. No food or beverages (other than closed water bottles) are permitted in the CenterStage, Community Room or Jo Ann Rose Gallery during performances.
2. Flash photography of any kind is strictly prohibited during performances for the safety of the performers.
3. Recording of any kind is prohibited unless expressly contractually permitted.
4. The use of electronic devices is prohibited; this includes texting, tweeting, and any other similar manners of communication during performances as a courtesy to others and to the performers.
5. Every attendee of performances in the CenterStage, or any similarly enclosed RCC performance venue with a fire code limit on capacity, must be ticketed or counted when entering to be compliant with fire code. This includes infants or children who would sit on an adult's lap.
6. Aisles must remain clear from obstructions including, but not limited to, strollers, packages and walkers. Ask the ushers/house manager for assistance in storing them.
7. Audience members are expected to be considerate of others; if children are restless, they should be removed to the lobby area. Audience members should refrain from wearing hats or other headgear that will obstruct the stage view of those behind them. Once a performance begins, talking should cease.



Patron Guidelines: Ceramics, Glass and Woodworking Studios

Ceramics Studio (RCC Lake Anne)

The public is invited to use RCC's Ceramics Studio. RCC has adjusted the approach to reserving space in the Ceramics Studio because of the extremely high demand for time and access.

The Open Ceramics Studio now requires reservations through a lottery system to allow for more equitable distribution of spots. Lottery enrollment for the Open Ceramics Studio is free, but patrons are required to purchase a Ceramics Studio pass and swipe the pass prior to each reserved visit. Passes may also be renewed online through myRCC. Ceramics Studio passes can be purchased and renewed online through myRCC or at an RCC Customer Service Desk. Passes may be purchased for a minimum of one visit to a maximum of 10 visits. Ceramics Studio passes expire two years from the date of purchase. The pass fee includes firing and glazes. Clay is available for an additional cost.

The lottery for ceramics studio reservations for Reston patrons will be available for 24 hours on the 25th of each month for the next month beginning at 9:00 a.m. There is no limit on the number of lottery requests that can be made. The lottery spin will take place on the morning of the 26th; patrons will receive enrollment offers for their selected sections and must accept that enrollment offer to finalize their registration in the Ceramics Studio. If an enrollment offer is not accepted or rejected before noon on the 29th, that enrollment offer expires and is treated as a cancellation. Beginning the 26th, all remaining open ceramic slots will be open for reservation registration. Reservations open on the first of each month for Non-Reston patrons.

The Ceramics Studio hours are also published in the RCC Program Guides and on the RCC website.

Studio Equipment (subject to change as needed):

- Three L&L kilns
- Ten Brent CXC wheels
- One Brent handicap accessible wheel
- North Star slab roller
- North Star extruder
- Six sculpture stands
- Approximately 15 glazes

Glass Studio (RCC Hunters Woods)

The public is invited to use RCC's Open Glass Studio. Open Glass Studio is facilitated by an experienced glass artist. Tools are provided; however, participants must work independently on projects and bring their own materials. The Open Glass Studio requires reservations. Reservations are available on the 25th of each month for the next month. To reserve, sign into myRCC and select the dates you wish to attend. Reservations for the Open Glass Studio are free, but patrons are required to purchase a Glass Studio pass and swipe the pass prior to each reserved visit. Glass Studio passes can be purchased and renewed online through myRCC or at an RCC Customer Service Desk. Passes may be purchased for a minimum of one visit to a maximum of 10 visits. Glass Studio passes expire two years from date of purchase. Reservations open on the 25th of the month for the following month for Reston patrons. Reservations open on the first of the month for Non-Reston patrons.



Patron Guidelines: Ceramics, Glass and Woodworking Studios

Woodshop (RCC Hunters Woods)

The Reston Community Center Woodshop Program is designed to offer instruction in woodworking and equipment safety. It's available for use by patrons at all skill levels. The Open Woodshop hours give class participants and the general public time to work on class and/or personal projects. While a woodshop supervisor is available, no ongoing instruction is given during the woodshop hours.

Open Woodshop requires reservations. Reservations are available on the 25th of each month for the next month. To reserve, sign into myRCC and select the dates you wish to attend. Reservations for the Woodshop are free, but patrons are required to purchase a Glass Studio pass and swipe the pass prior to each reserved visit. Woodshop passes can be purchased and renewed online through myRCC or at an RCC Customer Service Desk. Passes may be purchased for a minimum of one visit to a maximum of 10 visits. Woodshop passes expire two years from date of purchase. Reservations open on the 25th of the month for the following month for Reston patrons. Reservations open on the first of the month for Non-Reston patrons. Patrons who wish to use the woodshop during Open Woodshop hours must swipe their pass at the RCC Hunters Woods customer service desk prior to entering the woodshop. Upon paying and entering the woodshop, patrons will present their receipt to the woodshop supervisor. Fees are published in the RCC Program Guides three times annually and may be subject to change.

The Open Woodshop hours are published in the RCC Program Guides and on the RCC website.

Woodshop equipment (subject to change):

- SawStop table saw
- Delta drill press
- Jet drill press
- Delta bandsaw 20"
- PowerMatic bandsaw 14"
- Oneita air filter
- PowerMatic planer
- Grizzly jointer
- Bosch miter saw
- Delta scroll saw
- PowerMatic sander

All use of the Open Ceramics Studio, Glass Studio or Open Woodshop is governed by procedures that are available at RCC facilities and posted in those environments. Patrons are required to abide by all the use guidelines posted and in effect at the time of their use. Failure to comply with those guidelines may lead to injury or damage; therefore, patrons with difficulty following procedures required may have their use privileges suspended. Any patron using the Open Ceramics Studio, Glass Studio or the Open Woodshop who experiences an injury of any kind must complete an official RCC Incident/Injury Report Form as soon as is practicable. Both these facility features are always monitored and there must be an authorized studio monitor or shop supervisor on duty whenever patrons are present.



Patron Guidelines: General

ADA Accommodations

Fairfax County is committed to nondiscrimination on the basis of disability in all County programs, services and activities. Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a Reston Community Center program, service, or activity, should contact the RCC ADA representative as soon as possible but no later than 48 hours before the scheduled event. Please note that accommodation that requires staffing and/or transportation alterations may require up to 10 days advance notice. To request reasonable accommodation, please call 703-476-4500 or TTY 711.

No pets are permitted in RCC facilities with the exception of service dogs as defined by the Americans with Disabilities Act.

Displaying Materials at RCC

All materials must be submitted to and reviewed by the RCC Director of Communications or Public Information Officer and must meet the following criteria:

- Materials must be non-commercial in nature.
- Materials must be for Reston-based or Fairfax County efforts that are nonprofit (RCC may require proof of status) or public agency-related in nature.
- Materials may be displayed on a "space available" basis after RCC needs are met.
- No materials may be posted on windows.
- Materials may not promote programs similar in nature to RCC programming.

Privacy Policy

Information Collection and Use

Reston Community Center, a Fairfax County government agency, (hereinafter referred to as "RCC") is the sole owner of the information collected on its website and for its programs. We will not sell or rent this information to others in ways different from what is disclosed in this statement. RCC collects information from our users at several different points on our website and for programs. Photographs, video or other recordings of RCC patrons and activities are the sole property of RCC and may not be used without express permission from RCC.

Registration

In order to access RCC programs, a user must first complete the registration form. During registration, a user is required to give their contact information. This information is used to contact the user about RCC programs and services for which they have expressed interest.

RCC'S Commitment to Children's Privacy

Under the Children's Online Privacy Protection Act, no website operator is permitted to require a child under the age of 18 to disclose more information than is reasonably necessary to participate in an activity as a condition of participation. RCC therefore does not knowingly collect or maintain personally identifiable information from children under 18 without providing the parent with the information. Please note that the above does not apply to photographs taken or videotaping by RCC during RCC activities.



Patron Guidelines: General

Privacy Policy *continued*

Log Files

We use IP addresses to analyze trends, administer RCC's website, track users' movement and gather broad demographic information for aggregate use. IP addresses are not linked to personally identifiable information.

Sharing

We will share aggregated demographic information with our partners. This is not linked to any personal information that can identify any individual person. We partner with other parties to provide specific services. When the user signs up for these services, we will share names or other contact information that is necessary for the third party to provide these services. These parties are not allowed to use personally identifiable information except for the purpose of providing these services.

Links

The RCC website contains links to other sites. Please be aware that RCC is not responsible for the privacy practices of such other sites. We encourage our users to be aware when they leave our site and to read the privacy statements of each and every website that collects personally identifiable information. This privacy statement applies solely to information collected by RCC's website.

Security

RCC takes every precaution to protect our users' information. When users submit sensitive information via the website, your information is protected both online and offline. RCC patrons are urged to share their information with each other responsibly.

Supplementation of Information

In order for RCC's website to properly fulfill its obligation to our customers, it is necessary for us to supplement the information we receive with information from third-party sources.

Correction/Updating Personal Information

If a user's personally identifiable information changes (such as your Zip code), or if a user no longer desires our service, we will provide a way to correct, update or remove that user's personal data.

Notification of Changes

If we decide to change our privacy policy, we will post those changes, so our users are always aware of what information we collect, how we use it, and under which circumstances, if any, we disclose it. If at any point we decide to use personally identifiable information in a manner different from that stated at the time it was collected, we will notify users by way of an email. Users will have a choice as to whether or not we use their information in this different manner. We will use information in accordance with the privacy policy under which the information was collected.



Patron Guidelines: General

Prohibition of Commercial Activity/Solicitation

RCC prohibits program providers and all rental patrons from conducting commercial activity or solicitation of patrons when being presented by RCC unless such activity is expressly described and contractually permitted. Activities (such as author book sales or musician CD sales) may be permitted to further the individual's pursuit or interest independently of the presenter, but solicitation to purchase goods or services of a business nature is not permitted. In any case, no presentation at or for RCC may be made for the sole purpose of selling goods or services.

Political/Religious Activity during RCC-Sponsored or Co-sponsored Programs/Events

RCC prohibits partisan political activity and religious proselytizing during programs and events sponsored or co-sponsored by RCC. The same types of activity are prohibited in RCC facilities in public areas. Private rentals may include these activities, but they must remain completely within the physical boundaries of the RCC rented areas.



Facility Usage: Rentals

Facility Rental

RCC makes available to the public a variety of rooms for non-commercial use – meetings, performances, receptions, and parties – on a rental basis. The use of these spaces is subject to RCC policies. RCC seeks to provide Small District 5 (Reston) residents and employees with access to affordable, high-quality facilities. In order to maximize the availability of its rental space, RCC reserves the right to place limits on the use of its public meeting rooms. Those rental policies are summarized in this document. The RCC booking season runs from September 1 to August 31 of the following year.

Priority of Space Usage

Founding Partners

"Founding Partners" was a special, finite category of renter defined by the RCC Board of Governors in the early history of RCC. It comprises a limited number of organizations that have booked rooms at RCC annually since its inception. If, for any reason, a Founding Partner does not rent at RCC during a particular year, it loses its status. This category of users has the privilege of booking rooms based on their historical pattern of use prior to the start of each booking season.

Internal Programming/Events

RCC develops a host of quality programming for the primary benefit of residents and employees located within Reston's Small District 5. These programs occur throughout RCC's facilities and receive primary booking of space. Programs include, but are not limited to, classes, the Professional Touring Artist Series and internal RCC meetings.

Reston

For individuals, RCC determines Reston status based upon whether or not the patron resides or works within the boundaries of the Small District 5. For businesses and organizations, RCC bases Reston businesses status upon whether or not the business or organization has a physical presence within Small District 5. For a description of the boundaries, check the Small District 5 map in this manual or on the RCC website (www.restoncommunitycenter.com). The booking season opens for patrons each year on the second Saturday in March. Reston patrons are eligible for reduced room rental rates. The CenterStage will consider rentals with arts focus before considering non-arts use.

Non-Reston

For individuals, RCC defines non-Reston patrons as those who neither live nor work within the boundaries of Small District 5. RCC considers businesses and organizations to be non-Reston if they are physically located outside the boundaries of Small District 5. The booking season opens for non-Reston patrons on April 1.



Facility Usage: Rentals

Facility Rental Policies

Advertising Your Meeting and Social Space Rental Event

All material publicizing events to be held at RCC facilities that are not co-sponsored by RCC must contain the following disclaimer: "This event is not sponsored by Reston Community Center, its Board of Governors or staff."

Commercial Use and Fundraising

RCC expressly prohibits the commercial use of its meeting rooms. Commercial use is defined as any for-profit activity and/or charging the attendees of an event a fee for service, including event admission. Additionally, RCC does not rent space for people or organizations to conduct classes or workshops that are open to the public. Businesses may rent space to provide employee-only training. Persons interested in teaching classes at RCC facilities are encouraged to fill out a Program Proposal Form and work with our programming staff to explore the possibility of having such classes included among RCC's seasonal program offerings. Only arts organizations are exempted from the prohibition of charging admission fees.

RCC also expressly prohibits the rental of its meeting rooms for activities in which sponsors not meeting the criteria for nonprofit status solicit donations either during or in advance of an event. Rental of meeting rooms for the purposes of fundraising is limited to recognized not-for-profit, tax-exempt organizations, churches and educational institutions, and a detailed description of the event must be submitted for approval with the Rental Request Form. Proof of an organization's tax status may be requested.

Facility Rental forms are available online at www.restoncommunitycenter.com.

Decorating

1. All decorations, including draperies, must be flame-retardant and comply with local and national fire-prevention codes.
2. RCC prohibits the use of candles (including those on birthday cakes) or any open flame. The use of "Sterno," if properly contained in catering equipment, is allowed.
3. Without exception, common area furniture (e.g. fireplace lounge furniture) may not be used as part of any rental event set-up.
4. Loose confetti and glitter may not be used as decoration in any of our facilities.
5. The use of adhesive tape on any surface is prohibited. The only type of tape that is permitted is blue painter's tape. Removable putty may be used. Absolutely no nails, push pins, thumbtacks, or anything else that may create holes may be used anywhere in RCC facilities. Decorations may not be attached to curtains.
6. Patrons who wish to rent the Jo Ann Rose Gallery should keep in mind that they are renting an art exhibit space. Patrons may not remove or cover any artwork displayed in the Jo Ann Rose Gallery – no exceptions. If you are concerned that the exhibited artwork may not coincide with your personal preferences – or those of your group – please consult with the Exhibit Coordinator prior to your rental or consider renting alternate space. RCC does not guarantee that an exhibit will be on display at all times, particularly in late August and early September or during other maintenance periods.

Event Times and Room Setup

RCC facilities staff will arrange all meeting rooms, based upon the setup information provided, prior to all rentals. Changes to room setup on the day of the event are not possible. In addition, RCC staff will remove the tables and chairs following each event and take care of any custodial needs. Any setup and cleanup time patrons need for events must be factored into the booking request. Patrons and vendors (DJs, caterers, etc.) will not have access to rental space prior to the start time indicated on the rental agreement. The person who signs the rental agreement must check in at the front desk upon arrival and will serve as the point of contact during the event. All rooms must be vacated by the stated end time on the rental agreement. Since RCC hosts multiple events daily, the turnaround time between events is needed for our facilities staff to prepare the room for the next program or rental. Failure to vacate rental space on time may result in loss of future rental privileges.



Facility Usage: Rentals

Facility Rental Policies *continued*

For rentals for parties and other social events that extend to closing time on weekends, all events must conclude by no later than 45 minutes prior to closing (all music and food and drink service must stop by this time) to allow for time for cleaning up and vacating the facility. Without exception, all patrons/attendees must be out of the facility by closing time.

RCC reserves the right to inspect set-ups for compliance with fire code regulations and approve or reject accordingly.

Rental Fee Waivers

Fee waivers may be granted in cases where the rental fee would prohibit offering a unique and beneficial service that enhances RCC's programs and is unavailable elsewhere in the community.

Regularly scheduled meetings of clubs or organizations and fundraising activities are not eligible for fee waivers. Fee waivers are granted at the discretion of the Executive Director on a booking-by-booking basis. Requests must be submitted in writing and should accompany the Rental Request Form. Non-Reston rentals are not eligible for fee waivers.

Food and Beverages

Food and beverages are not permitted in the CenterStage or Terry L. Smith Aquatics Center but may be served in RCC's meeting rooms. Kitchen facilities are available for rent at both Hunters Woods (additional charge) and Lake Anne. Please note that the kitchen facilities are designed for the preparation, storage and warming of food, not for cooking. Any use of the kitchen facilities – with the exception of obtaining ice – is strictly prohibited unless it has been rented as part of your event. Utensils are not provided. RCC does permit patrons to serve alcohol at rental events, but please note that since RCC is a public facility, a one-day Banquet License must be obtained from the Virginia Alcohol Beverage Control (ABC) office and be displayed during the event. Licensing information and an online application are available at www.abc.virginia.gov. License requests must be submitted to the Virginia ABC at least 12 days prior to the event. For more information on the licensing process and fees, please call 703-313-4432. The possession or consumption of alcoholic beverages without an ABC license or by any person under the age of 21 or prohibited by law.

Hours

Monday – Thursday: 9:00 a.m. – 10:00 p.m.*
 Friday – Saturday: 9:00 a.m. – 12:00 a.m.*
 Sunday: 9:00 a.m. – 8:00 p.m.*

**For rentals that extend to closing time, events must conclude by no later than 45 minutes prior to closing time to allow time for cleanup.*

Please note: Hours are subject to change. Please contact the Facility Services Director or visit www.restoncommunitycenter.com for holiday hours. Meeting room rentals may not extend past operating hours. CenterStage use may extend after hours if agreed upon during the contracting process.

Inclement Weather Policy

In the event of inclement weather, please call Reston Community Center at 703-476-4500 to determine operating status. Current information is generally available by 6:00 a.m. Please note that RCC follows the Fairfax County Government operating decision during inclement weather, not the Fairfax County Public Schools decision. If Fairfax County is open or open with staff on unscheduled leave, all rental agreements will be honored. Cancellation will be at the discretion of the patron; however, no refunds will be issued. If Fairfax County is closed, all RCC facilities will be closed and RCC will either refund all rental fees paid or attempt to reschedule the event on an alternate date.



Facility Usage: Rentals

Facility Rental Policies *continued*

Code of Conduct/Loss of Rental Privileges

For the safety and comfort of all patrons, the RCC Code of Conduct must be observed by all users of RCC facilities. The Code of Conduct is clearly posted at all RCC facilities and is also printed in the RCC seasonal program guide. Users who fail to comply may be asked to leave. No refunds will be given. RCC may revoke the privilege to rent space based on the conduct of a rental patron or their guests. Rental patrons will be notified in writing of revocation. The period for which the privilege is suspended shall be for a minimum of the remainder of the rental cycle and may extend longer if circumstances warrant. Patrons may be billed for overtime and/or damage charges.

For events with children in attendance, parents are required to supervise children at all times, and a ratio of one adult for every eight children under the age of 18 must be maintained. Children are expected to remain in the areas that have been rented for the event. Children under the age of 12 are not permitted to be in common areas without adult supervision due to the potential of disruption to other users. Running and horseplay are strictly prohibited.

Music and Lighting

Since RCC operates multi-use facilities, restrictions on the volume of music and other noise-generating activities must be maintained in order to permit multiple activities, including rental events, classes, workshops, and CenterStage performances, to occur simultaneously and without interruption. Additionally, both RCC facilities are located in residential areas. For these reasons, RCC facilities are not appropriate venues for events featuring excessively loud music. These restrictions are strictly enforced, and exceptions cannot be made.

Events featuring live music, amplified music and/or DJs require prior approval and are restricted to the CenterStage, Community Room and Jo Ann Rose Gallery. No sound systems are provided or permitted in any other meeting rooms.

All rental patrons must use the amplifiers and speakers provided in the facility. No speakers may be brought into either RCC facility. Connections are available for laptops, MP3 players and any device with a standard headphone output. RCC also provides (2) wireless microphones and XLR connections for pre-approved uses only. All equipment must be approved by RCC staff before connecting to the sound system. Connecting powered soundboards or amplifiers may damage the system; users are required to connect devices using pre-amp outputs. The system includes preset maximum volume limits that staff are not able to adjust; exceeding this maximum volume level will result in distortion.

Certain events will, at the discretion of RCC staff, require a mandatory pre-event meeting and/or technical support as part of the rental. Additional fees may apply. Strobe lights and lighting systems that use 2.4GHz systems are strictly prohibited.

A decibel meter may be used to establish a reasonable noise level. Those rental patrons who fail to comply with requests from RCC staff to maintain an acceptable noise level or correct any other policy violations risk having their event terminated and future rental agreements revoked. Please note that due to the design of the facilities, RCC cannot guarantee that you will not hear some noise from other events in adjacent rooms. In certain instances, in order to avoid potential noise conflicts between events, RCC may not rent out rooms when there are events booked in adjoining rooms or in the CenterStage. Therefore, even if rooms appear to be open, they may not be available for rental.

Parking and Unloading

Parking for the Hunters Woods facility is available in the Hunters Woods Village Center parking lot. No parking or unloading is permitted on the plaza in front of the building or along the circle in front of the Hunters Woods Fellowship House. A loading dock at the rear of the building is available for those individuals who need to deliver items. Vehicles must move from the loading dock area after unloading/loading to allow for use by others.



Facility Usage: Rentals

Facility Rental Policies *continued*

Parking at Lake Anne is available in the Washington Plaza parking lot. Please note that from May through November, parking at Lake Anne is extremely limited on Saturday mornings due to the Farmers Market. An alternate parking lot is available at Washington Plaza West off North Shore Drive. Accessible parking is available at both RCC locations. Illegally parked vehicles will be ticketed and towed at the owner's expense.

Piano Use

Pianos are available for rent in RCC's meeting rooms and the CenterStage. Payment of a tuning fee is required. The pianos are to be moved ONLY by RCC facilities staff. Nothing may be placed on any surface of the pianos except music scores. The pianos shall be played only by qualified musician(s) scheduled to perform for the rental period. Chairs, tables and decorations must be placed at least four feet from the pianos with no danger of decorations falling on the pianos.

Parking and Unloading

Parking for the Hunters Woods facility is available in the Hunters Woods Village Center parking lot. No parking or unloading is permitted on the plaza in front of the building or along the circle in front of the Hunters Woods Fellowship House. A loading dock at the rear of the building is available for those individuals who need to deliver items. Vehicles must move from the loading dock area after unloading/loading to allow for use by others. Parking at Lake Anne is available in the Washington Plaza parking lot. Please note that from May through November, parking at Lake Anne is extremely limited on Saturday mornings due to the Farmers Market. An alternate parking lot is available at Washington Plaza West off North Shore Drive. Accessible parking is available at both RCC locations. Illegally parked vehicles will be ticketed and towed at the owner's expense.

Refund Policy

RCC will issue refunds for canceled reservations according to the following schedule:

- More than 21 days before the scheduled reservation: 80 percent
- 14 to 21 days before the scheduled reservation: 50 percent
- Less than 14 days before the scheduled reservation: 0 percent

Reservations must be canceled in writing using the RCC Cancellation/Refund Request Form. All forms are available online at www.restoncommunitycenter.com on the Find Your Form page. Refunds are issued by Fairfax County to the original credit card, or in the form of a check if original payment was cash or check and sent by mail within four (4) to six (6) weeks.

Rental Agreements and Payment Terms

Rental Agreements must be signed and returned to RCC by the due date listed on the invoice. Payment is due in full at the time the Rental Agreement is signed. Reservations for which a signed rental agreement and payment have not been received are subject to cancellation at the discretion of RCC. If you need to make changes to your rental agreement, please contact RCC staff as soon as possible prior to your event. If you request additional time or equipment on the day of the event, there is no assurance that the request can be fulfilled. If the request can be fulfilled without additional staffing or other RCC resources, it will be fulfilled at the discretion of the Manager on Duty. All related fees will apply and must be paid by cash or credit card (no checks) by the contracted individual (ID will be checked) prior to fulfillment of the request. Requests that result in added staffing charges will result in a surcharge of \$150, in addition to the applicable hourly fees, payable at the time of the request. RCC reserves the right to assign an alternate room for functions in the event that the room originally designated for such function is unavailable or deemed inappropriate in RCC's sole opinion.



Facility Usage: Rentals

Facility Rental Policies *continued*

Rental Agreement Hours/Space/Equipment Modifications

RCC discourages rental patrons from requesting modifications to their rental agreement on the day of their event. If the rental patron requests additional time or equipment on the day of the event, there is no assurance that the request can be fulfilled. If the request can be fulfilled without additional staffing or other RCC resources, it will be fulfilled at the discretion of the Manager on Duty. All related fees will apply and be payable prior to fulfillment of the request. Requests that result in added staffing charges (e.g. extending an employee schedule) will result in a surcharge of \$150, payable at the time of the request.

Room Capacities

RCC has worked with the Fairfax County Fire Marshal's office to establish the maximum capacity for each meeting room and venue space. In addition, the Health Department has established a maximum capacity for the Terry L. Smith Aquatics Center. Exceeding the posted maximum occupancy load constitutes a criminal offense punishable by a fine and/or jail. Please note that capacities may vary depending upon the setup arrangement chosen. Under no circumstances may any furniture or equipment block exit doors. Common areas may not be used as "overflow" space for events.

Third-Party Rentals and Rental Contacts

Rental patrons may not book RCC facilities for the purpose of renting them to another party ("third-party rental"). In addition, Reston residents may not allow non-Reston individuals or organizations to use their Reston address for the purpose of obtaining Reston rates. Violation of these policies will result in the loss of rental privileges for all parties involved. Each rental request must designate a primary contact person who is responsible for signing all paperwork and making payment. The contact person must check in at the front desk upon arrival for the event and be in attendance throughout the rental. RCC staff will not make any changes to rentals unless requested by the designated contact person.

How to Request Rental Space

STEP 1: Complete a Rental Request Form. All forms are available online at www.restoncommunitycenter.com. Complete the form and return it to the attention of "RCC Facility Rentals," fax it to 703-476-2488, or email a copy to RCCFacility@fairfaxcounty.gov. RCC cannot reserve any facilities until a form is submitted. Incomplete or illegible forms will delay processing and may result in the loss of requested space. Identification will be required to verify Reston status. Individuals using a Reston business address to qualify for Reston rates must submit proof of employment (business card, letter from employer, etc.) with their request. Requests should be submitted as soon as possible as last-minute requests cannot always be accommodated.

STEP 2: RCC will process the request and notify you by email within one (1) week regarding the availability of space. If the requested rental space is available, the user will receive a rental agreement, invoice, liability waiver and room setup worksheet via email. No reservations are guaranteed until you receive this information. CenterStage and Aquatics Center rentals, as well as any Community Room rentals that include live music or performance elements, will require additional meetings with staff prior to completion of the final contract.

STEP 3: Return a signed agreement, bottom portion of the invoice, along with payment and a signed liability waiver, to RCC by the due date indicated on the invoice. Online payment through myRCC is preferred. Setup information should be provided at least three (3) weeks before the event. RCC will not accept personal checks for payment less than 28 days prior to the rental date, and there is a \$50.00 charge for returned checks.

All rental patrons are expected to adhere to guidelines outlined in the Patron Guidelines portion of this Policy and User Manual.



Facility Usage: Aquatics Rentals

Facility Rental Procedures: the Terry L. Smith Aquatics Center

Patrons wishing to take advantage of the Aquatics Department's open swim time in conjunction with their room rental must coordinate that use with the Aquatics Director at least 14 days before the scheduled booking to ensure adequate lifeguard coverage. RCC reserves the right to deny entry to the pool to any group that fails to inform the Aquatics Department in advance of its desire to use the pool. Gate fees apply to all drop-in use of the Aquatics facility. To arrange for drop-in use of the pool for your group or to obtain information on RCC's Birthday Party Pool Packages, please call the Aquatics Service Desk at 703-390-6150.

Interested rental users of the Terry L. Smith Aquatics Center must complete a Rental Request Form. A sample form can be found in the Policy and User Manual Appendix. All forms are available online at www.restoncommunitycenter.com. Complete the form and return it to the attention of the Facility Services Director or fax it to 703-476-2488. As the only public indoor swimming venue in Reston, natatorium and spa rental opportunities are very limited and are only available before or after normal Aquatics Center operating hours. Pool rentals are coordinated through the Aquatics Director.

All rental patrons are expected to adhere to guidelines outlined in the Patron Guidelines portion of this Policy and User Manual.



Facility Usage: the CenterStage Rentals

Facility Rental Procedures: the CenterStage

Interested users of the CenterStage will need to complete and submit the RCC Rental Request Form. Due to its unique status as one of Reston's only performing arts venues, priority for the CenterStage use will be given to arts-related programming over any other usage. Request forms from Reston patrons are accepted beginning the second Saturday in March for the subsequent 15 months and will be reviewed within 45 days. Reston patrons are eligible for reduced CenterStage rental rates. The booking season opens for Non-Reston patrons on April 1.

Scheduling

Availability of the space each year will be determined by RCC's Director of Arts and Culture and Theatre Technical Director after needs for Founding Partners and internal programming/events, including the Professional Touring Artist Series, have been met.

Contracts

At least 30 days prior to use of the CenterStage, all groups will be required to meet with Arts and Culture staff to discuss the needs and scope of their particular event. Users will need to sign a CenterStage Rental Agreement and complete the CenterStage Equipment and Technical Requirements Form. A sample form can be found in the Policy and User Manual Appendix. All forms are available online at www.restoncommunitycenter.com. Payment terms for use of the CenterStage will be stipulated in the CenterStage Rental Agreement.

Tickets/House Management

CenterStage users are required to sell tickets to their CenterStage event through the CenterStage Box Office and will require the completion of a Box Office worksheet detailing their ticketing needs. Fees related to online sales will be passed along to the patron. All ticketing income collected will be distributed to the rental client within 30 business days after the completion of their event. All payments will be made by Fairfax County Government Check or ACH (completion of form required). Payments are contingent upon submission of an accurate W-9 and signature on a Box Office Sales manifest.

CenterStage users are required to use an RCC-trained House Manager for all performances. The House Manager will be responsible for opening doors at the agreed upon time, collecting tickets and/or counting all patrons, maintaining safety within the theatre and train rental patron ushers. More details about House Manager responsibilities and duties are listed below.

All rental patrons are expected to adhere to guidelines outlined in the Patron Guidelines portion of this Policy and User Manual.

Facility Usage: the CenterStage Rentals

the CenterStage Policies and Procedures

Safety

The primary consideration at all times during use of the CenterStage is safety. The RCC theatre technical staff have participated in national, state and local meetings with public safety officials and have developed the following guidelines to assure our compliance with all Fire Code and Safety Regulations:

- Clients, patrons, and participants must abide by all RCC policies and procedures and comply with applicable legal codes and industry standards.
- Use of flames, open or otherwise, must be approved in advance by a Fairfax County Fire Marshal. All scenery must be flame proofed.
- Materials used to construct sets must be flame-resistant or completely covered by flame-resistant paint, fabric or a flame-proofing chemical treatment.
- Tests on materials, sources for appropriate materials and code information can be obtained from the RCC Technical Director.
- Set construction, to include but not limited to platform heights and railings, must follow all RCC guidelines as well as industry standards including BOCA and OSHA codes.
- Inspections shall be performed by RCC technical staff to assure that scenery and technical elements are in compliance.
- Any use of weapons during a production must be approved after completing the Staged Weapons Application Form.
- Backstage access to fire exits and electrical panel clearances must be maintained at all times and comply with all Fire Code regulations.
- Reston Community Center is a “non-smoking” public facility. Smoking in any area of the building is completely prohibited other than onstage during a performance. If you intend to have performers smoking cigarettes onstage, we require that audiences be informed of this prior to box office sales and in the program or with lobby signage for the performance. It is not the intent of Reston Community Center to interfere with artistic content of programs, but rather to provide audiences with any information related to their well-being while attending events at the RCC. To that end, patrons are also informed in advance of the use of any of the following: fog machine, strobe light and special effects. Please indicate the use of any of these on the Equipment and Technical Requirements.

Safety Reminders

Organizations

- Users’ employees, volunteers, participants and/or representatives are not permitted in the theatre or dance studio without appropriate supervision.
- Users’ productions/events will be stage-managed by the RCC technical staff. All installed equipment in the CenterStage will be operated by the RCC technical staff.
- The maximum capacity of the stage/backstage area is 50 people. Cast and crew combined cannot exceed this limit.
- The maximum occupancy of the dressing room is 30 people. Production casts exceeding 30 people require separate arrangements for holding areas. Privacy cannot be provided nor can sole user status be assured for use of other RCC space. Users requiring additional holding space for cast members must contract with the RCC Facility Services Director for other RCC spaces. Users must provide security and supervision of access to the dressing room and theatre at all times. Doors may not be propped or left open without supervision. All doors must be secured upon departure.



Facility Usage: the CenterStage Rentals

the CenterStage Policies and Procedures *continued*

Participants

- Participants should be familiar and must comply with RCC Policies.
- Any injury and/or accident involving participants must be reported immediately to RCC staff in compliance with RCC Policy. An incident report must be completed with an RCC representative at the time of any incident.
- To ensure individual safety, all participants are required to attend the technical rehearsals held in the RCC theatre. Performance conditions and equipment require full attendance, so participants are completely familiar with their production requirements.
- No additional elements may be added to the performance without a technical rehearsal that includes all participants.
- Participants may not enter the theatre house during performances (unless it is a "scripted" entrance) to watch parts of the performance unless arranged and ticketed in advance.

Scripts

All productions/events requiring RCC technical support must provide the RCC Technical Director with a cued script 10 days in advance of the first rehearsal or as agreed upon in a production meeting.

- **For theatrical productions:** a cued script contains all the dialogue with detailed descriptions of lighting, sound and special effects as they occur including notes on execution of each lighting, sound and special effects cue. The script must also contain descriptions of where and when all set changes occur; this includes any changes involving the fly system.
- **For dance productions:** a cued script must indicate the exact order of all the dances and the music accompanying them. Next to each dance number, a detailed description of each lighting and sound cue as well as notes on its execution must be provided. Any set and/or fly system changes must be indicated where required. Times of music length (minutes: seconds) between the cues from start to finish should be indicated chronologically, e.g. light cue #1 0:00; sound cue "A" 0:12; fly cue "1" 0:45; etc.
- **For music productions:** a cued script must indicate the exact order of all the musical pieces and the number of performers in each. Next to each musical number, a detailed description of lighting cues and any changes in placement of chairs and music stands or the piano position must be provided.

Lighting

If your Equipment and Technical Requirements Form indicates a need for anything except work lights or standard general lighting, you must describe in writing what you would like.

Audio/Visual

Audio and video media must be provided not later than one week prior to the move-in date or as agreed to in a production meeting. The original format for all audio and video media is preferred. Audio files should be provided on hard drive or flash drive in MP3 or WAV format and should be free of any digital rights management restrictions. Video files should be provided on hard drive, flash drive, Dropbox or Google Drive in MP4, H264 format. To assure the integrity of levels set in rehearsal, media files are not to be exchanged after the technical rehearsals. Files must be clearly labeled and cued – the filename should indicate the running order, followed by the title (###filename.mp#).

Stage

You must put in writing any details regarding use of the fly system for drops, scenic elements and/or CenterStage soft goods, cyclorama, black traveler, black scrim and legs. Your load-in time must appear in your contract. Arrangements for storage must be requested in writing and approved in advance.



Facility Usage: the CenterStage Rentals

the CenterStage Policies and Procedures *continued*

House Management

1. All ushers must be familiar with the seating plan of the house. The house manager is responsible for unlocking the theatre doors with the hex-head wrench located in the audience entrance vestibule. After the doors have been unlocked, someone on the house manager/usher team must remain at the entrance to the theatre for security and safety measures.
2. The house manager must have a flashlight in order to assist late audience members to their seats. Flashlights are also required to assist patrons in evacuating from the theatre, if necessary, during an emergency or power outage. Flashlights are located at the box office.
3. All patrons must have a ticket to be an audience member of an event with the exception of "free admission" events which do not require tickets (e.g., movies and Fairfax-Loudoun Music Fellowship recitals). All ushers must tear and hold the bottom stub end of the ticket. These stubs are to be turned in to the RCC Box Office Manager for each performance. For performances or events without ticketing, ushers should estimate or use a counter to provide the attendance total to the CenterStage Box Office.
4. No more than the approved capacity of people (including ushers) may be seated or permitted in the CenterStage house by law. If at any time, the number of patrons in the house exceeds its capacity, the Fire Marshal, RCC staff, and/or the User's house manager are charged by law to evacuate the audience from the theatre and suspend operation of the CenterStage.
5. All performances must begin with a mandatory emergency preparedness announcement as follows: "In case of an emergency, there are four exits in this room: two at the entrance of the CenterStage and one to the right of the stage and one to the left of the stage."
6. If special effects are used in the production (e.g., smoke, haze or strobe) an announcement must be made prior to the performance, and it needs to be posted at the Box Office.
7. The house manager and ushers must report to the Box Office and the event stage manager a minimum of one hour prior to the curtain time of the performance.
8. Except in cases of unavoidable delay, the house should open a minimum of 15 minutes before curtain time. The house may not open without the "OK" of the stage manager.
9. The CenterStage is equipped with an assistive listening device system. If patrons request the devices, they may check them out at the Box Office.
10. The CenterStage has five wheelchair spaces. Two are located off the inside right aisle of the back row, three are located off the inside left aisle of the back row. When the wheelchair spaces are not being used by patrons in wheelchairs, removable folding chairs shall occupy those spaces. If the spaces are requested by wheelchair patrons, the house manager/ushers shall remove the folding chair(s) in the seat location requested. The folding chair(s) shall be put in an area that complies with legal aisle clearances and room occupancy load. Following the event, after the wheelchair patron has left the theatre, the folding chair(s) shall be returned to the appropriate space by the house manager/usher. The four aisle seats in Row "K" have armrests (located on the aisle side) that can pivot up vertically by pulling the inside knob. This allows for patrons to slide into the seat easily, if they are able and prefer to sit in an actual theatre seat rather than remain in their wheelchair.
11. The house manager/usher shall assist patrons who require additional space for extra equipment storage during events (strollers, walkers, etc.) by storing the items in an appropriate place. The house manager/usher shall return items to the patron following the event. All ushers remain on duty through the entire performance to assure safety and appropriate behavior of audience members.
12. Photography, recording or videography are not permitted during performances and rehearsals unless permission has been granted in advance. Ushers shall enforce the photography and recording policies.
13. Ushers shall ask patrons to leave the theatre if they are disturbing the CenterStage event. If young audience members are disturbing the event, the accompanying guardian shall be asked to leave the theatre with them if the disturbance does not cease.
14. Latecomers are to be detained in the rear of the house until an appropriate break in the performance occurs, permitting seating of them with the least disturbance to other audience members and the performance.
15. All ushers should dress appropriately for the event.
16. Ushers shall not allow food or drinks in the theatre with the exception of closed water bottles.



Facility Usage: the CenterStage Rentals

the CenterStage Policies and Procedures *continued*

17. There is an in-house communication system with phones located in the vestibule (between the two sets of double doors from the lobby to the theatre), a control booth, backstage right and in the dance studio. These phones are used by the house manager, stage manager, ushers and any production staff who need to communicate with someone in any of these areas. The house manager and stage manager communicate with each other before events begin and at the end of intermissions if they occur. The house manager and ushers are responsible for getting audience members into the theatre and closing the double doors so the event can commence. The house manager/usher and stage manager notify each other when they are ready to go (lobby clear, theatre doors closed, performers are at “places” and technicians are on “standby” to begin).
18. The house manager and/or ushers are responsible for clearing all patrons from the house area and announcing “clear” to the technical staff so strike may begin. This also includes monitoring the stage area, following the event, to prevent patrons from going onstage or backstage. The stage areas are restricted to technical staff, the rental client’s staff/volunteers and performers/participants in the event.
19. The house manager is responsible for locking the theatre doors and returning the hex-head wrench to the appropriate location.
20. The house manager and ushers are responsible for inspecting the theatre following events. Trash shall be picked up and discarded. Items found that are left behind by patrons should be turned into the Customer Service desk, to be put in RCC’s “Lost and Found” holding areas.



Facility Usage: Art Exhibits

Exhibiting Artwork at the Reston Community Center

Reston Community Center (RCC) offers three galleries for local visual artists to share their work with the Reston community. While these galleries are not professional art galleries, RCC uses its resources to support artists who are exhibiting their work and to present these exhibits in the best possible manner.

Gallery Space and Availability

Jo Ann Rose Gallery at RCC Lake Anne

1609-A Washington Plaza, Reston, VA 20190

RCC Lake Anne opened in the fall of 1999 as a multi-use facility focused primarily on visual arts. Since that time, Reston residents have been able to participate in monthly exhibits in the Jo Ann Rose Gallery, a space where 40 or more works can be displayed. The Jo Ann Rose Gallery was dedicated to the memory of Reston artist Jo Ann Rose who was an elected member of the RCC Board of Governors and an active past president of the League of Reston Artists. She worked tirelessly for the creation of this unique space to celebrate the arts and artists of our community.

**The Jo Ann Rose Gallery is available to individual artists for shows in January, February, July, August, and November.*

Hunters Woods Gallery at RCC Hunters Woods

2310 Colts Neck Road, Reston, VA 20191

Space for hanging works of art in the Hunters Woods facility was first made available to Reston artists in 1986. Since that time, local visual artists have been able to present their work for a month or more at a time to the diverse community of people who live and work in and around Reston.

**The Hunters Woods Gallery is available to individual artists for shows in May, June, July – mid-August, Mid-September - October, November, and December.*

3D Gallery at RCC Lake Anne

1609-A Washington Plaza, Reston, VA 20190

The 3D Gallery, a glorious addition to the Lake Anne facility for three-dimensional art, was completed in September of 2011. Lighted display cases line the walls of a 30' long hallway displaying pottery, sculpture, mosaic, and other three-dimensional artworks. Each display case is approximately 4' wide X 6' tall and the back and sides of the entire display case are mirrored, giving a truly three-dimensional view of the display pieces. Depending on the size of the 3D pieces, three to seven items can be displayed on each shelf.

**The 3D Gallery is available to individual artists for shows in February and November.*

**RCC and the League of Reston Artists program exhibit in the galleries for all remaining months. These curated exhibits may present additional opportunities to exhibit your work. For more information on RCC sponsored exhibits, please visit www.restoncommunitycenter.com or contact the Exhibit Coordinator. For more information on the League of Reston Artists, please visit www.leagueofrestonartists.org.*



Facility Usage: Art Exhibits

Exhibiting Artwork at the Reston Community Center *continued*

Artist Application Process

When submitting the **Artist Application**, please attach one or two photos or include a website where the work(s) can be viewed. Applications are processed in the order in which they are received. Priority is given to artists who reside or work within Small District 5, a Fairfax County tax district within Reston that supports RCC. In the Jo Ann Rose Gallery, individual exhibits or group exhibits not coordinated by RCC or the League of Reston Artists must have at least one artist who lives or works in Small District 5. Residency status can be determined by using the Fairfax County Tax Administration website. Upon receipt of the application, all artists will receive email confirmation and additional information about exhibiting at RCC. Because of the limited number of months available for individual exhibits in the Jo Ann Rose Gallery, it can take 2 or more years before exhibit space becomes available. Please note that the Hunters Woods Gallery is smaller, does not have a hanging fee and may have a shorter wait time. Artists who have submitted applications should feel free to contact the Exhibit Coordinator at any time for an update on their status. The Exhibit Coordinator is responsible for scheduling exhibits, receiving applications, and acting as a liaison between artists and RCC.

Nature of Exhibitions

Since RCC is a public facility utilized by all members of our community, the nature of daily activities requires some discretion in the type of work displayed. Work that is sexually explicit (work that is representational or realistic in depiction of human genitals is considered sexually explicit by RCC) or is graphically violent will not be considered appropriate to the space. RCC reserves the right to remove work that does not meet these guidelines and store it until the artist can be contacted. RCC staff and artists work together to create an atmosphere that is sensitive to the multi-use nature of the facilities.

Installation Fees

Installation fees are payable to Reston Community Center at the beginning of the exhibit:

- **Jo Anne Rose Gallery at RCC Lake Anne:** \$2.00 hanging fee for each piece
- **Hunters Woods Gallery:** No hanging fee
- **3D Gallery at RCC Lake Anne:** \$1.00 per piece fee for up to 15 pieces **or** a \$15 fee per glass case for more than 15 pieces

Installation

All work should be framed, mounted or presented in as professional a manner as possible. If this is your first exhibit, please contact the Exhibit Coordinator. RCC reserves the right to turn away artwork that does not meet RCC's guidelines. Please visit RCC to become familiar with the hanging system and to determine how many works to include before hanging your exhibit. Ladders will be provided upon request. Installation guidelines for each gallery are provided below. Please also refer to the Framing and Hanging Guidelines for all artwork that is to be hung on the wall.



Facility Usage: Art Exhibits

Exhibiting Artwork at the Reston Community Center *continued*

- **Jo Ann Rose Gallery:** An “S” hook and fishing line system is used to display work. All works must be securely framed. Screw eyes must be on the back of each piece. Saw tooth clips will not be accepted. A hanging wire is optional with this system (clip-style frames will not work with the “S” hook and fishing line hanging system in the Gallery). Fishing line is available upon request. Hanging will begin at 10:00 a.m. and removal will be from 9:00 a.m. to 11:00 a.m. on the designated day; there will therefore be some overlap between exhibits. Please see Framing and Hanging Guidelines for more information.
- **Hunters Woods Gallery:** RCC has an installed hanging rail system with movable, suspended hangers. Depending on the size, 20-50 works can be hung either singly or two or three pieces on one heavy wire. This system requires that your works have a secured hanging wire on the back. Clip frames with pressure holders are not suitable. Please see Framing and Hanging Guidelines for more information.
- **3D Gallery:** The Exhibit Coordinator will coordinate installation and removal with artists exhibiting in the 3D Gallery. Please see Gallery Space description for more information.

Framing and Hanging Guidelines

- Sturdy eye hooks or D-rings – with strong hanging wire – are required for all pieces regardless of size to ensure that the artwork hangs properly.
- Eye hooks or D-rings should be installed approximately 1.5” to 2” from the top of the frame. The hole of the eye should be parallel to the ceiling.
- Canvases that have exposed staples should be framed.
- Canvases that have staples on the back do not have to be framed but the side edges need to be finished.

Artwork Labels and Exhibit Information

- Labels should be placed in the lower right-hand corner of the work with Handi-Tak (available at any office supply store) or a similar product. Please place the following information on a sturdy, small, attractive label:
- Title of Work
- Name of Artist
- Medium (Watercolor, Oil, Photograph, etc.)
- Price or NFS (Not for Sale)
- Contact Information – Phone and/or Email
- All exhibit signage must be hung on the wall; easels cannot be used. Consider hanging a framed exhibit page that includes exhibit details, reception date (if any) and biographical information. Business or post cards and holds can be integrated into your title page. Do not attach them directly to the wall.

List of Works

A complete list of the works in your exhibit with the title, price, medium and contact information should be given to the Exhibit Coordinator.



Facility Usage: Art Exhibits

Exhibiting Artwork at the Reston Community Center *continued*

Sale of Works

Artists are welcome to sell their artwork; RCC does not charge a sales commission. Artists are responsible for handling all sales; RCC will refer all sales questions to the artist. If a work is sold during a show, it should not be removed until the end of the show. If it is necessary to remove it, however, a suitable replacement may be hung with the approval of the Exhibit Coordinator or Arts Education Director. For security reasons, whenever a work is taken down, it must be signed out at the Front Desk. A photo ID may be requested.

Exhibit Reception

Artists may choose to host a reception for the exhibit. Please see below for details on space and date selection for each gallery. Artists are responsible for coordinating all details for the reception, including payment of rental space fees. Since facility space is booked more than a year in advance, please complete and return the Rental Request Form to the Facility Services Director as soon as possible. After the Rental Request Form is received and reviewed by RCC's Facility Services Director, a rental agreement will be sent to you. Please review, sign and return the rental agreement with payment.

- **Jo Ann Rose Gallery Exhibits:** Jo Ann Rose Gallery reception dates have been pre-arranged with the Facility Services Director, usually on the Sunday following installation, from 1:30 p.m. – 4:30 p.m. (for a 2:00 p.m. – 4:00 p.m. reception), in the Jo Ann Rose Gallery. If this date and time is amenable to you, please return the Rental Request Form to the Facility Services Director, in a timely manner to avoid the space being released for public rental. If you wish to rent the Gallery for a different reception date or time, contact the Exhibit Coordinator as soon as possible. The Exhibit Coordinator will make every effort to accommodate your request, although it is not always possible due to existing rentals.
- **3D Gallery Exhibits:** Receptions for 3D Gallery Exhibits may be held in the Jo Ann Rose Gallery at RCC Lake Anne. Reception dates are often booked more than a year in advance. To select a date and time, please contact the Exhibit Coordinator. Once a date has been identified, complete and return the Rental Request Form to the Facility Services Director as soon as possible. After the Rental Request Form is received and reviewed by our Facility Services Director a rental agreement will be sent to you. Please review, sign and return the rental agreement with payment.
- **Hunters Woods Gallery Exhibits:** RCC Hunters Woods offers several options for receptions for exhibits in the Hunters Woods Gallery. Reception dates are often booked more than a year in advance. To select a location, date and time, please contact the Exhibit Coordinator. Once the date and space have been identified, complete and return the Rental Request Form to the Facility Services Director as soon as possible. After the Rental Request Form is received and reviewed by our Facility Services Director, a Rental Agreement will be sent to you. Please review, sign and return the rental agreement with payment.



Facility Usage: Art Exhibits

Exhibiting Artwork at the Reston Community Center *continued*

RCC Publicity and Communications

Please provide a .jpg image and brief description of your exhibit to the Exhibit Coordinator by the fifth of the month prior to your exhibit. RCC will include the exhibit information on www.restoncommunitycenter.com and on several public calendars. Photos and descriptions may also be used in RCC marketing materials or on social media. The artist is primarily responsible for promoting the exhibit. If you are sending postcards or invitations, please include RCC's hours of operations (Monday through Saturday, 9:00 a.m. to 9:00 p.m.; Sundays 9:00 a.m. to 8:00 p.m.).

For exhibits in the Jo Ann Rose Gallery, please include the following statement regarding the multi-use feature of the gallery space: **The Jo Ann Rose Gallery is closed to the public during some events and classes. Please call 703-476-4500 to check if the gallery will be open when you plan to visit.**

If you are publicizing your exhibit with local media, check with each one for deadlines. Local media include print and electronic platforms.

Liability

RCC will not accept responsibility for any damaged or stolen artwork. However, staff will take all possible care to safeguard the exhibits. This is a public space; each artist hangs at his or her or their own risk. An Exhibitor's Release is included on the Artist Application and must be signed prior to the opening of the exhibit.

Hours

RCC galleries and exhibits are open during RCC normal operating hours**:

- Monday through Saturday: 9:00 a.m. – 9:00 p.m.
- Sunday: 9:00 a.m. – 8:00 p.m.

***Because of the multi-use nature of the Jo Ann Rose Gallery, it is not open to the public during rentals, classes and some programs. Either facility may be closed or operate on a reduced schedule on major holidays. Please call 703-476-4500 to check on facility and gallery hours.*



Registration

Registration Schedule

RCC classes, trips, camps, performances and programs are announced and open for registration according to the following schedule.

PUBLICATION	Publication online and distributed to Reston residents	Registration opens for Reston Patrons	Registration opens for non-Reston Patrons
Summer Camp Guide	January 15	February 1	February 8
Summer Program Guide	April 15	May 1	May 8
Fall Program Guide (including PTAS season announcement)	July 15	August 1	August 8
PTAS Season Brochure	August 1	August 1	August 8
Winter/Spring Program Guide	November 15	December 1	December 8

How To Register For Classes and Activities

Online (myRCC at www.restoncommunitycenter.com)

- You must establish an account to log in and register.
- To register online, patrons will need a household username and password.
- New users will need to create an account through myRCC to receive a household username and initial password. To access myRCC, go to www.restoncommunitycenter.com and click on the myRCC icon. Under Quick Links, click Create an Account. User information will be emailed within 48 hours.
- Any questions about online registration may be directed to RCCContact@fairfaxcounty.gov or to a customer service representative at 703-476-4500, option 8, Mon-Sat, 9:00 a.m. – 9:00 p.m. or Sundays, 9:00 a.m. – 8:00 p.m.

In-Person/Mail/Fax Registration

- Sample Registration Forms (Aquatics Registration Form and Class/Trip/Camp/Volunteer/Pass Registration Form) can be found in the Policy and User Manual Appendix. All forms are available online at www.restoncommunitycenter.com.
- Register in person at RCC Hunters Woods or RCC Lake Anne.
- Register by mail by sending completed registration forms to RCC Hunters Woods.
- Fax completed registration forms to 703-476-2488 (classes, trips, camps) and to 703-476-0563 (aquatics classes and activities).
- For non-aquatics classes, trips, camps and events, family members living in the same household may complete a single registration form. Aquatics patrons must complete one aquatics registration form for each student or participant in a class. Patrons residing in separate households who wish to enroll in the same class must complete separate registration forms and staple them together.



Registration

Registration Policies

Small District 5

Reston residents and employees in Small District 5 (Reston) are eligible for priority registration and reduced program rates. Regular class fees are listed as Reston/Reston 55+/Non-Reston; aquatics daily visits and pass fees are listed as Reston/Reston 55+/Non-Reston. The Reston 55+ pricing applies to registered programs where Reston patrons 55 years and older may receive a 20 percent discount on the Reston fee. The 55+ discount does not apply to all programming.

Reston status is determined by whether the patron resides or works within the boundaries of Small District 5 (Reston) using Fairfax County's Tax Administration site. A map of Small District 5 is on p. 6 of this manual and on the RCC website (www.restoncommunitycenter.com).

Priority Reston Registration

Priority registration for Small District 5 (Reston) residents and/or employees takes place the first week of each scheduled registration period. RCC will not process payment until enrollment has been confirmed.

Non-Reston Registration

Non-Reston registration begins after the end of the one-week Reston-priority registration period.

Payment

Payment is required at the time of registration.

Pay by cash, check (payable to Reston Community Center), money order, or credit card.

Cash payments cannot be accepted during Reston-priority registration.

Confirmation

Registration confirmations will be emailed; if we do not have an email address on record, the confirmation will be sent via regular mail. Please note that the confirmation will indicate if you are enrolled or waitlisted or other information about the class (such as supply lists or other requirements).

Reservation Programs

Some drop-in programs, including group fitness classes, water aerobics and open studios, are offered on a reservation basis. Patrons wishing to participate in these programs must have a valid pass for the particular program they are wishing to enroll in to reserve a space. While there is no charge for making a reservation, patrons are required to swipe a valid pass upon arrival at RCC.

Reservations are available through myRCC and open on the 25th of each month for the following month for Reston patrons and on the 1st of the month for non-Reston patrons.



Registration

Liability Waiver on RCC Registration Forms

The below Liability Waiver is on all RCC registration forms and drop-in sign-in sheets. Patrons who register for programming online must agree to the Liability Waiver or myRCC will not permit registration.

PLEASE NOTE: Patrons may not make changes to this paragraph. Participation in RCC programs is contingent on all the following conditions.

I recognize that there may be inherent risks in participating in programs and activities being offered by Reston Community Center ("RCC"), and I understand that RCC strongly recommends that any person participating in any such program or activity should be covered by insurance while participating in any such program. By my signature below, I agree to assume all of the risks and accept personal responsibility for any damages or medical expenses following any injury, permanent disability, or death that may result from my participation. By my signature below, I agree to waive any and all claims for liability against RCC, the Governing Board of RCC, the Board of Supervisors of Fairfax County, Fairfax County, their officers, employees, volunteers, and agents, and I agree to hold such entities and persons harmless from any and all property damage or injury, permanent disability, or death that may result from my participation. If I am registering a child, by my signature below, I represent that I am the parent/legal guardian of the child being enrolled and that I am making the representations stated above on behalf of that child. I also recognize that employees of RCC and/or the County may take and edit photographs and/or video tapes of RCC programs for either archival or public relations purposes. By my signature below, I acknowledge and agree that any such photographs and/or videos are the property of RCC and/or the County, that any such photos and/or videos may be used in the publications of RCC and/or the County without compensation to me, and that any such photos and/or videos may be subject to the Virginia Freedom of Information Act and other applicable laws. By my signature below, I acknowledge and agree to the RCC refund and cancellation policy.

Fees

Program Fees, Passes

- Program fees are listed in the program guides as Reston, 55+ Reston discount, and Non-Reston (e.g., \$50(R)/\$40 (R55+)/\$100 (NR))
- Patrons 55 years and older may receive a 20 percent discount on registration fees (except in cases where the fee is payable to an entity other than RCC). Where the discount applies, the discounted price will be shown.
- All passes for multiple visits expire two years from the purchase date. Exceptions may occur in the event of extended facility closures. Check with RCC Customer Service Representatives for more information.

Fee Waiver Program

RCC established a Fee Waiver Program to permit access to all Reston-qualified individuals to programs and services offered by RCC and administered with equitable standards of qualification based on Federal poverty guidelines. The program shall be offered with allocations on a household basis for household individuals and dependents of a prescribed and published fee waiver amount to permit broad choice on the part of qualified participants and full access, in particular, to summer youth program opportunities. Allocations to the individuals in a qualified household may not be combined. A sample fee waiver form can be found in the Policy and User Manual Appendix. A Fee Waiver FAQ sheet is online at www.restoncommunitycenter.com.



Registration

Class Cancellation

- If the minimum enrollment has not been met seven days before the class starts, RCC reserves the right to cancel the class.
- A full refund will be issued if the class is canceled by RCC.
- RCC reserves the right to substitute instructors without notice.
- Refunds will not be issued in the event of closures due to acts of nature (lightning, storms, floods, etc.). Please see our Inclement Weather information on the RCC website.

Refunds

Cancellation/Refund Policy

- RCC Registered Class, Camp, Trip or Pass Cancellation/Refund Requests

- Reston Community Center programming requires advance planning and contracting. As a result of the costs involved in staffing and contracting commitments, processing fees are assessed on refund requests to encourage patrons to plan ahead and avoid the need to cancel out of a program or trip. The processing fee is different for trips because of the specialized nature of the contracts involved. All RCC programs are subsidized in part by the taxpayers of Small District 5 to provide high-quality, affordable programs.
- For free or drop-in (reservation) programming, patrons are encouraged to use myRCC to cancel their enrollment so that space may be opened up for waitlisted patrons.
- All patrons requesting a refund must complete a refund request form – this supports our accounting and reporting requirements.
- No refunds are given for any class, camp, pass or trip with a fee of \$10.00 or less.
- Refunds will be issued by check from Fairfax County if original payment was cash or check; refunds will be issued to the patron's credit card if payment has been made by credit card and RCC Customer Service is able to reach the patron to obtain the credit card information (online payments will automatically be refunded to the original method of payment). If we are unsuccessful after attempting twice to reach the patron for that information, the patron's refund request will be processed through payment from Fairfax County by check.
- Refund checks will be issued by Fairfax County in four to six weeks.
- Refund requests received on or after the class, camp or trip begins will not be honored.

- Class and Camp Cancellation Processing Fees and Timeframes

- Written refund requests received 14 days or more prior to the start of a class or camp will receive a full refund less a 20 percent processing fee.
- Refund requests received less than 14 days before the start of a class or camp will be granted (less a 20 percent processing fee) only if another registration is received in its place.

Trips Cancellation Policy

- Written refund requests received 14 days or more prior to the start of a trip will receive a full refund less a 50 percent processing fee.
- Refund requests received less than 14 days before the start of a trip will be granted (less a 50 percent processing fee) only if another registration is received in its place.

Pass Cancellation Policy

- Refunds for a pass will be prorated to the purchase date and then subjected to a 20 percent processing fee.



Box Office

Box Office Information

Online: www.restoncommunitycenter.com Available until two hours before a performance and requires payment of a processing fee.

By Mail: Return a Ticket Order Form to: RCC Box Office, 2310 Colts Neck Road, Reston, VA 20191

In Person: Tuesday, Wednesday, Thursday: 4:00 p.m. – 9:00 p.m., Saturday: 1:00 p.m. – 5:00 p.m., and two hours prior to curtain time. Box office hours are reduced during the summer.

Phone: 703-476-4500, Press '3' • TTY 711

Please provide the following items:

- *your name with the correct spelling as it appears on your credit card,*
- *your best telephone number to call you back,*
- *the performance title, date and curtain time you wish to attend,*
- *the number of tickets you wish to order (all persons must have tickets, including infants and children sitting on laps),*
- *your credit card number and its expiration date*
- *the billing address of your credit card including zip code.*
- *your email address If you would like confirmation to be sent to you.*

Fax: Fax Ticket Order Form to 703-476-2488.

Box Office Policies

- No refunds or exchanges are made unless the show is canceled.
- Please indicate if a wheelchair-accessible seat is needed, or of any other accommodation we can make to provide better access for patrons with any special needs; and do so as soon as possible to assure we can best accommodate you.
- All audience members, regardless of age or the performance location at Reston Community Center, are required by Virginia Fire Code to have a ticket.
- Tickets are not mailed. E-tickets will be sent electronically to the primary patron at the time of purchase and will be scanned at the performance hall entrance. Any issues regarding e-tickets can be addressed by calling the Box Office.

Types of Orders

Professional Touring Artist Series: On August 1, the Box Office will be open for sales of Professional Touring Artist Series tickets for residents and/or employees of businesses in Small District 5 ONLY. Proof of residence or employment status may be requested.

On that day, we will fill orders in turn by taking orders received by mail/fax prior to that date, alternating with orders from customers walking in on that day. This way, we hope to meet the needs of patrons who want to order early and who cannot be present on August 1, but also offer patrons an opportunity to get in line that day and choose their seats.

On August 8, tickets will go on sale to the general public on a first-come, first-served basis. Orders will be taken through mail, fax, and phone or in person during Box Office hours. Tickets will also be available to everyone online at this time.

Tickets for the Professional Touring Artist Series (PTAS) are sold at Reston (R) (Small District 5 residents or employees) or Non-Reston (NR) prices, regardless of age (no Senior or Youth tickets). Proof of residence or employment status may be requested. All seats are reserved unless otherwise indicated; payment is required at the time of reservation. Tickets are not mailed and can be picked up at RCC Hunters Woods during regular front desk hours, 9:00 a.m. – 9:00 p.m., once the order is processed. A sample Professional Touring Artist Series Order Form can be found in the Policy and User Manual Appendix. All forms are available online at www.restoncommunitycenter.com.



Box Office

Box Office Policies *(continued)*

Community Arts Organizations: Tickets for Community Arts Organization events held at Reston Community Center Hunters Woods (the CenterStage or the Community Room) are available for sale at least two weeks prior to the first performance date. Tickets are sold at Adult, Senior or Student/Youth prices, depending on the organization, regardless of residency (no discounts for Small District 5 residents or employees). All seats are reserved unless otherwise indicated; payment is required at the time of reservation. Season subscription ticketing is handled differently by different organizations. Priority ordering information is provided with confirmation of the season subscription.

A sample Community Arts Organizations Order Form can be found in the Policy and User Manual Appendix. All forms are available online at www.restoncommunitycenter.com.

the CenterStage Seating Chart

The current seating chart is available at www.restoncommunitycenter.com.



At a regular meeting of the Board of Supervisors for Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center at Fairfax, Virginia, on Monday, September 22, 1997, at which meeting a quorum was present and voting, the following resolution was adopted.

Indemnification and Representation
of Officers and Employees

WHEREAS, the Board of Supervisors ("Board") is authorized by state law to provide liability insurance and/or self-insurance for its officers, employees and volunteers, to cover the costs and expenses incident to liability, including those for settlement, suit, or satisfaction of judgments arising from the conduct of such officers, employees and volunteers in the discharge of their official duties, and

WHEREAS, the Board is authorized by state law to employ the County Attorney to defend it, any of its members, or any of its officers, employees or any trustees or member of any board or commission appointed by it in any legal proceeding to which it, or any of its members, or any of its officers, employees, or any appointees is a defendant when such proceeding is instituted against it, or them, by virtue of any actions in furtherance of their duties in serving the County and further, the Board, in its sole discretion, is authorized to settle such claims or to satisfy a judgment in such an action, and

WHEREAS, the County Attorney is authorized and directed by state law to represent the County and its boards, departments and agencies, and officers and employees in litigation arising from their conduct in the discharge of official duties, and

WHEREAS, the Board desires to set forth the manner in which it intends to exercise such authority,

NOW, THEREFORE, BE IT RESOLVED:

1. The resolution adopted by the Board of Supervisors at its regular meeting on Monday, September 25, 1994, concerning "Indemnification and Representation of Officers and Employees" is hereby readopted as hereinafter amended. Any representation by the County Attorney or his designate commenced prior to the effective date of this amended Resolution under the authority of the 1994 Resolution or any predecessor Resolution continues to be authorized until a final order is entered in the pending action.
2. For purposes of this Resolution, the term "County officers, employees, volunteers and members of Boards and Commissions" shall include only the following: The Board of Supervisors of Fairfax County, Virginia and its members and those elected and appointed officers of the County of Fairfax, Virginia, its Boards and Commissions and the members thereof and its employees and those volunteers, as listed in Appendix A, which is hereby incorporated by reference.
3. The County Executive is hereby authorized and directed to make such changes to Appendix A as may be required from time to time as a result of changes in the organization of County government or other actions by the Board. The County Executive shall notify the Board of such changes in writing.
4. The County Attorney shall represent, without charge, All County officers, employees, volunteers and members of Boards and Commissions with respect

to any claim or cause of action arising from the conduct of such officers, employees, volunteers and members of Boards and Commissions in the discharge of their duties as officers, employees, volunteers and members of Boards and Commissions of the County of Fairfax, Virginia. Said conduct is hereby deemed to include administrative and professional malpractice, as well as acts committed or alleged to be committed which result in or are alleged to result in deprivations of rights, privileges, and immunities guaranteed by the United States or Virginia Constitutions, or of any statute affording a cause of action for damages or injunctive relief for such deprivations. Such County officers, employees, volunteers and members of Boards and Commissions may, if they desire, retain their own legal counsel, at their expense.

5. In the event of a real or potential conflict of interest involving the County Attorney's representation of the County or any of its officers, employees, volunteers and members of Boards and Commissions on any claim, lawsuit or combination of claims or lawsuits or in the event that any such conflicts of interest or other ethical considerations might impede effective representation and legal defense by the County Attorney, the County Attorney is hereby authorized to retain additional counsel, at his discretion, at County expense, to represent any officers, employees, volunteers and members of Boards and Commissions who shall, in his opinion require such counsel.
6. All officers, employees, volunteers and members of Boards and Commissions who become legally obligated to pay any claims, including but not limited to settlements, suits, satisfaction of judgments, costs of awards of attorney's fees,

arising from the conduct of said officers, employees, volunteers and members of Boards and Commissions in the discharge of their duties, shall only be entitled to indemnification therefore where the claim shall have been determined by the County Executive, upon the recommendation of the County Attorney, to have resulted from actions which:

- a. were done in good faith; and
- b. were done in the reasonable belief that such activities were in the best interest of the County and in the furtherance of the official practices and policies of the County; and
- c. were within the scope of authority of the person acting; and
- d. were within the course of employment of the person so acting; and
- e. were not willful, malicious, or wanton.

The determination of the County Executive as to whether the conduct of any such officer, employee, volunteer or member of Boards and Commissions satisfies the requirements of subsections (a) – (e) shall be final.

7. The costs and expenses of such suits, including, but not limited to, settlement of such claims or satisfaction of such judgments, shall be paid, to the extent feasible, out of the County Insurance Fund.
8. The County Executive is authorized to purchase in accordance with established procedures and to continue in effect such liability insurance policies for County officers, employees, volunteers and members of Boards and Commissions, as he deems cost effective after the recommendation of the Risk Manager with legal defense of claims thereunder to be provided in

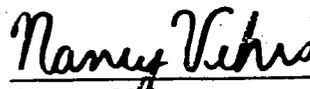
accordance with the terms of the policies of insurance. The County Attorney shall represent County officers, employees, volunteers and members of Boards and Commissions to the extent deemed necessary by him to supplement legal counsel provided under said liability insurance policies. The County Executive, on the recommendation of the Risk Manager, is authorized to purchase, in accordance with established procedures, personal liability, accident death and dismemberment, and automobile insurance for those County volunteers not listed in Appendix "A". On recommendation of the Risk Management Committee, the County Executive may promulgate regulations prescribing criteria for eligibility for such coverage. He benefits conferred by this Resolution upon County volunteers not listed in Appendix "A" shall be limited to those contained in whatever policies of insurance are obtained by the County Executive.

9. In no event shall legal fees paid on behalf of officers, employees, volunteers and members of Boards and Commissions, or legal counsel be provided by the County Attorney for the defense of acts alleged to have been committed by officers, employees, volunteers and members of Boards and Commissions in violation of criminal laws, nor shall any fines or penalties imposed by criminal conduct be reimbursed by the County.
10. Claims filed against the County may be settled for amounts of \$50,000 or less, included costs and expense incident to liability, compromise settlements, suits or satisfaction of judgments, arising from the conduct of its officers, employees, volunteers and members of Boards and Commissions in the

discharge of their duties. Such settlements may be made at the discretion of the County Executive or such other officials as designated by the Board of Supervisors after appropriate investigation and recommendation by the County Attorney. The Board's resolution regarding Delegation of Settlement Authority is hereby incorporated by reference.

11. Nothing contained in this Resolution shall be construed to abrogate any statutory right of appeal from disallowance of claims, and any person may appeal the disallowance of a claim to the Board of Supervisors.
12. Nothing contained in this Resolution shall be construed to abrogate or waive any of governmental immunity on behalf of the County of Fairfax, Virginia, or its officers, employees, volunteers and members of Boards and Commissions.
13. The authorization provided by this Resolution shall continue in effect until subsequently rescinded or amended. In the event that any provision of this Resolution is subsequently determined to be void by a court of competent jurisdiction, it shall be deemed severed and all other provisions shall continue in full force and effect.

A Copy Teste:



Nancy Vhrs
Clerk to the Board

VOLUNTEERS

1. Certified volunteer Fire Fighters in any recognized volunteer fire-fighting or rescue company in the County.
2. Members of the Fairfax County Auxiliary Police Force and Volunteers in Police Service (VIPS).
3. Citizens appointed to advisory or study councils, committees, task forces, etc., whether or not of indefinite duration by the Board of Supervisors, in connection with their participation on such committees, task forces, etc.
4. Persons appointed to serve by and at the pleasure of the Board of Supervisors on the Board of Directors of FAXFAIR Corporation, to the extent that they are sued in their capacity as Directors, so long as the Memorandum of Agreement between the Board of Supervisors and FAXFAIR Corporation remains in full force and effect and FAXFAIR Corporation obtains event insurance covering the Fairfax Fair.
5. Members of the Engineering Standards Review Committee.

APPENDIX A

OFFICERS, EMPLOYEES, VOLUNTEERS AND MEMBERS OF BOARDS AND COMMISSIONS COVERED BY THE RESOLUTION

OFFICES, DIVISIONS AGENCIES AND DEPARTMENTS

All employees, officers, officials, and directors of the following are covered. Also covered are employees, officials, officers, and directors of the unlisted Divisions and Sub-Agencies of the Offices, Divisions, Agencies and Departments listed below.

Animal Shelter
Circuit Court and Records
Clerk to the Board of Supervisors
County Executive and Office of the County Executive
Department of Administration for Human Services
Department of Code Compliance
Department of Cable and Consumer Services
Department of Family Services
Department of Finance
Department of Housing and Community Development
Department of Human Resources
Department of Information Technology
Department of Management and Budget
Department of Neighborhood and Community Services
Department of Planning and Zoning
Department of Public Safety Communications
Department of Public Works and Environmental Services
Department of Procurement and Material Management
Department of Tax Administration
Department of Transportation
Department of Vehicle Services
Environmental/Energy Programs
Facilities Management Department
Fire and Rescue Department
General District Court
Government Relations
Health Department
Juvenile and Domestic Relations Court
McLean Community Center
Office of Community Revitalization
Office of Elections
Office of Emergency Management

Office of Human Rights and Equity Programs
Office of Public-Private Partnerships
Office of Public Affairs
Office of the County Attorney
Office of the Financial and Program Auditor
Office of the Internal Auditor
Office to Prevent and End Homelessness
Operational Medical Director – Fire and Rescue Department
Operational Medical Director – Police Department
Police Department
Reston Community Center
Retirement Administration Agency

BOARDS AND COMMISSIONS

All members of the following Boards and Commissions and employees of the Board of Supervisors who act as staff to these Boards and Commissions are covered.

A Heath Onthank Award Selection Committee
Advisory Plans Examiner Board
Advisory Social Services Board
Affordable Dwelling Unit Advisory Board
Agricultural and Forestall Districts Advisory Board/Committee
Airports Advisory Board
Alcohol Safety Action Program Local Policy Board
Animal Services Advisory Commission
Architectural Review Board
Athletic Council
Audit Committee
Barbara Varon Volunteer Award Selection Committee
Board of Building and Fire Prevention Code of Appeals
Board of Equalization of Real Estate Assessments
Board of Zoning Appeals
Burgundy Village Community Center Operations Board
Chesapeake Bay Preservation Ordinance Exception Review Committee
Child Care Advisory Council
Citizen Corps Council
Civil Service Commission
Commission for Women
Commission on Aging
Commission on Organ and Tissue Donation and Transplanting
Community Action Advisory Board
Community Criminal Justice Board
Community Policy and Management Team, Fairfax-Falls Church
Consumer Protection Commission
Criminal Justice Advisory Board
Dulles Rail Transportation Improvement District Advisory Board, Phase I
Dulles Rail Transportation Improvement District Advisory Board, Phase II
Economic Advisory Commission
Economic Development Authority
Electoral Board
Engineering Standards Review Committee
Environmental Quality Advisory Council
Fairfax Area Disability Services Board
Fairfax Community Long Term Care coordinating Council
Fairfax County Convention & Visitors Corporation Board of Directors
Fairfax County History Museum Sub-Committees
Fairfax County Safety Net Health Center Commission

Fairfax-Falls Church Community Services Board
Geotechnical Review Board
Health Care Advisory Board
History Commission
Human Services Council
Industrial Development Authority
Information Technology Policy Advisory Committee
Juvenile and Domestic Relations District County Citizens Advisory Council
Laurel Hill Project Advisory Citizen Oversight Committee
Library Board
McLean Community Center Government Board
Mosaic District Community Development Board
Oversight Committee on Drinking and Driving
Board Members of the Park Authority
Planning Commission
Police Civilian Review Panel
Police Officers Retirement System Board of Trustees
Board Members of the Redevelopment and Housing Authority
Reston Community Center Board
Road Viewers Board
Route 28 Highway Transportation District Advisory Board
Small Business Commission, Fairfax County
Southgate Community Center Advisory Council
Fairfax County Employees' Retirement System Board of Trustees
Tenant-Landlord Commission
Trails and Sidewalks Committee
Transportation advisory Commission
Tree Commission
Trespass Towing Advisory Commission
Tysons Transportation Service District Advisory Board
Uniformed Retirement System Board of Trustees
Upper Occoquan Sewage Authority
Volunteer Fire Commission
Wetlands Board
Youth Basketball Council Advisory Board

Commission for the Handicapped

NOTE: Individuals who work for these Boards and Commissions who are not employees of the Board of Supervisors are not covered by this Resolution.

Representation and indemnification of multijurisdictional Boards and Supervisors, e.g., Fairfax-Falls Church Community Services Board, shall be determined by agreement among the respective jurisdictions. See, Board of Supervisors' Resolution Adoption of Joint Resolution dated June 30, 1986 (Community Services Board).

Code of Virginia
Title 2.2. Administration of Government
Subtitle I. Organization of State Government
Part E. State Officers and Employees

Chapter 31. State and Local Government Conflict of Interests Act

Article 1. General Provisions

§ 2.2-3100. Policy; application; construction

The General Assembly, recognizing that our system of representative government is dependent in part upon (i) citizen legislative members representing fully the public in the legislative process and (ii) its citizens maintaining the highest trust in their public officers and employees, finds and declares that the citizens are entitled to be assured that the judgment of public officers and employees will be guided by a law that defines and prohibits inappropriate conflicts and requires disclosure of economic interests. To that end and for the purpose of establishing a single body of law applicable to all state and local government officers and employees on the subject of conflict of interests, the General Assembly enacts this State and Local Government Conflict of Interests Act so that the standards of conduct for such officers and employees may be uniform throughout the Commonwealth.

This chapter shall supersede all general and special acts and charter provisions which purport to deal with matters covered by this chapter except that the provisions of §§ [15.2-852](#), [15.2-2287](#), [15.2-2287.1](#), and [15.2-2289](#) and ordinances adopted pursuant thereto shall remain in force and effect. The provisions of this chapter shall be supplemented but not superseded by the provisions on ethics in public contracting in Article 6 (§ [2.2-4367](#) et seq.) of Chapter 43 of this title and ordinances adopted pursuant to § [2.2-3104.2](#) regulating receipt of gifts.

The provisions of this chapter do not preclude prosecution for any violation of any criminal law of the Commonwealth, including Articles 2 (Bribery and Related Offenses, § [18.2-438](#) et seq.) and 3 (Bribery of Public Servants and Party Officials, § [18.2-446](#) et seq.) of Chapter 10 of Title 18.2, and do not constitute a defense to any prosecution for such a violation.

This chapter shall be liberally construed to accomplish its purpose.

1987, Sp. Sess., c. 1, § 2.1-639.1; 1990, c. 672; 2001, c. [844](#); 2003, c. [694](#); 2008, c. [532](#); 2014, cc. [792](#), [804](#).

§ 2.2-3100.1. Copy of chapter; review by officers and employees

Any person required to file a disclosure statement of personal interests pursuant to subsections A or B of § [2.2-3114](#), subsections A or B of § [2.2-3115](#) or § [2.2-3116](#) shall be furnished by the public body's administrator a copy of this chapter within two weeks following the person's election, reelection, employment, appointment or reappointment.

All officers and employees shall read and familiarize themselves with the provisions of this chapter.

2004, cc. [134](#), [392](#).

§ 2.2-3101. Definitions

As used in this chapter, unless the context requires a different meaning:

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Affiliated business entity relationship" means a relationship, other than a parent-sub subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. The candidate shall become subject to the provisions of this chapter upon the filing of a statement of qualification pursuant to § 24.2-501. The State Board of Elections or general registrar shall notify each such candidate of the provisions of this chapter. Notification made by the general registrar shall consist of information developed by the State Board of Elections.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own governmental agency.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Employee" means all persons employed by a governmental or advisory agency, unless otherwise limited by the context of its use.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred.

"Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the

ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the private profession or occupation or volunteer service of an officer or employee or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public service; (vii) food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman; (xiii) travel related to an official meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a value of less than \$20; (xv) attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered; (xvi) tickets or the registration or admission fees to an event that are provided by an agency to its own officers or employees for the purposes of performing official duties related to their public service; or (xvii) gifts from relatives or personal friends.

For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse or the donee's son-in-law or daughter-in-law.

For the purpose of this definition, "personal friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2; (b) a lobbyist's principal as defined in § 2.2-419; (c) for an officer or employee of a local governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the local agency of which he is an officer or an employee; or (d) for an officer or employee of a state governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the Commonwealth.

For purposes of this definition, "person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Governmental agency" means each component part of the legislative, executive or judicial

branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties. Corporations organized or controlled by the Virginia Retirement System are "governmental agencies" for purposes of this chapter.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee.

"Officer" means any person appointed or elected to any governmental or advisory agency including local school boards, whether or not he receives compensation or other emolument of office. Unless the context requires otherwise, "officer" includes members of the judiciary.

"Parent-subsidiary relationship" means a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.

"Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually; (iv) ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv).

"Personal interest in a contract" means a personal interest that an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.

"Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business or governmental agency, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. Notwithstanding the above, such personal interest in a transaction shall not be deemed to exist where (a) an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity or (b) an officer, employee, or elected member of a local governing body is appointed by such local governing body to serve on a governmental agency, or an officer, employee, or elected member of a separate local governmental agency formed by a local governing body is appointed to serve on a governmental agency, and the personal interest in the transaction of the governmental agency is the result of the salary, other compensation, fringe benefits, or benefits provided by the local governing body or the separate

governmental agency to the officer, employee, elected member, or member of his immediate family.

"State and local government officers and employees" shall not include members of the General Assembly.

"State filer" means those officers and employees required to file a disclosure statement of their personal interests pursuant to subsection A or B of § 2.2-3114.

"Transaction" means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

1987, Sp. Sess., c. 1, § 2.1-639.2; 1988, c. 536; 1992, c. 865; 1993, c. 303; 1994, cc. 74, 724; 1995, c. 495; 1996, c. 77; 1997, c. 641; 2001, c. 844; 2003, c. 694; 2004, cc. 134, 392; 2012, cc. 345, 771; 2013, c. 475; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774; 2017, cc. 829, 832; 2022, cc. 528, 529.

Article 2. Generally Prohibited and Unlawful Conduct

§ 2.2-3102. Application

This article applies to generally prohibited conduct that shall be unlawful and to state and local government officers and employees.

1987, Sp. Sess., c. 1, § 2.1-639.3; 2001, c. 844.

§ 2.2-3103. Prohibited conduct

No officer or employee of a state or local governmental or advisory agency shall:

1. Solicit or accept money or other thing of value for services performed within the scope of his official duties, except the compensation, expenses or other remuneration paid by the agency of which he is an officer or employee. This prohibition shall not apply to the acceptance of special benefits that may be authorized by law;
2. Offer or accept any money or other thing of value for or in consideration of obtaining employment, appointment, or promotion of any person with any governmental or advisory agency;
3. Offer or accept any money or other thing of value for or in consideration of the use of his public position to obtain a contract for any person or business with any governmental or advisory agency;
4. Use for his own economic benefit or that of another party confidential information that he has acquired by reason of his public position and which is not available to the public;
5. Accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence him in the performance of his official duties. This subdivision shall not apply to any political contribution actually used for political campaign or constituent service purposes and reported as required by Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2;
6. Accept any business or professional opportunity when he knows that there is a reasonable likelihood that the opportunity is being afforded him to influence him in the performance of his official duties;

7. Accept any honoraria for any appearance, speech, or article in which the officer or employee provides expertise or opinions related to the performance of his official duties. The term "honoraria" shall not include any payment for or reimbursement to such person for his actual travel, lodging, or subsistence expenses incurred in connection with such appearance, speech, or article or in the alternative a payment of money or anything of value not in excess of the per diem deduction allowable under § 162 of the Internal Revenue Code, as amended from time to time. The prohibition in this subdivision shall apply only to the Governor, Lieutenant Governor, Attorney General, Governor's Secretaries, and heads of departments of state government;

8. Accept a gift from a person who has interests that may be substantially affected by the performance of the officer's or employee's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the officer's or employee's impartiality in the matter affecting the donor. Violations of this subdivision shall not be subject to criminal law penalties;

9. Accept gifts from sources on a basis so frequent as to raise an appearance of the use of his public office for private gain. Violations of this subdivision shall not be subject to criminal law penalties; or

10. Use his public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law, provided, however, that this subdivision shall not restrict the authority of any public employer to govern conduct of its employees, and to take disciplinary action, in accordance with applicable law, and provided further that this subdivision shall not limit the authority of a constitutional officer to discipline or discharge an employee with or without cause.

1987, Sp. Sess., c. 1, § 2.1-639.4; 1994, cc. [663](#), [815](#), [851](#); 2001, c. [844](#); 2006, cc. [787](#), [892](#); 2015, c. [574](#).

§ 2.2-3103.1. Certain gifts prohibited

A. For purposes of this section:

"Foreign country of concern" means any country designated by the Secretary of State to have repeatedly provided support for acts of international terrorism pursuant to the National Defense Authorization Act for Fiscal Year 2019, P.L. 115-232 § 1754(c), Aug. 13, 2018; the Arms Export Control Act § 40, 22 U.S.C. § 2780; or the Foreign Assistance Act of 1961 § 620A, 22 U.S.C. § 2370.

"Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

B. No officer or employee of a local governmental or advisory agency or candidate required to file the disclosure form prescribed in § [2.2-3117](#) or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his

immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the local agency of which he is an officer or an employee. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

C. No officer or employee of a state governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the state governmental or advisory agency of which he is an officer or an employee or over which he has the authority to direct such agency's activities. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

E. Notwithstanding the provisions of subsections B and C, such officer or employee or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged so long as such foreign dignitary is not a representative of a foreign country of concern. Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed.

F. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed in subsection B or C if such gift was provided to such officer, employee, or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B or C may be a personal friend of such officer, employee, or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B or C is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related

transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

H. During the pendency of a civil action in any state or federal court to which the Commonwealth is a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any person that he knows or has reason to know is a person, organization, or business that is a party to such civil action. A person, organization, or business that is a party to such civil action shall not knowingly give any gift to the Governor or the Attorney General or any of their employees who are subject to the provisions of this chapter.

I. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

J. The provisions of this section shall not apply to any justice of the Supreme Court of Virginia, judge of the Court of Appeals of Virginia, judge of any circuit court, or judge or substitute judge of any district court. However, nothing in this subsection shall be construed to authorize the acceptance of any gift if such acceptance would constitute a violation of the Canons of Judicial Conduct for the State of Virginia.

2014, cc. 792, 804;2015, cc. 763, 777;2017, cc. 829, 832;2023, cc. 291, 293.

§ 2.2-3103.2. Return of gifts

No person shall be in violation of any provision of this chapter prohibiting the acceptance of a gift if (i) the gift is not used by such person and the gift or its equivalent in money is returned to the donor or delivered to a charitable organization within a reasonable period of time upon the discovery of the value of the gift and is not claimed as a charitable contribution for federal income tax purposes or (ii) consideration is given by the donee to the donor for the value of the gift within a reasonable period of time upon the discovery of the value of the gift provided that such consideration reduces the value of the gift to an amount not in excess of \$100 as provided in subsection B or C of § 2.2-3103.1.

2015, cc. 763, 777.

§ 2.2-3104. Prohibited conduct for certain officers and employees of state government

For one year after the termination of public employment or service, no state officer or employee shall, before the agency of which he was an officer or employee, represent a client or act in a representative capacity on behalf of any person or group, for compensation, on matters related to legislation, executive orders, or regulations promulgated by the agency of which he was an officer or employee. This prohibition shall be in addition to the prohibitions contained in § 2.2-3103.

For the purposes of this section, "state officer or employee" shall mean (i) the Governor, Lieutenant Governor, Attorney General, and officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not, who are

regularly employed on a full-time salaried basis; those officers and employees of executive branch agencies who report directly to the agency head; and those at the level immediately below those who report directly to the agency head and are at a payband 6 or higher and (ii) the officers and professional employees of the legislative branch designated by the joint rules committee of the General Assembly. For the purposes of this section, the General Assembly and the legislative branch agencies shall be deemed one agency.

To the extent this prohibition applies to the Governor's Secretaries, "agency" means all agencies assigned to the Secretary by law or by executive order of the Governor.

Any person subject to the provisions of this section may apply to the Council or Attorney General, as provided in § 2.2-3121 or 2.2-3126, for an advisory opinion as to the application of the restriction imposed by this section on any post-public employment position or opportunity.

1994, cc. 727, 776, § 2.1-639.4:1; 2001, c. 844;2013, c. 648;2014, cc. 792, 804;2015, cc. 763, 777.

§ 2.2-3104.01. Prohibited conduct; bids or proposals under the Virginia Public Procurement Act, Public-Private Transportation Act, and Public-Private Education Facilities and Infrastructure Act; loans or grants from the Commonwealth's Development Opportunity Fund

A. Neither the Governor, his political action committee, or the Governor's Secretaries, if the Secretary is responsible to the Governor for an executive branch agency with jurisdiction over the matters at issue, shall knowingly solicit or accept a contribution, gift, or other item with a value greater than \$50 from any bidder, offeror, or private entity, or from an officer or director of such bidder, offeror, or private entity, who has submitted a bid or proposal to an executive branch agency that is directly responsible to the Governor pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.)(i) during the period between the submission of the bid and the award of the public contract under the Virginia Public Procurement Act or (ii) following the submission of a proposal under the Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure Act of 2002 until the execution of a comprehensive agreement thereunder.

B. The provisions of this section shall apply only for public contracts, proposals, or comprehensive agreements where the stated or expected value of the contract is \$5 million or more. The provisions of this section shall not apply to contracts awarded as the result of competitive sealed bidding as set forth in § 2.2-4302.1.

C. Any person who knowingly violates this section shall be subject to a civil penalty of \$500 or up to two times the amount of the contribution or gift, whichever is greater, and the contribution, gift, or other item shall be returned to the donor. The attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalties. Any civil penalties collected shall be payable to the State Treasurer for deposit to the general fund and shall be used exclusively to fund the Council.

2010, c. 732;2011, c. 624;2013, c. 583;2015, cc. 763, 777;2016, c. 641.

§ 2.2-3104.02. Prohibited conduct for constitutional officers

In addition to the prohibitions contained in § 2.2-3103, no constitutional officer shall, during the one year after the termination of his public service, act in a representative capacity on behalf of any person or group, for compensation, on any matter before the agency of which he was an

officer.

The provisions of this section shall not apply to any attorney for the Commonwealth.

Any person subject to the provisions of this section may apply to the Council or the attorney for the Commonwealth for the jurisdiction where such person was elected as provided in § 2.2-3126, for an advisory opinion as to the application of the restriction imposed by this section on any post-public employment position or opportunity.

2011, c. 591;2020, c. 111.

§ 2.2-3104.1. Exclusion of certain awards from scope of chapter

The provisions of this chapter shall not be construed to prohibit or apply to the acceptance by (i) any employee of a local government, or (ii) a teacher or other employee of a local school board of an award or payment in honor of meritorious or exceptional services performed by the teacher or employee and made by an organization exempt from federal income taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code.

2001, c. 48, § 2.1-639.4:2; 2008, cc. 478, 497.

§ 2.2-3104.2. Ordinance regulating receipt of gifts

The governing body of any county, city, or town may adopt an ordinance setting a monetary limit on the acceptance of any gift by the officers, appointees or employees of the county, city or town and requiring the disclosure by such officers, appointees or employees of the receipt of any gift.

2003, c. 694.

Article 3. Prohibited Conduct Relating to Contracts

§ 2.2-3105. Application

This article proscribes certain conduct relating to contracts by state and local government officers and employees. The provisions of this article shall be supplemented but not superseded by the provisions on ethics in public contracting in Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of this title.

1987, Sp. Sess., c. 1, § 2.1-639.5; 2001, c. 844;2003, c. 694.

§ 2.2-3106. (Effective July 1, 2024) Prohibited contracts by officers and employees of state government

A. No officer or employee of any governmental agency of state government shall have a personal interest in a contract with the governmental agency of which he is an officer or employee, other than his own contract of employment.

B. No officer or employee of any governmental agency of state government shall have a personal interest in a contract with any other governmental agency of state government unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided that the employee does not exercise any control over the employment or the employment activities of the member of his immediate family and the employee is not in a position to influence those activities;
2. The personal interest of an officer or employee of a public institution of higher education in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided that (i) the officer or employee and the immediate family member are engaged in teaching, research, or administrative support positions at the educational institution; (ii) the governing board of the educational institution finds that it is in the best interests of the institution and the Commonwealth for such dual employment to exist; and (iii) after such finding, the governing board of the educational institution ensures that the officer or employee, or the immediate family member, does not have sole authority to supervise, evaluate, or make personnel decisions regarding the other;
3. An officer's or employee's personal interest in a contract of employment with any other governmental agency of state government;
4. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public;
5. An employee's personal interest in a contract between a public institution of higher education in the Commonwealth and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or materials;
6. An employee's personal interest in a contract with his or her employing public institution of higher education to acquire the collections or scholarly works owned by the employee, including manuscripts, musical scores, poetry, paintings, books or other materials, writings, or papers of an academic, research, or cultural value to the institution, provided that the president of the institution approves the acquisition of such collections or scholarly works as being in the best interests of the institution's public mission of service, research, or education;
7. Subject to approval by the board of visitors, an employee's personal interest in a contract between a public institution of higher education in the Commonwealth that operates a school of medicine or dentistry and a not-for-profit nonstock corporation that operates a clinical practice within such public institution of higher education and of which such employee is a member or employee;
8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract for research and development or commercialization of intellectual property between a public institution of higher education in the Commonwealth and a business in which the employee has a personal interest, if (i) the employee's personal interest has been disclosed to and approved by such public institution of higher education prior to the time at which the contract is entered into; (ii) the employee promptly files a disclosure statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before February 1; (iii) the institution has established a formal policy regarding such contracts, approved by the State Council of Higher Education for Virginia; and (iv) no later than December 31 of each year, the institution files an annual report with the Secretary of the Commonwealth disclosing each open contract entered

into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's employee responsible for administering each contract, the details of the institution's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth; or

9. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract between a public institution of higher education in the Commonwealth and a business in which the employee has a personal interest, if (i) the personal interest has been disclosed to the institution prior to the time the contract is entered into; (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or before February 1; (iii) the employee does not participate in the institution's decision to contract; (iv) the president of the institution finds and certifies in writing that the contract is for goods and services needed for quality patient care, including related medical education or research, by the institution's medical center, its affiliated teaching hospitals and other organizations necessary for the fulfillment of its mission, including the acquisition of drugs, therapies and medical technologies; and (v) no later than December 31 of each year, the institution files an annual report with the Secretary of the Commonwealth disclosing each open contract entered subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's employee responsible for administering each contract, the details of the institution's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth.

D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development or commercialization of intellectual property or the employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interests, the policies established by the Eastern Virginia Health Sciences Center at Old Dominion University pursuant to such federal requirements shall constitute compliance with subdivisions C 8 and C 9, upon notification by the Eastern Virginia Health Sciences Center at Old Dominion University to the Secretary of the Commonwealth by January 31 of each year of evidence of their compliance with such federal policies and regulations.

E. The board of visitors may delegate the authority granted under subdivision C 8 to the president of the institution. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision C 8. In those instances where the board has delegated such authority, on or before December 1 of each year, the president of the relevant institution shall file a report with the relevant board of visitors disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's employee responsible for administering each contract, the details of the institution's commitment or investment of resources or finances for each contract, the details of how revenues are to be disbursed, and any other information requested by the board of visitors.

1987, Sp. Sess., c. 1, § 2.1-639.6; 1989, c. 74; 1991, c. 470; 1993, c. 876; 1995, c. 403; 1998, c. 838; 2001, c. 844; 2002, cc. 87, 478; 2003, c. 646; 2006, c. 839; 2013, c. 583; 2015, cc. 763, 777; 2016, cc.

§ 2.2-3107. Prohibited contracts by members of county boards of supervisors, city councils and town councils

A. No person elected or appointed as a member of the governing body of a county, city or town shall have a personal interest in (i) any contract with his governing body, or (ii) any contract with any governmental agency that is a component part of his local government and which is subject to the ultimate control of the governing body of which he is a member, or (iii) any contract other than a contract of employment with any other governmental agency if such person's governing body appoints a majority of the members of the governing body of the second governmental agency.

B. The provisions of this section shall not apply to:

1. A member's personal interest in a contract of employment provided (i) the officer or employee was employed by the governmental agency prior to July 1, 1983, in accordance with the provisions of the former Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) of Title 2.1 as it existed on June 30, 1983, or (ii) the employment first began prior to the member becoming a member of the governing body;

2. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the public; or

3. A contract awarded to a member of a governing body as a result of competitive sealed bidding where the governing body has established a need for the same or substantially similar goods through purchases prior to the election or appointment of the member to serve on the governing body. However, the member shall have no involvement in the preparation of the specifications for such contract, and the remaining members of the governing body, by written resolution, shall state that it is in the public interest for the member to bid on such contract.

1987, Sp. Sess., c. 1, § 2.1-639.7; 2001, c. 844.

§ 2.2-3108. Prohibited contracts by members of school boards

A. No person elected or appointed as a member of a local school board shall have a personal interest in (i) any contract with his school board or (ii) any contract with any governmental agency that is subject to the ultimate control of the school board of which he is a member.

B. The provisions of this section shall not apply to:

1. A member's personal interest in a contract of employment provided the employment first began prior to the member becoming a member of the school board;

2. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the public; or

3. A contract awarded to a member of a school board as a result of competitive sealed bidding where the school board has established a need for the same or substantially similar goods through purchases prior to the election or appointment of the member to serve on the school board. However, the member shall have no involvement in the preparation of the specifications for such contract, and the remaining members of the school board, by written resolution, shall state that it is in the public interest for the member to bid on such contract.

1996, c. 548, § 2.1-639.7:1; 2001, c. 844.

§ 2.2-3109. Prohibited contracts by other officers and employees of local governmental agencies

A. No other officer or employee of any governmental agency of local government, including a hospital authority as defined in § 2.2-3109.1, shall have a personal interest in a contract with the agency of which he is an officer or employee other than his own contract of employment.

B. No officer or employee of any governmental agency of local government, including a hospital authority as defined in § 2.2-3109.1, shall have a personal interest in a contract with any other governmental agency that is a component of the government of his county, city or town unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or is awarded as a result of a procedure embodying competitive principles as authorized by subdivision A 10 or 11 of § 2.2-4343 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts for goods or services, or contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over (i) the employment or the employment activities of the member of his immediate family and (ii) the employee is not in a position to influence those activities or the award of the contract for goods or services;

2. An officer's or employee's personal interest in a contract of employment with any other governmental agency that is a component part of the government of his county, city or town;

3. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public;

4. Members of local governing bodies who are subject to § 2.2-3107;

5. Members of local school boards who are subject to § 2.2-3108; or

6. Any ownership or financial interest of members of the governing body, administrators, and other personnel serving in a public charter school in renovating, lending, granting, or leasing public charter school facilities, as the case may be, provided such interest has been disclosed in the public charter school application as required by § 22.1-212.8.

1987, Sp. Sess., c. 1, § 2.1-639.8; 1996, c. 548; 2001, c. 844; 2004, c. 530; 2009, c. 862; 2013, c. 583; 2015, c. 699.

§ 2.2-3109.1. Prohibited contracts; additional exclusions for contracts by officers and employees of hospital authorities

A. As used in this section, "hospital authority" means a hospital authority established pursuant to Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2 or an Act of Assembly.

B. The provisions of § 2.2-3109 shall not apply to:

1. The personal interest of an officer or employee of a hospital authority in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are

licensed members of the medical profession or hold administrative support positions at the hospital authority, (ii) the governing board of the hospital authority finds that it is in the best interests of the hospital authority and the county, city, or town for such dual employment to exist, and (iii) after such finding, the governing board of the hospital authority ensures that neither the officer or employee, nor the immediate family member, has sole authority to supervise, evaluate, or make personnel decisions regarding the other;

2. Subject to approval by the governing board of the hospital authority, an officer or employee's personal interest in a contract between his hospital authority and a professional entity that operates a clinical practice at any medical facilities of such other hospital authority and of which such officer or employee is a member or employee;

3. Subject to approval by the relevant governing body, an officer or employee's personal interest in a contract for research and development or commercialization of intellectual property between the hospital authority and a business in which the employee has a personal interest, provided (i) the officer or employee's personal interest has been disclosed to and approved by the hospital authority prior to the time at which the contract is entered into; (ii) the officer or employee promptly files a disclosure statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before January 15; (iii) the local hospital authority has established a formal policy regarding such contracts in conformity with any applicable federal regulations that has been approved by its governing body; and (iv) no later than December 31 of each year, the local hospital authority files an annual report with the Virginia Conflict of Interest and Ethics Advisory Council disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of such hospital authority's commitment or investment of resources or finances for each contract, and any other information requested by the Virginia Conflict of Interest and Ethics Advisory Council; or

4. Subject to approval by the relevant governing body, an officer or employee's personal interest in a contract between the hospital authority and a business in which the officer or employee has a personal interest, provided (i) the personal interest has been disclosed to the hospital authority prior to the time the contract is entered into; (ii) the officer or employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or before January 15; (iii) the officer or employee does not participate in the hospital authority's decision to contract; (iv) the president or chief executive officer of the hospital authority finds and certifies in writing that the contract is for goods and services needed for quality patient care, including related medical education or research, by any of the hospital authority's medical facilities or any of its affiliated organizations, or is otherwise necessary for the fulfillment of its mission, including but not limited to the acquisition of drugs, therapies, and medical technologies; and (v) no later than December 31 of each year, the hospital authority files an annual report with the Virginia Conflict of Interest and Ethics Advisory Council disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of the hospital authority's commitment or investment of resources or finances for each contract, and any other information requested by the Virginia Conflict of Interest and Ethics Advisory Council.

C. Notwithstanding the provisions of subdivisions B 3 and B 4, if the research and development

or commercialization of intellectual property or the officer or employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interest, the policies established by the hospital authority pursuant to such federal requirements shall constitute compliance with subdivisions B 3 and B 4, upon notification by the hospital authority to the Virginia Conflict of Interest and Ethics Advisory Council by January 31 of each year of evidence of its compliance with such federal policies and regulations.

D. The governing body may delegate the authority granted under subdivision B 2 to the president or chief executive officer of hospital authority. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision B 3. In those instances where the board has delegated such authority, on or before December 1 of each year, the president or chief executive officer of the hospital authority shall file a report with the relevant governing body disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of the hospital authority's commitment or investment of resources or finances for each contract, the details of how revenues are to be dispersed, and any other information requested by the governing body.

2015, c. 699;2016, cc. 773, 774.

§ 2.2-3110. Further exceptions

A. The provisions of Article 3 (§ 2.2-3106 et seq.) shall not apply to:

1. The sale, lease or exchange of real property between an officer or employee and a governmental agency, provided the officer or employee does not participate in any way as such officer or employee in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof;
2. The publication of official notices;
3. Contracts between the government or school board of a county, city, or town with a population of less than 10,000 and an officer or employee of that county, city, or town government or school board when the total of such contracts between the government or school board and the officer or employee of that government or school board or a business controlled by him does not exceed \$5,000 per year or such amount exceeds \$5,000 and is less than \$25,000 but results from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as provided for in § 2.2-3115;
4. An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of \$5,000 per year, provided the officer or employee or a member of his immediate family does not participate and has no authority to participate in the procurement or letting of such contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

5. When the governmental agency is a public institution of higher education, an officer or employee whose personal interest in a contract with the institution is by reason of an ownership in the contracting firm in excess of three percent of the contracting firm's equity or such ownership interest and income from the contracting firm is in excess of \$5,000 per year, provided that (i) the officer or employee's ownership interest, or ownership and income interest, and that of any immediate family member in the contracting firm is disclosed in writing to the president of the institution, which writing certifies that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the institution, (ii) the president of the institution, or an officer or administrator designated by the president of the institution to make findings imposed by this section, makes a written finding as a matter of public record that the contract is in the best interests of the institution, (iii) the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of the institution or disqualifies himself as a matter of public record, and (iv) the officer or employee does not participate on behalf of the institution in negotiating the contract or approving the contract;

6. Except when the governmental agency is the Virginia Retirement System, contracts between an officer's or employee's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the officer or employee has a personal interest, provided the officer or employee disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

7. Contracts for the purchase of goods or services when the contract does not exceed \$500;

8. Grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency;

9. An officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of his marriage to his spouse who is employed by the same agency, if the spouse was employed by such agency for five or more years prior to marrying such officer or employee;

10. Contracts entered into by an officer or employee or immediate family member of an officer or employee of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 to participate in the Virginia Agricultural Best Management Practices Cost-Share Program (the Program) established in accordance with § 10.1-546.1 or to participate in other cost-share programs for the installation of best management practices to improve water quality. This subdivision shall not apply to subcontracts or other agreements entered into by an officer or employee of a soil and water conservation district to provide services for implementation of a cost-share contract established under the Program or such other cost-share programs; or

11. Contracts entered into by an officer or immediate family member of an officer of the Marine Resources Commission for goods or services for shellfish replenishment, provided that such officer or immediate family member does not participate in (i) awarding the contract, (ii) authorizing the procurement, or (iii) authorizing the use of alternate procurement methods pursuant to § 28.2-550.

B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any

amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f)(4) of former § 2.1-348 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household and the annual salary of such subordinate is \$35,000 or more.

1987, Sp. Sess., c. 1, § 2.1-639.9; 1990, c. 51; 1993, c. 303; 1994, cc. 450, 713; 1997, c. 641; 2001, c. 844; 2006, c. 839; 2010, cc. 301, 304; 2016, cc. 351, 531; 2017, cc. 150, 546, 829, 832; 2018, c. 742; 2020, c. 777.

Article 4. Prohibited Conduct Relating to Transactions

§ 2.2-3111. Application

This article proscribes certain conduct by state and local government officers and employees having a personal interest in a transaction.

1987, Sp. Sess., c. 1, § 2.1-639.10; 2001, c. 844.

§ 2.2-3112. Prohibited conduct concerning personal interest in a transaction; exceptions

A. Each officer and employee of any state or local governmental or advisory agency who has a personal interest in a transaction shall disqualify himself from participating in the transaction if (i) the transaction has application solely to property or a business or governmental agency in which he has a personal interest or a business that has a parent-subsidary or affiliated business entity relationship with the business in which he has a personal interest or (ii) he is unable to participate pursuant to subdivision B 1, 2, or 3. Any disqualification under the provisions of this subsection shall be recorded in the public records of the officer's or employee's governmental or advisory agency. The officer or employee shall disclose his personal interest as required by subsection E of § 2.2-3114 or subsection F of § 2.2-3115 and shall not vote or in any manner act on behalf of his agency in the transaction. The officer or employee shall be prohibited from (i) attending any portion of a closed meeting authorized by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) when the matter in which he has a personal interest is discussed and (ii) discussing the matter in which he has a personal interest with other governmental officers or employees at any time.

B. An officer or employee of any state or local government or advisory agency who has a personal interest in a transaction may participate in the transaction:

1. If he is a member of a business, profession, occupation, or group of three or more persons the members of which are affected by the transaction, and he complies with the declaration requirements of subsection F of § 2.2-3114 or subsection H of § 2.2-3115;

2. When a party to the transaction is a client of his firm if he does not personally represent or provide services to such client and he complies with the declaration requirements of subsection

G of § 2.2-3114 or subsection I of § 2.2-3115;or

3. If it affects the public generally, even though his personal interest, as a member of the public, may also be affected by that transaction.

C. Disqualification under the provisions of this section shall not prevent any employee having a personal interest in a transaction in which his agency is involved from representing himself or a member of his immediate family in such transaction provided he does not receive compensation for such representation and provided he complies with the disqualification and relevant disclosure requirements of this chapter.

D. Notwithstanding any other provision of law, if disqualifications of officers or employees in accordance with this section leave less than the number required by law to act, the remaining member or members shall constitute a quorum for the conduct of business and have authority to act for the agency by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members.

Notwithstanding any provisions of this chapter to the contrary, members of a local governing body whose sole interest in any proposed sale, contract of sale, exchange, lease or conveyance is by virtue of their employment by a business involved in a proposed sale, contract of sale, exchange, lease or conveyance, and where such member's or members' vote is essential to a constitutional majority required pursuant to Article VII, Section 9 of the Constitution of Virginia and § 15.2-2100, such member or members of the local governing body may vote and participate in the deliberations of the governing body concerning whether to approve, enter into or execute such sale, contract of sale, exchange, lease or conveyance. Official action taken under circumstances that violate this section may be rescinded by the agency on such terms as the interests of the agency and innocent third parties require.

E. The provisions of subsection A shall not prevent an officer or employee from participating in a transaction merely because such officer or employee is a party in a legal proceeding of a civil nature concerning such transaction.

F. The provisions of subsection A shall not prevent an employee from participating in a transaction regarding textbooks or other educational material for students at state institutions of higher education, when those textbooks or materials have been authored or otherwise created by the employee.

G. The provisions of this section shall not prevent any justice of the Supreme Court of Virginia, judge of the Court of Appeals of Virginia, judge of any circuit court, judge or substitute judge of any district court, member of the State Corporation Commission, or member of the Virginia Workers' Compensation Commission from participating in a transaction where such individual's participation involves the performance of adjudicative responsibilities as set forth in Canon 3 of the Canons of Judicial Conduct for the State of Virginia. However, nothing in this subsection shall be construed to authorize such individual's participation in a transaction if such participation would constitute a violation of the Canons of Judicial Conduct for the State of Virginia.

1987, Sp. Sess., c. 1, § 2.1-639.11; 2001, c. 844;2003, c. 694;2007, c. 613;2012, c. 429;2017, cc. 829 , 832.

Article 5. Disclosure Statements Required to Be Filed

§ 2.2-3113. Application

This article requires disclosure of certain personal and financial interests by state and local government officers and employees.

1987, Sp. Sess., c. 1, § 2.1-639.12; 2001, c. 844.

§ 2.2-3114. Disclosure by state officers and employees

A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, members of the board of directors of the Commonwealth of Virginia Innovation Partnership Authority, members of the Board of the Commonwealth Savers Plan, and members of the Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions, and councils in the executive branch of state government, other than the members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the board of directors of the Commonwealth of Virginia Innovation Partnership Authority, members of the Board of the Commonwealth Savers Plan, and members of the Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions, and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

D. Candidates for the offices of Governor, Lieutenant Governor, or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his

interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher education in the Commonwealth shall not be required to file the disclosure form prescribed by the Council pursuant to § 2.2-3117 or 2.2-3118.

1987, Sp. Sess., c. 1, § 2.1-639.13; 1988, cc. 767, 849; 1992, c. 710; 1993, c. 303; 1997, c. 641; 2001, cc. 217, 844; 2003, c. 694; 2005, c. 169; 2006, c. 779; 2014, cc. 225, 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774; 2017, cc. 829, 832; 2018, c. 528; 2023, c. 129; 2024, c. 217.

§ 2.2-3114.1. Filings of statements of economic interests by General Assembly members

The filing of a current statement of economic interests by a General Assembly member, member-elect, or candidate for the General Assembly pursuant to §§ 30-110 and 30-111 of the General Assembly Conflicts of Interests Act (§ 30-100 et seq.) shall suffice for the purposes of this chapter. The Secretary of the Commonwealth may obtain from the Council a copy of the statement of a General Assembly member who is appointed to a position for which a statement is required pursuant to § 2.2-3114. No General Assembly member, member-elect, or candidate shall be required to file a separate statement of economic interests for the purposes of § 2.2-3114.

2002, c. 36; 2015, cc. 763, 777.

§ 2.2-3114.2. Report of gifts by certain officers and employees of state government

The Governor, Lieutenant Governor, Attorney General, and each member of the Governor's Cabinet shall file, on or before May 1, a report of gifts accepted or received by him or a member of his immediate family during the period beginning on January 1 complete through adjournment sine die of the regular session of the General Assembly. The gift report shall be on a form prescribed by the Council and shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. For purposes of this section, "adjournment sine die" means adjournment on the last legislative day of the regular session and does not include the ensuing reconvened session. Any gifts reported pursuant to this section shall not be listed on the annual disclosure form prescribed by the Council pursuant to § 2.2-3117.

2016, cc. 773, 774.

§ 2.2-3115. Disclosure by local government officers and employees

A. In accordance with the requirements set forth in § 2.2-3118.2, the members of every governing body and school board of each county and city and of towns with populations in excess of 3,500 and the executive director and members of each industrial development authority and economic development authority, as created by the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

In accordance with the requirements set forth in § 2.2-3118.2, the members of the governing body of any authority established in any county or city, or part or combination thereof, and having the power to issue bonds or expend funds in excess of \$10,000 in any fiscal year, other than the executive director and members of each industrial development authority and economic development authority, as created by the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), shall file, as a condition to assuming office, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such a statement annually on or before February 1, unless the governing body of the jurisdiction that appoints the members requires that the members file the form set forth in § 2.2-3117.

In accordance with the requirements set forth in § 2.2-3118.2, the members of the Northern Virginia Transportation Authority and the Northern Virginia Transportation Commission shall file, as a condition to assuming office, a disclosure of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such a statement annually on or before February 1.

In accordance with the requirements set forth in § 2.2-3118.2, persons occupying such positions of trust appointed by governing bodies and persons occupying such positions of employment with governing bodies as may be designated to file by ordinance of the governing body shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

In accordance with the requirements set forth in § 2.2-3118.2, persons occupying such positions of trust appointed by school boards and persons occupying such positions of employment with school boards as may be designated to file by an adopted policy of the school board shall file, as a

condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of local boards, commissions and councils as may be designated by the governing body shall file, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1.

C. No person shall be mandated to file any disclosure not otherwise required by this article.

D. The disclosure forms required by subsections A and B shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council at least 30 days prior to the filing deadline, and the clerks of the governing body and school board shall distribute the forms to designated individuals at least 20 days prior to the filing deadline. Forms shall be filed and maintained as public records for five years in the office of the clerk of the respective governing body or school board. Forms filed by members of governing bodies of authorities shall be filed and maintained as public records for five years in the office of the clerk of the governing body of the county or city. Such forms shall be made public no later than six weeks after the filing deadline.

E. Candidates for membership in the governing body or school board of any county, city or town with a population of more than 3,500 persons shall file a disclosure statement of their personal interests as required by § 24.2-502.

F. Any officer or employee of local government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112 or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental or advisory agency.

G. In addition to any disclosure required by subsections A and B, in each county and city and in towns with populations in excess of 3,500, members of planning commissions, boards of zoning appeals, real estate assessors, and all county, city and town managers or executive officers shall make annual disclosures of all their interests in real estate located in the county, city or town in which they are elected, appointed, or employed. Such disclosure shall include any business in which such persons own an interest, or from which income is received, if the primary purpose of the business is to own, develop or derive compensation through the sale, exchange or development of real estate in the county, city or town. In accordance with the requirements set forth in § 2.2-3118.2, such disclosure shall be filed as a condition to assuming office or employment, and thereafter shall be filed annually with the clerk of the governing body of such county, city, or town on or before February 1. Such disclosures shall be filed and maintained as public records for five years. Such forms shall be made public no later than six weeks after the filing deadline. Forms for the filing of such reports shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council to the clerk of each governing body.

H. An officer or employee of local government who is required to declare his interest pursuant to

subdivision B 1 of § 2.2-3112 shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day. The officer or employee shall also orally disclose the existence of the interest during each meeting of the governmental or advisory agency at which the transaction is discussed and such disclosure shall be recorded in the minutes of the meeting.

I. An officer or employee of local government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

J. The clerk of the governing body or school board that releases any form to the public pursuant to this section shall redact from the form any residential address, personal telephone number, email address, or signature contained on such form; however, any form filed pursuant to subsection G shall not have any residential addresses redacted.

1987, Sp. Sess., c. 1, § 2.1-639.14; 1988, c. 849; 1995, c. 495; 1996, c. 526; 2000, c. 317; 2001, cc. 217, 844; 2003, c. 694; 2012, c. 429; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774; 2017, cc. 829, 832; 2020, cc. 73, 77, 81, 111.

§ 2.2-3116. Disclosure by certain constitutional officers

For the purposes of this chapter, holders of the constitutional offices of treasurer, sheriff, attorney for the Commonwealth, clerk of the circuit court, and commissioner of the revenue of each county and city shall be required to file with the Council, as a condition to assuming office, the Statement of Economic Interests prescribed by the Council pursuant to § 2.2-3117. These officers shall file statements annually on or before February 1. Candidates shall file statements as required by § 24.2-502. Statements shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. These officers shall be subject to the prohibition on certain gifts set forth in subsection B of § 2.2-3103.1.

1988, c. 469, § 2.1-639.14:1; 2001, c. 844; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774; 2017, cc. 829, 832.

§ 2.2-3117. Disclosure form

The disclosure form to be used for filings required by subsections A and D of § 2.2-3114 and subsections A and E of § 2.2-3115 shall be prescribed by the Council. Except as otherwise provided in § 2.2-3115, all completed forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. Any person who knowingly and intentionally makes a false statement of a material fact on the Statement of Economic Interests is guilty of a Class 5 felony.

1987, Sp. Sess., c. 1, § 2.1-639.15; 1988, c. 849; 1994, cc. 724, 733, 777, 793; 1995, c. 763; 1996, c. 77; 1997, cc. 577, 844; 1998, c. 732; 2001, c. 844; 2006, cc. 310, 779, 787, 892; 2008, c. 239; 2010, c. 670; 2012, c. 429; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774.

§ 2.2-3118. Disclosure form; certain citizen members

The financial disclosure form to be used for filings required pursuant to subsection B of § 2.2-3114 and subsection B of § 2.2-3115 shall be filed in accordance with the provisions of § 30-356. The financial disclosure form shall be prescribed by the Council. Except as otherwise provided in § 2.2-3115, all completed forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356.

1988, c. 849, § 2.1-639.15:1; 1996, c. 77; 2001, c. 844; 2006, c. 779; 2011, cc. 123, 177; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774.

§ 2.2-3118.1. Special provisions for individuals serving in or seeking multiple positions or offices; reappointees

A. The filing of a single current statement of economic interests by an individual required to file the form prescribed in § 2.2-3117 shall suffice for the purposes of this chapter as filing for all positions or offices held or sought by such individual during the course of a calendar year. The filing of a single current financial disclosure statement by an individual required to file the form prescribed in § 2.2-3118 shall suffice for the purposes of this chapter as filing for all positions or offices held or sought by such individual and requiring the filing of the § 2.2-3118 form during the course of a calendar year.

B. Any individual who has met the requirement for annually filing a statement provided in § 2.2-3117 or 2.2-3118 shall not be required to file an additional statement upon such individual's reappointment to the same office or position for which he is required to file, provided such reappointment occurs within 12 months after filing such annual statement.

2005, c. 397; 2014, cc. 792, 804; 2016, cc. 773, 774; 2018, c. 529.

§ 2.2-3118.2. Disclosure form; filing requirements

A. An officer or employee required to file an annual disclosure on or before February 1 pursuant to this article shall disclose his personal interests and other information as required on the form prescribed by the Council for the preceding calendar year complete through December 31. An officer or employee required to file a disclosure as a condition to assuming office or employment shall file such disclosure on or before the day such office or position of employment is assumed and disclose his personal interests and other information as required on the form prescribed by the Council for the preceding 12-month period complete through the last day of the month immediately preceding the month in which the office or position of employment is assumed; however, any officer or employee who assumes office or a position of employment in January shall be required to only file an annual disclosure on or before February 1 for the preceding calendar year complete through December 31.

B. When the deadline for filing any disclosure pursuant to this article falls on a Saturday, Sunday, or legal holiday, the deadline for filing shall be the next day that is not a Saturday, Sunday, or legal holiday.

2017, cc. [829](#), [832](#).

Article 6. School Boards and Employees of School Boards

§ 2.2-3119. Additional provisions applicable to school boards and employees of school boards; exceptions

A. Notwithstanding any other provision of this chapter, it shall be unlawful for the school board of any county or city or of any town constituting a separate school division to employ or pay any teacher or other school board employee from the public funds, federal, state or local, or for a division superintendent to recommend to the school board the employment of any teacher or other employee, if the teacher or other employee is the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law of the superintendent, or of any member of the school board.

This section shall apply to any person employed by any school board in the operation of the public free school system, adult education programs or any other program maintained and operated by a local county, city or town school board.

B. This section shall not be construed to prohibit the employment, promotion, or transfer within a school division of any person within a relationship described in subsection A when such person:

1. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the taking of office of any member of such board or division superintendent of schools; or
2. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the inception of such relationship; or
3. Was employed by a school board at any time prior to June 10, 1994, and had been employed at any time as a teacher or other employee of any Virginia school board prior to the taking of office of any member of such school board or division superintendent of schools.

C. A person employed as a substitute teacher may not be employed to any greater extent than he was employed by the school board in the last full school year prior to the taking of office of such board member or division superintendent or to the inception of such relationship. The exceptions in subdivisions B 1, B 2, and B 3 shall apply only if the prior employment has been in the same school divisions where the employee and the superintendent or school board member now seek to serve simultaneously.

D. If any member of the school board or any division superintendent knowingly violates these provisions, he shall be personally liable to refund to the local treasury any amounts paid in violation of this law, and the funds shall be recovered from the individual by action or suit in the name of the Commonwealth on the petition of the attorney for the Commonwealth. Recovered funds shall be paid into the local treasury for the use of the public schools.

E. The provisions of this section shall not apply to employment by any school district of the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, or brother-in-law of any member of the school board, provided that (i) the member certifies that he had no involvement with the hiring decision and (ii) the superintendent certifies to the remaining members of the governing body in writing that the employment is based upon merit and fitness and the competitive rating of the qualifications of the individual and that no member of the board had any involvement with the hiring decision.

F. The provisions of this section shall not apply to the employment by any school district of the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, or brother-in-law of any division superintendent, provided that (i) the superintendent certifies that he had no involvement with the hiring decision and (ii) the assistant superintendent certifies to the members of the governing body in writing that the employment is based upon merit and fitness and the competitive rating of the qualifications of the individual and that the superintendent of the division had no involvement with the hiring decision.

1987, Sp. Sess., c. 1, § 2.1-639.16; 1994, c. 758; 1995, c. 186; 1997, c. 84; 2001, c. 844; 2010, cc. 676, 759; 2011, c. 517; 2017, cc. 146, 515; 2018, cc. 483, 520; 2019, c. 641.

Article 7. Penalties and Remedies

§ 2.2-3120. Knowing violation of chapter a misdemeanor

Any person who knowingly violates any of the provisions of Articles 2 through 6 (§§ 2.2-3102 through 2.2-3119) of this chapter shall be guilty of a Class 1 misdemeanor, except that any member of a local governing body who knowingly violates subsection A of § 2.2-3112 or subsection D or F of § 2.2-3115 shall be guilty of a Class 3 misdemeanor. A knowing violation under this section is one in which the person engages in conduct, performs an act or refuses to perform an act when he knows that the conduct is prohibited or required by this chapter.

1987, Sp. Sess., c. 1, § 2.1-639.17; 2001, c. 844; 2012, c. 429.

§ 2.2-3121. Advisory opinions

A. A state officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation resulted from his good faith reliance on a written opinion of the Attorney General or a formal opinion or written informal advice of the Council made in response to his written request for such opinion or advice and the opinion or advice was made after a full disclosure of the facts regardless of whether such opinion or advice is later withdrawn provided the alleged violation occurred prior to the withdrawal of the opinion or advice.

B. A local officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation resulted from his good faith reliance on a written opinion of the attorney for the Commonwealth or a formal opinion or written informal advice of the Council made in response to his written request for such opinion or advice and the opinion or advice was made after a full disclosure of the facts regardless of whether such opinion or advice is later withdrawn, provided that the alleged violation occurred prior to the withdrawal of the opinion or advice. The written opinion of the attorney for the Commonwealth shall be a public record and shall be released upon request.

C. If any officer or employee serving at the local level of government is charged with a knowing violation of this chapter, and the alleged violation resulted from his reliance upon a written

opinion of his county, city, or town attorney, made after a full disclosure of the facts, that such action was not in violation of this chapter, then the officer or employee shall have the right to introduce a copy of the opinion at his trial as evidence that he did not knowingly violate this chapter.

1987, Sp. Sess., c. 1, § 2.1-639.18; 2001, c. 844; 2003, c. 694; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, c. 665; 2017, cc. 829, 832.

§ 2.2-3122. Knowing violation of chapter constitutes malfeasance in office or employment

Any person who knowingly violates any of the provisions of this chapter shall be guilty of malfeasance in office or employment. Upon conviction thereof, the judge or jury trying the case, in addition to any other fine or penalty provided by law, may order the forfeiture of such office or employment.

1987, Sp. Sess., c. 1, § 2.1-639.19; 2001, c. 844.

§ 2.2-3123. Invalidation of contract; rescision of sales

A. Any contract made in violation of § 2.2-3103 or §§ 2.2-3106 through 2.2-3109 may be declared void and may be rescinded by the governing body of the contracting or selling governmental agency within five years of the date of such contract. In cases in which the contract is invalidated, the contractor shall retain or receive only the reasonable value, with no increment for profit or commission, of the property or services furnished prior to the date of receiving notice that the contract has been voided. In cases of rescision of a contract of sale, any refund or restitution shall be made to the contracting or selling governmental agency.

B. Any purchase by an officer or employee made in violation of § 2.2-3103 or §§ 2.2-3106 through 2.2-3109 may be rescinded by the governing body of the contracting or selling governmental agency within five years of the date of such purchase.

1987, Sp. Sess., c. 1, § 2.1-639.20; 2001, c. 844.

§ 2.2-3124. Civil penalty from violation of this chapter

A. In addition to any other fine or penalty provided by law, an officer or employee who knowingly violates any provision of §§ 2.2-3103 through 2.2-3112 shall be subject to a civil penalty in an amount equal to the amount of money or thing of value received as a result of such violation. If the thing of value received by the officer or employee in violation of §§ 2.2-3103 through 2.2-3112 increases in value between the time of the violation and the time of discovery of the violation, the greater value shall determine the amount of the civil penalty. Further, all money or other things of value received as a result of such violation shall be forfeited in accordance with the provisions of § 19.2-386.33.

B. An officer or employee required to file the disclosure form prescribed by § 2.2-3117 who fails to file such form within the time period prescribed shall be assessed a civil penalty in an amount equal to \$250. The Council shall notify the Attorney General of any state officer's or employee's failure to file the required form and the Attorney General shall assess and collect the civil penalty. The clerk of the school board or the clerk of the governing body of the county, city, or town shall notify the attorney for the Commonwealth for the locality in which the officer or employee was elected or is employed of any local officer's or employee's failure to file the required form and the attorney for the Commonwealth shall assess and collect the civil penalty. The Council shall notify the Attorney General and the clerk shall notify the attorney for the

Commonwealth within 30 days of the deadline for filing. All civil penalties collected pursuant to this subsection shall be deposited into the general fund and used exclusively to fund the Council.

1987, Sp. Sess., c. 1, § 2.1-639.21; 1994, cc. 727, 776; 2001, c. 844; 2012, cc. 283, 756; 2015, cc. 763, 777.

§ 2.2-3125. Limitation of actions

The statute of limitations for the criminal prosecution of a person for violation of any provision of this chapter shall be one year from the time the Attorney General, if the violation is by a state officer or employee, or the attorney for the Commonwealth, if the violation is by a local officer or employee, has actual knowledge of the violation or five years from the date of the violation, whichever event occurs first. Any prosecution for malfeasance in office shall be governed by the statute of limitations provided by law.

1987, Sp. Sess., c. 1, § 2.1-639.22; 2001, c. 844.

§ 2.2-3126. Enforcement

A. The provisions of this chapter relating to an officer or employee serving at the state level of government shall be enforced by the Attorney General.

In addition to any other powers and duties prescribed by law, the Attorney General shall have the following powers and duties within the area for which he is responsible under this section:

1. He shall advise the agencies of state government and officers and employees serving at the state level of government on appropriate procedures for complying with the requirements of this chapter. He may review any disclosure statements, without notice to the affected person, for the purpose of determining satisfactory compliance, and shall investigate matters that come to his attention reflecting possible violations of the provisions of this chapter by officers and employees serving at the state level of government;

2. If he determines that there is a reasonable basis to conclude that any officer or employee serving at the state level of government has knowingly violated any provision of this chapter, he shall designate an attorney for the Commonwealth who shall have complete and independent discretion in the prosecution of such officer or employee;

3. He shall render advisory opinions to any state officer or employee who seeks advice as to whether the facts in a particular case would constitute a violation of the provisions of this chapter. He shall determine which opinions or portions thereof are of general interest to the public and may, from time to time, be published.

Irrespective of whether an opinion of the Attorney General has been requested and rendered, any person has the right to seek a declaratory judgment or other judicial relief as provided by law.

B. The provisions of this chapter relating to an officer or employee serving at the local level of government shall be enforced by the attorney for the Commonwealth within the political subdivision for which he is elected.

Each attorney for the Commonwealth shall be responsible for prosecuting violations by an officer or employee serving at the local level of government and, if the Attorney General designates such attorney for the Commonwealth, violations by an officer or employee serving at the state level of government. In the event the violation by an officer or employee serving at the local level of government involves more than one local jurisdiction, the Attorney General shall designate

which of the attorneys for the Commonwealth of the involved local jurisdictions shall enforce the provisions of this chapter with regard to such violation.

Each attorney for the Commonwealth shall establish an appropriate written procedure for implementing the disclosure requirements of local officers and employees of his county, city or town, and for other political subdivisions, whose principal offices are located within the jurisdiction served by such attorney for the Commonwealth. The attorney for the Commonwealth shall provide a copy of this act to all local officers and employees in the jurisdiction served by such attorney who are required to file a disclosure statement pursuant to Article 5 (§ 2.2-3113 et seq.) of this chapter. Failure to receive a copy of the act shall not be a defense to such officers and employees if they are prosecuted for violations of the act.

Each attorney for the Commonwealth shall render advisory opinions as to whether the facts in a particular case would constitute a violation of the provisions of this chapter to the governing body and any local officer or employee in his jurisdiction and to political subdivisions other than a county, city or town, including regional political subdivisions whose principal offices are located within the jurisdiction served by such attorney for the Commonwealth. If the advisory opinion is written, then such written opinion shall be a public record and shall be released upon request. In case the opinion given by the attorney for the Commonwealth indicates that the facts would constitute a violation, the officer or employee affected thereby may request that the Attorney General review the opinion. A conflicting opinion by the Attorney General shall act to revoke the opinion of the attorney for the Commonwealth. The Attorney General shall determine which of his reviewing opinions or portions thereof are of general interest to the public and may, from time to time, be published.

Irrespective of whether an opinion of the attorney for the Commonwealth or the Attorney General has been requested and rendered, any person has the right to seek a declaratory judgment or other judicial relief as provided by law.

1987, Sp. Sess., c. 1, § 2.1-639.23; 2001, c. 844; 2003, c. 694.

§ 2.2-3127. Venue

Any prosecution for a violation involving an officer serving at the state level of government shall be brought in the Circuit Court of the City of Richmond. Any prosecution for a violation involving an employee serving at the state level of government shall be within the jurisdiction in which the employee has his principal place of state employment.

Any proceeding provided in this chapter shall be brought in a court of competent jurisdiction within the county or city in which the violation occurs if the violation involves an officer or employee serving at the local level of government.

1987, Sp. Sess., c. 1, § 2.1-639.24; 2001, c. 844.

Article 8. Orientation for State Filers

§ 2.2-3128. Semiannual orientation course

Each state agency shall offer at least semiannually to each of its state filers an orientation course on this chapter, on ethics in public contracting pursuant to Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of this title, if applicable to the filer, and on any other applicable regulations that govern the official conduct of state officers and employees.

2004, cc. [134](#), [392](#).

§ 2.2-3129. Records of attendance

Each state agency shall maintain records indicating the specific attendees, each attendee's job title, and dates of their attendance for each orientation course offered pursuant to § [2.2-3128](#) for a period of not less than five years after each course is given. These records shall be public records subject to inspection and copying consistent with § [2.2-3704](#).

2004, cc. [134](#), [392](#).

§ 2.2-3130. Attendance requirements

Except as set forth in § [2.2-3131](#), each state filer shall attend the orientation course required in § [2.2-3128](#), as follows:

1. For a state filer who holds a position with the agency on January 1, 2004, not later than December 31, 2004 and, thereafter, at least once during each consecutive period of two calendar years commencing on January 1, 2006.
2. For a person who becomes a state filer with the agency after January 1, 2004, within two months after he or she becomes a state filer and at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter.

2004, cc. [134](#), [392](#).

§ 2.2-3131. Exemptions

A. The requirements of § [2.2-3130](#) shall not apply to state filers with a state agency who have taken an equivalent ethics orientation course through another state agency within the time periods set forth in subdivision 1 or 2 of § [2.2-3130](#), as applicable.

B. State agencies may jointly conduct and state filers from more than one state agency may jointly attend an orientation course required by § [2.2-3128](#), as long as the course content is relevant to the official duties of the attending state filers.

C. Before conducting each orientation course required by § [2.2-3128](#), state agencies shall consult with the Attorney General and the Virginia Conflict of Interest and Ethics Advisory Council regarding appropriate course content.

2004, cc. [134](#), [392](#); 2014, cc. [792](#), [804](#).

Article 9. Training for Local Filers

§ 2.2-3132. Training on prohibited conduct and conflicts of interest

A. The Council shall provide training sessions for local elected officials, the members of appointed school boards, and the executive directors and members of industrial development authorities and economic development authorities, as created by the Industrial Development and Revenue Bond Act (§ [15.2-4900](#) et seq.), on the provisions of the State and Local Government Conflict of Interests Act (§ [2.2-3100](#) et seq.). The Council may provide such training sessions by online means.

B. Each local elected official and member of an appointed school board, and the executive director and members of each industrial development authority and economic development authority, as created by the Industrial Development and Revenue Bond Act, shall complete the

training session described in subsection A within two months after assuming the local office and thereafter at least once during each consecutive period of two calendar years while he holds such office, commencing with the date on which he last completed a training session. No penalty shall be imposed on a local elected official, a member of an appointed school board, or an executive director or member of an industrial development authority or an economic development authority for failing to complete a training session.

C. The clerk of the respective governing body or school board shall maintain records indicating local elected officials, members of appointed school boards, and executive directors and members of industrial development authorities and economic development authorities subject to the training requirement and the dates of their completion of a training session pursuant to subsection B. Such records shall be maintained as public records for five years in the office of the clerk of the respective governing body or school board.

2019, c. [530](#);2020, cc. [76](#), [80](#);2023, cc. [351](#), [352](#).

Code of Virginia
Title 2.2. Administration of Government
Subtitle II. Administration of State Government
Part B. Transaction of Public Business

Chapter 37. Virginia Freedom of Information Act

§ 2.2-3700. Short title; policy

A. This chapter may be cited as "The Virginia Freedom of Information Act."

B. By enacting this chapter, the General Assembly ensures the people of the Commonwealth ready access to public records in the custody of a public body or its officers and employees, and free entry to meetings of public bodies wherein the business of the people is being conducted. The affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government. Unless a public body or its officers or employees specifically elect to exercise an exemption provided by this chapter or any other statute, every meeting shall be open to the public and all public records shall be available for inspection and copying upon request. All public records and meetings shall be presumed open, unless an exemption is properly invoked.

The provisions of this chapter shall be liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government. Any exemption from public access to records or meetings shall be narrowly construed and no record shall be withheld or meeting closed to the public unless specifically made exempt pursuant to this chapter or other specific provision of law. This chapter shall not be construed to discourage the free discussion by government officials or employees of public matters with the citizens of the Commonwealth.

All public bodies and their officers and employees shall make reasonable efforts to reach an agreement with a requester concerning the production of the records requested.

Any ordinance adopted by a local governing body that conflicts with the provisions of this chapter shall be void.

1968, c. 479, § 2.1-340; 1976, c. 467, § 2.1-340.1; 1989, c. 358; 1990, c. 538; 1999, cc. [703](#), [726](#); 2001, c. [844](#); 2002, c. [393](#).

§ 2.2-3701. Definitions

As used in this chapter, unless the context requires a different meaning:

"All-virtual public meeting" means a public meeting (i) conducted by a public body, other than those excepted pursuant to subsection C of § [2.2-3708.3](#), using electronic communication means, (ii) during which all members of the public body who participate do so remotely rather than being assembled in one physical location, and (iii) to which public access is provided through electronic communication means.

"Caregiver" means an adult who provides care for a person with a disability as defined in § [51.5-40.1](#). A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the person with a disability for whom he is caring.

"Closed meeting" means a meeting from which the public is excluded.

"Electronic communication" means the use of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities to transmit or receive information.

"Emergency" means an unforeseen circumstance rendering the notice required by this chapter impossible or impracticable and which circumstance requires immediate action.

"Information," as used in the exclusions established by §§ 2.2-3705.1 through 2.2-3705.7, means the content within a public record that references a specifically identified subject matter, and shall not be interpreted to require the production of information that is not embodied in a public record.

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2 or 2.2-3708.3, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. Neither the gathering of employees of a public body nor the gathering or attendance of two or more members of a public body (a) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, and no discussion or transaction of public business takes place among the members of the public body or (b) at a public forum, informational gathering, candidate appearance, meeting of another public body, or debate, the purpose of which is to inform the electorate or to gather information from the public and not to transact public business or to hold discussions relating to the transaction of public business, where no discussion or transaction of public business takes place among the members of the public body, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion, debate, or question presented by others at such public meeting, shall be deemed a "meeting" subject to the provisions of this chapter. The appointment of more than two members of a public body to another public body does not constitute a meeting of the first public body. For purposes of this definition of "meeting" only, the term "public business" means any activity a public body has undertaken or proposes to undertake on behalf of the people it represents.

"Official public government website" means any Internet site controlled by a public body and used, among any other purposes, to post required notices and other content pursuant to this chapter on behalf of the public body.

"Open meeting" or "public meeting" means a meeting at which the public may be present.

"Public body" means any legislative body, authority, board, bureau, commission, district, or agency of the Commonwealth or of any political subdivision of the Commonwealth, including counties, cities, and towns, municipal councils, governing bodies of counties, school boards, and planning commissions; governing boards of public institutions of higher education; and other organizations, corporations, or agencies in the Commonwealth supported wholly or principally by public funds. It shall include (i) the Virginia Birth-Related Neurological Injury Compensation Program and its board of directors established pursuant to Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 and (ii) any committee, subcommittee, or other entity however designated of the public body created to perform delegated functions of the public body or to advise the public body. It shall not exclude any such committee, subcommittee, or entity because it has private sector or citizen members. Corporations organized by the Virginia Retirement System are "public bodies"

for purposes of this chapter.

For the purposes of the provisions of this chapter applicable to access to public records, constitutional officers and private police departments as defined in § 9.1-101 shall be considered public bodies and, except as otherwise expressly provided by law, shall have the same obligations to disclose public records as other custodians of public records.

"Public records" means all writings and recordings that consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording, or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees, or agents in the transaction of public business.

"Regional public body" means a unit of government organized as provided by law within defined boundaries, as determined by the General Assembly, which unit includes two or more localities.

"Remote participation" means participation by an individual member of a public body by electronic communication means in a public meeting where a quorum of the public body is otherwise physically assembled.

"Scholastic records" means those records containing information directly related to a student or an applicant for admission and maintained by a public body that is an educational agency or institution or by a person acting for such agency or institution.

"Trade secret" means the same as that term is defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.).

1968, c. 479, § 2.1-341; 1970, c. 456; 1974, c. 332; 1975, c. 307; 1977, c. 677; 1978, cc. 573, 826; 1979, cc. 369, 687; 1980, c. 754; 1984, c. 252; 1989, c. 358; 1990, c. 538; 1993, cc. 270, 720; 1994, cc. 845, 931; 1996, c. 609; 1997, c. 641; 1999, cc. 703, 726; 2001, c. 844; 2002, c. 393; 2003, c. 897; 2007, c. 945; 2008, cc. 233, 789; 2010, c. 706; 2011, c. 242; 2015, cc. 131, 195, 224; 2016, cc. 620, 716; 2017, cc. 616, 778; 2018, cc. 54, 55; 2019, c. 358; 2022, cc. 325, 597; 2024, cc. 610, 617, 733, 756.

§ 2.2-3702. Notice of chapter

Any person elected, reelected, appointed or reappointed to any body not excepted from this chapter shall (i) be furnished by the public body's administrator or legal counsel with a copy of this chapter within two weeks following election, reelection, appointment or reappointment and (ii) read and become familiar with the provisions of this chapter.

1976, c. 467, § 2.1-341.1; 1999, cc. 703, 726; 2001, c. 844; 2002, c. 393.

§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election records; access by persons incarcerated in a state, local, or federal correctional facility

A. The provisions of this chapter shall not apply to:

1. Petit juries and grand juries;
2. Family assessment and planning teams established pursuant to § 2.2-5207;
3. Sexual assault response teams established pursuant to § 15.2-1627.4 and human trafficking response teams established pursuant to § 15.2-1627.6, except that records relating to (i)

protocols and policies of the sexual assault or human trafficking response team and (ii) guidelines for the community's response established by the sexual assault or human trafficking response team shall be public records and subject to the provisions of this chapter;

4. Multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5;
5. The Virginia State Crime Commission; and
6. The records maintained by the clerks of the courts of record, as defined in § 1-212, for which clerks are custodians under § 17.1-242, and courts not of record, as defined in § 16.1-69.5, for which clerks are custodians under § 16.1-69.54, including those transferred for storage, maintenance, or archiving. Such records shall be requested in accordance with the provisions of §§ 16.1-69.54:1 and 17.1-208, as appropriate. However, other records maintained by the clerks of such courts shall be public records and subject to the provisions of this chapter.

B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford any rights to any person (i) incarcerated in a state, local or federal correctional facility, whether or not such facility is (a) located in the Commonwealth or (b) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.) or (ii) civilly committed pursuant to the Sexually Violent Predators Act (§ 37.2-900 et seq.). However, this subsection shall not be construed to prevent such persons from exercising their constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a criminal prosecution.

1999, cc. 703, 726, § 2.1-341.2; 2001, c. 844; 2003, cc. 989, 1018; 2004, cc. 398, 690; 2007, cc. 438, 548, 626; 2017, c. 620; 2018, cc. 127, 584; 2019, c. 729; 2022, cc. 25, 26; 2023, cc. 805, 806; 2024, c. 366.

§ 2.2-3703.1. Disclosure pursuant to court order or subpoena

Nothing contained in this chapter shall have any bearing upon disclosures required to be made pursuant to any court order or subpoena. No discretionary exemption from mandatory disclosure shall be construed to make records covered by such discretionary exemption privileged under the rules of discovery, unless disclosure is otherwise prohibited by law.

2014, c. 319.

§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; charges; transfer of records for storage, etc

A. Except as otherwise specifically provided by law, all public records shall be open to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall be provided by the custodian in accordance with this chapter by inspection or by providing copies of the requested records, at the option of the requester. The custodian may require the requester to provide his name and legal address. The custodian of such records shall take all necessary precautions for their preservation and safekeeping.

B. A request for public records shall identify the requested records with reasonable specificity. The request need not make reference to this chapter in order to invoke the provisions of this chapter or to impose the time limits for response by a public body. Any public body that is subject to this chapter and that is the custodian of the requested records shall promptly, but in all cases within five working days of receiving a request, provide the requested records to the requester or make one of the following responses in writing:

1. The requested records are being entirely withheld. Such response shall identify with reasonable particularity the volume and subject matter of withheld records, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.

2. The requested records are being provided in part and are being withheld in part. Such response shall identify with reasonable particularity the subject matter of withheld portions, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.

3. The requested records could not be found or do not exist. However, if the public body that received the request knows that another public body has the requested records, the response shall include contact information for the other public body.

4. It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. Such response shall specify the conditions that make a response impossible. If the response is made within five working days, the public body shall have an additional seven work days or, in the case of a request for criminal investigative files pursuant to § 2.2-3706.1, 60 work days in which to provide one of the four preceding responses.

C. Any public body may petition the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records or requires an extraordinarily lengthy search, and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with the petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

D. Subject to the provisions of subsection G, no public body shall be required to create a new record if the record does not already exist. However, a public body may abstract or summarize information under such terms and conditions as agreed between the requester and the public body.

E. Failure to respond to a request for records shall be deemed a denial of the request and shall constitute a violation of this chapter.

F. Except with regard to scholastic records requested pursuant to subdivision A 1 of § 2.2-3705.4 that must be made available for inspection pursuant to the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and such requests for scholastic records by a parent or legal guardian of a minor student or by a student who is 18 years of age or older, a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee

charged by a public body shall not exceed the actual cost of duplication. The public body may also make a reasonable charge for the cost incurred in supplying records produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than 50 acres. Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records. The public body shall provide the requester with a cost estimate if requested. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the cost estimate and the response of the requester. If the public body receives no response from the requester within 30 days of sending the cost estimate, the request shall be deemed to be withdrawn. Any costs incurred by the public body in estimating the cost of supplying the requested records shall be applied toward the overall charges to be paid by the requester for the supplying of such requested records. Any local public body that charges for the production of records pursuant to this section may provide an electronic method of payment through which all payments for the production of such records to such locality may be made. For purposes of this subsection, "electronic method of payment" means any kind of noncash payment that does not involve a paper check and includes credit cards, debit cards, direct deposit, direct debit, electronic checks, and payment through the use of telephonic or similar communications.

G. Public records maintained by a public body in an electronic data processing system, computer database, or any other structured collection of data shall be made available to a requester at a reasonable cost, not to exceed the actual cost in accordance with subsection F. When electronic or other databases are combined or contain exempt and nonexempt records, the public body may provide access to the exempt records if not otherwise prohibited by law, but shall provide access to the nonexempt records as provided by this chapter.

Public bodies shall produce nonexempt records maintained in an electronic database in any tangible medium identified by the requester, including, where the public body has the capability, the option of posting the records on a website or delivering the records through an electronic mail address provided by the requester, if that medium is used by the public body in the regular course of business. No public body shall be required to produce records from an electronic database in a format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in any format under such terms and conditions as agreed between the requester and public body, including the payment of reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available format to another shall not be deemed the creation, preparation, or compilation of a new public record.

H. In any case where a public body determines in advance that charges for producing the requested records are likely to exceed \$200, the public body may, before continuing to process the request, require the requester to pay a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the

response of the requester.

I. Before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.

J. In the event a public body has transferred possession of public records to any entity, including but not limited to any other public body, for storage, maintenance, or archiving, the public body initiating the transfer of such records shall remain the custodian of such records for purposes of responding to requests for public records made pursuant to this chapter and shall be responsible for retrieving and supplying such public records to the requester. In the event a public body has transferred public records for storage, maintenance, or archiving and such transferring public body is no longer in existence, any public body that is a successor to the transferring public body shall be deemed the custodian of such records. In the event no successor entity exists, the entity in possession of the public records shall be deemed the custodian of the records for purposes of compliance with this chapter, and shall retrieve and supply such records to the requester. Nothing in this subsection shall be construed to apply to records transferred to the Library of Virginia for permanent archiving pursuant to the duties imposed by the Virginia Public Records Act (§ 42.1-76 et seq.). In accordance with § 42.1-79, the Library of Virginia shall be the custodian of such permanently archived records and shall be responsible for responding to requests for such records made pursuant to this chapter.

1968, c. 479, § 2.1-342; 1973, c. 461; 1974, c. 332; 1975, cc. 307, 312; 1976, cc. 640, 709; 1977, c. 677; 1978, c. 810; 1979, cc. 682, 684, 686, 689; 1980, cc. 678, 754; 1981, cc. 456, 464, 466, 589; 1982, cc. 225, 449, 452, 560, 635; 1983, cc. 372, 462, 607; 1984, cc. 85, 395, 433, 513, 532; 1985, cc. 81, 155, 502, 618; 1986, cc. 273, 291, 383, 469, 592; 1987, cc. 401, 491, 581; 1988, cc. 39, 151, 395, 411, 891, 902; 1989, cc. 56, 358, 478; 1990, cc. 217, 538, 721, 819, 968; 1991, cc. 213, 561; 1992, cc. 40, 150, 167, 200, 203, 207, 593, 612; 1993, cc. 205, 270, 296, 537, 552, 638, 750, 883; 1994, cc. 485, 532, 606, 839, 853, 918; 1995, cc. 299, 362, 499, 562, 638, 722, 812, 837; 1996, cc. 168, 469, 589, 599, 783, 786, 794, 855, 862, 902, 905, 1001, 1046; 1997, cc. 198, 295, 439, 567, 636, 641, 777, 782, 785, 838, 861; 1998, cc. 427, 891; 1999, cc. 438, 703, 726; 2001, c. 844; 2002, cc. 715, 830; 2003, cc. 275, 981, 1021; 2007, c. 439; 2009, c. 626; 2010, c. 627; 2011, c. 604; 2016, cc. 620, 716; 2017, c. 778; 2020, c. 1142; 2021, Sp. Sess. I, c. 483; 2022, c. 756; 2023, c. 534.

§ 2.2-3704.01. Records containing both excluded and nonexcluded information; duty to redact

No provision of this chapter is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by this chapter or by any other provision of law. A public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under this chapter or other provision of law applies to the entire content of the public record. Otherwise, only those portions of the public record containing information subject to an exclusion under this chapter or other provision of law may be withheld, and all portions of the public record that are not so excluded shall be disclosed.

2016, cc. 620, 716.

§ 2.2-3704.1. Posting of notice of rights and responsibilities by state and local public bodies; assistance by the Freedom of Information Advisory Council

A. All state public bodies subject to the provisions of this chapter, any county or city, any town with a population of more than 250, and any school board shall make available the following

information to the public upon request and shall post a link to such information on the homepage of their respective official public government websites:

1. A plain English explanation of the rights of a requester under this chapter, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with this chapter. For purposes of this section, "plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession;
 2. Contact information for the FOIA officer designated by the public body pursuant to § 2.2-3704.2 to (i) assist a requester in making a request for records or (ii) respond to requests for public records;
 3. A general description, summary, list, or index of the types of public records maintained by such public body;
 4. A general description, summary, list, or index of any exemptions in law that permit or require such public records to be withheld from release;
 5. Any policy the public body has concerning the type of public records it routinely withholds from release as permitted by this chapter or other law;
 6. The following statement: "A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records as set forth in subsection F of § 2.2-3704 of the Code of Virginia."; and
 7. A written policy (i) explaining how the public body assesses charges for accessing or searching for requested records and (ii) noting the current fee charged, if any, for accessing and searching for such requested records.
- B. Any state public body subject to the provisions of this chapter and any county or city, and any town with a population of more than 250, shall post a link on its official public government website to the online public comment form on the Freedom of Information Advisory Council's website to enable any requester to comment on the quality of assistance provided to the requester by the public body.
- C. The Freedom of Information Advisory Council, created pursuant to § 30-178, shall assist in the development and implementation of the provisions of subsection A, upon request.

2004, c. 730;2009, c. 626;2014, c. 421;2016, c. 748;2017, cc. 645, 778;2022, c. 756;2023, c. 599.

§ 2.2-3704.2. Public bodies to designate FOIA officer

A. All state public bodies, including state authorities, that are subject to the provisions of this

chapter and all local public bodies and regional public bodies that are subject to the provisions of this chapter shall designate and publicly identify one or more Freedom of Information Act officers (FOIA officer) whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body's compliance with the provisions of this chapter.

B. For such state public bodies, the name and contact information of the public body's FOIA officer to whom members of the public may direct requests for public records and who will oversee the public body's compliance with the provisions of this chapter shall be made available to the public upon request and be posted on the respective public body's official public government website at the time of designation and maintained thereafter on such website for the duration of the designation.

C. For such local public bodies and regional public bodies, the name and contact information of the public body's FOIA officer to whom members of the public may direct requests for public records and who will oversee the public body's compliance with the provisions of this chapter shall be made available in a way reasonably calculated to provide notice to the public, including posting at the public body's place of business, posting on its official public government website, or including such information in its publications.

D. For the purposes of this section, local public bodies shall include constitutional officers.

E. Any such FOIA officer shall possess specific knowledge of the provisions of this chapter and be trained at least once during each consecutive period of two calendar years commencing with the date on which he last completed a training session by legal counsel for the public body or the Virginia Freedom of Information Advisory Council (the Council) or through an online course offered by the Council. Any such training shall document that the training required by this subsection has been fulfilled.

F. The name and contact information of a FOIA officer trained by legal counsel of a public body shall be (i) submitted to the Council by July 1 of the year a FOIA officer is initially trained on a form developed by the Council for that purpose and (ii) updated in a timely manner in the event of any changes to such information.

G. The Council shall maintain on its website a listing of all FOIA officers, including name, contact information, and the name of the public body such FOIA officers serve.

2016, c. 748;2017, cc. 290, 778;2020, c. 1141.

§ 2.2-3704.3. Training for local officials

A. The Virginia Freedom of Information Advisory Council (the Council) or the local government attorney shall provide in-person or online training sessions for local elected officials; the executive directors and members of industrial development authorities and economic development authorities, as created by the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.); and members of any boards governing any authority established pursuant to the Park Authorities Act (§ 15.2-5700 et seq.) on the provisions of this chapter.

B. Each local elected official, the executive director and members of each industrial development authority and economic development authority, as created by the Industrial Development and Revenue Bond Act, and members of any boards governing any authority established pursuant to the Park Authorities Act (§ 15.2-5700 et seq.) shall complete a training session described in

subsection A within two months after assuming the local elected office and thereafter at least once during each consecutive period of two calendar years commencing with the date on which he last completed a training session, for as long as he holds such office. No penalty shall be imposed on a local elected official or an executive director or member of an industrial development authority or an economic development authority for failing to complete a training session.

C. The clerk of each governing body or school board shall maintain records indicating the names of elected officials, executive directors and members of industrial development authorities and economic development authorities, and members of any boards governing any authority established pursuant to the Park Authorities Act (§ 15.2-5700 et seq.) subject to the training requirements in subsection B and the dates on which each such official completed training sessions satisfying such requirements. Such records shall be maintained for five years in the office of the clerk of the respective governing body or school board.

D. For purposes of this section, "local elected officials" shall include constitutional officers.

2019, c. 531;2020, cc. 76, 80, 904;2023, c. 461.

§ 2.2-3705. Repealed

Repealed by Acts 2004, c. 690.

§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to public bodies

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Personnel information concerning identifiable individuals, except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of such information and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such information shall be disclosed. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

No provision of this chapter or any provision of Chapter 38 (§ 2.2-3800 et seq.) shall be construed as denying public access to (i) contracts between a public body and its officers or employees, other than contracts settling public employee employment disputes held confidential as personnel records under § 2.2-3705.1;(ii) records of the name, position, job classification, official salary, or rate of pay of, and records of the allowances or reimbursements for expenses paid to, any officer, official, or employee of a public body; or (iii) the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees. The provisions of this subdivision, however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

2. Written advice of legal counsel to state, regional or local public bodies or the officers or employees of such public bodies, and any other information protected by the attorney-client privilege.

3. Legal memoranda and other work product compiled specifically for use in litigation or for use

in an active administrative investigation concerning a matter that is properly the subject of a closed meeting under § 2.2-3711.

4. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by a public body.

As used in this subdivision, "test or examination" shall include (a) any scoring key for any such test or examination and (b) any other document that would jeopardize the security of the test or examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as provided by law, or limit access to individual records as provided by law. However, the subject of such employment tests shall be entitled to review and inspect all records relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, the test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

5. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

6. Vendor proprietary information software that may be in the public records of a public body. For the purpose of this subdivision, "vendor proprietary information software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

7. Computer software developed by or for a state agency, public institution of higher education in the Commonwealth, or political subdivision of the Commonwealth.

8. Appraisals and cost estimates of real property subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease.

9. Information concerning reserves established in specific claims administered by the Department of the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of Chapter 18, or by any county, city, or town; and investigative notes, correspondence and information furnished in confidence with respect to an investigation of a claim or a potential claim against a public body's insurance policy or self-insurance plan. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports upon expiration of the period of limitations for the filing of a civil suit.

10. Personal contact information furnished to a public body or any of its members for the purpose of receiving electronic communications from the public body or any of its members, unless the recipient of such electronic communications indicates his approval for the public body to disclose such information. However, access shall not be denied to the person who is the subject of the record. As used in this subdivision, "personal contact information" means the

information provided to the public body or any of its members for the purpose of receiving electronic communications from the public body or any of its members and includes home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device.

11. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the Virginia Administrative Dispute Resolution Act (§ 2.2-4115 et seq.).

12. Information relating to the negotiation and award of a specific contract where competition or bargaining is involved and where the release of such information would adversely affect the bargaining position or negotiating strategy of the public body. Such information shall not be withheld after the public body has made a decision to award or not to award the contract. In the case of procurement transactions conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the provisions of this subdivision shall not apply, and any release of information relating to such transactions shall be governed by the Virginia Public Procurement Act.

13. Account numbers or routing information for any credit card, debit card, or other account with a financial institution of any person or public body. However, access shall not be denied to the person who is the subject of the information. For the purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, savings and loan companies or associations, and credit unions.

14. Names and data of any kind that directly or indirectly identify an individual as a member, supporter, or volunteer of, or donor of financial or nonfinancial support to, any entity exempt from federal income tax pursuant to § 501(c) of the Internal Revenue Code, except for those entities established by or for, or in support of, a public body as authorized by state law, not to include a nonprofit foundation designed to support an institution of higher education or other educational or cultural institution subject to Title 23.1.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, c. 690; 2010, c. 553; 2016, cc. 620, 716, 729; 2017, cc. 140, 778; 2021, Sp. Sess. I, c. 484; 2022, c. 525; 2022, Sp. Sess. I, c. 19.

§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Confidential information, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

2. Information that describes the design, function, operation, or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

3. Information that would disclose the security aspects of a system safety program plan adopted

pursuant to Federal Transit Administration regulations by the Commonwealth's designated Rail Fixed Guideway Systems Safety Oversight agency; and information in the possession of such agency, the release of which would jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway safety.

4. Information concerning security plans and specific assessment components of school safety audits, as provided in § 22.1-279.8.

Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the effectiveness of security plans after (i) any school building or property has been subjected to fire, explosion, natural disaster, or other catastrophic event or (ii) any person on school property has suffered or been threatened with any personal injury.

5. Information concerning the mental health assessment of an individual subject to commitment as a sexually violent predator under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 held by the Commitment Review Committee; except that in no case shall information identifying the victims of a sexually violent predator be disclosed.

6. Subscriber data provided directly or indirectly by a communications services provider to a public body that operates a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system if the data is in a form not made available by the communications services provider to the public generally. Nothing in this subdivision shall prevent the disclosure of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.

For the purposes of this subdivision:

"Communications services provider" means the same as that term is defined in § 58.1-647.

"Subscriber data" means the name, address, telephone number, and any other information identifying a subscriber of a communications services provider.

7. Subscriber data collected by a local governing body in accordance with the Enhanced Public Safety Telephone Services Act (§ 56-484.12 et seq.) and other identifying information of a personal, medical, or financial nature provided to a local governing body in connection with a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system if such records are not otherwise publicly available.

Nothing in this subdivision shall prevent the disclosure of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.

For the purposes of this subdivision:

"Communications services provider" means the same as that term is defined in § 58.1-647.

"Subscriber data" means the name, address, telephone number, and any other information identifying a subscriber of a communications services provider.

8. Information held by the Virginia Military Advisory Council or any commission created by

executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, that would (i) reveal strategies under consideration or development by the Council or such commission or organizations to prevent the closure or realignment of federal military installations located in Virginia or the relocation of national security facilities located in Virginia, to limit the adverse economic effect of such realignment, closure, or relocation, or to seek additional tenant activity growth from the Department of Defense or federal government or (ii) disclose trade secrets provided to the Council or such commission or organizations in connection with their work.

In order to invoke the trade secret protection provided by clause (ii), the submitting entity shall, in writing and at the time of submission (a) invoke this exclusion, (b) identify with specificity the information for which such protection is sought, and (c) state the reason why such protection is necessary. Nothing in this subdivision shall be construed to prevent the disclosure of all or part of any record, other than a trade secret that has been specifically identified as required by this subdivision, after the Department of Defense or federal agency has issued a final, unappealable decision, or in the event of litigation, a court of competent jurisdiction has entered a final, unappealable order concerning the closure, realignment, or expansion of the military installation or tenant activities, or the relocation of the national security facility, for which records are sought.

9. Information, as determined by the State Comptroller, that describes the design, function, operation, or implementation of internal controls over the Commonwealth's financial processes and systems, and the assessment of risks and vulnerabilities of those controls, including the annual assessment of internal controls mandated by the State Comptroller, if disclosure of such information would jeopardize the security of the Commonwealth's financial assets. Nothing in this subdivision shall be construed to authorize the withholding of (i) the name of the public employee, officer, or official as it appears on a purchase card statement or other payment record or (ii) the description of individual purchases. Additionally, records relating to the investigation of and findings concerning the soundness of any fiscal process shall be disclosed in a form that does not compromise internal controls. Nothing in this subdivision shall be construed to prohibit the Auditor of Public Accounts or the Joint Legislative Audit and Review Commission from reporting internal control deficiencies discovered during the course of an audit.

10. Information relating to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system that (i) describes the design, function, programming, operation, or access control features of the overall system, components, structures, individual networks, and subsystems of the STARS or any other similar local or regional communications system or (ii) relates to radio frequencies assigned to or utilized by STARS or any other similar local or regional communications system, code plugs, circuit routing, addressing schemes, talk groups, fleet maps, encryption, or programming maintained by or utilized by STARS or any other similar local or regional public safety communications system.

11. Information concerning a salaried or volunteer Fire/EMS company or Fire/EMS department if disclosure of such information would reveal the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties.

12. Information concerning the disaster recovery plans or the evacuation plans in the event of

fire, explosion, natural disaster, or other catastrophic event for hospitals and nursing homes regulated by the Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 provided to the Department of Health. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the effectiveness of executed evacuation plans after the occurrence of fire, explosion, natural disaster, or other catastrophic event.

13. Records received by the Department of Criminal Justice Services pursuant to §§ 9.1-184, 22.1-79.4, and 22.1-279.8 or for purposes of evaluating threat assessment teams established by a public institution of higher education pursuant to § 23.1-805 or by a private nonprofit institution of higher education, to the extent such records reveal security plans, walk-through checklists, or vulnerability and threat assessment components.

14. Information contained in (i) engineering, architectural, or construction drawings; (ii) operational, procedural, tactical planning, or training manuals; (iii) staff meeting minutes; or (iv) other records that reveal any of the following, the disclosure of which would jeopardize the safety or security of any person; governmental facility, building, or structure or persons using such facility, building, or structure; or public or private commercial office, multifamily residential, or retail building or its occupants:

a. Critical infrastructure information or the location or operation of security equipment and systems of any public building, structure, or information storage facility, including ventilation systems, fire protection equipment, mandatory building emergency equipment or systems, elevators, electrical systems, telecommunications equipment and systems, or utility equipment and systems;

b. Vulnerability assessments, information not lawfully available to the public regarding specific cybersecurity threats or vulnerabilities, or security plans and measures of an entity, facility, building structure, information technology system, or software program;

c. Surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational or transportation plans or protocols; or

d. Interconnectivity, network monitoring, network operation centers, master sites, or systems related to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system.

The same categories of records of any person or entity submitted to a public body for the purpose of antiterrorism response planning or cybersecurity planning or protection may be withheld from disclosure if such person or entity in writing (a) invokes the protections of this subdivision, (b) identifies with specificity the records or portions thereof for which protection is sought, and (c) states with reasonable particularity why the protection of such records from public disclosure is necessary to meet the objective of antiterrorism, cybersecurity planning or protection, or critical infrastructure information security and resilience. Such statement shall be a public record and shall be disclosed upon request.

Any public body receiving a request for records excluded under clauses (a) and (b) of this subdivision 14 shall notify the Secretary of Public Safety and Homeland Security or his designee of such request and the response made by the public body in accordance with § 2.2-3704.

Nothing in this subdivision 14 shall prevent the disclosure of records relating to (1) the structural or environmental soundness of any such facility, building, or structure or (2) an inquiry into the

performance of such facility, building, or structure after it has been subjected to fire, explosion, natural disaster, or other catastrophic event.

As used in this subdivision, "critical infrastructure information" means the same as that term is defined in 6 U.S.C. § 671.

15. Information held by the Virginia Commercial Space Flight Authority that is categorized as classified or sensitive but unclassified, including national security, defense, and foreign policy information, provided that such information is exempt under the federal Freedom of Information Act, 5 U.S.C. § 552.

1999, cc. [485](#), [518](#), [703](#), [726](#), [793](#), [849](#), [852](#), [867](#), [868](#), [881](#), § 2.1-342.01; 2000, cc. [66](#), [237](#), [382](#), [400](#), [430](#), [583](#), [589](#), [592](#), [594](#), [618](#), [632](#), [657](#), [720](#), [932](#), [933](#), [947](#), [1006](#), [1064](#); 2001, cc. [288](#), [518](#), [844](#), § 2.2-3705; 2002, cc. [87](#), [155](#), [242](#), [393](#), [478](#), [481](#), [499](#), [522](#), [571](#), [572](#), [633](#), [655](#), [715](#), [798](#), [830](#); 2003, cc. [274](#), [307](#), [327](#), [332](#), [358](#), [704](#), [801](#), [884](#), [891](#), [893](#), [897](#), [968](#); 2004, cc. [398](#), [482](#), [690](#), [770](#); 2005, c. [410](#); 2008, c. [721](#); 2009, c. [418](#); 2010, c. [672](#); 2011, cc. [111](#), [536](#); 2012, cc. [617](#), [803](#), [835](#); 2013, c. [600](#); 2015, c. [183](#); 2016, cc. [554](#), [620](#), [716](#), [717](#); 2017, c. [778](#); 2018, cc. [52](#), [741](#); 2019, c. [358](#); 2024, c. [671](#).

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § [2.2-3704.01](#).

1. Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Cannabis Control Authority, the Virginia Lottery pursuant to Chapter 40 (§ [58.1-4000](#) et seq.) and Chapter 41 (§ [58.1-4100](#) et seq.) of Title 58.1, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ [18.2-340.15](#) et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.
2. Records of active investigations being conducted by the Virginia Cannabis Control Authority or by the Department of Health Professions or any health regulatory board in the Commonwealth pursuant to § [54.1-108](#).
3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.
4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ [32.1-323](#) et seq.) of Title 32.1.
5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory

practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this subdivision shall prevent the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body; or (viii) the Behavioral Health Commission. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. The names and personal contact information of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body. As used in this subdivision, "personal contact information" includes the complainant's home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device.

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,

unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, cc. 605, 690, 766; 2005, c. 601; 2006, cc. 25, 95; 2008, cc. 387, 668, 689, 758; 2009, cc. 237, 326, 340; 2011, cc. 798, 871; 2012, cc. 476, 507, 803, 835; 2013, cc. 571, 572, 690, 717, 723; 2014, cc. 225, 414, 609, 788; 2015, cc. 38, 730; 2016, cc. 272, 620, 716; 2017, c. 778; 2020, c. 48; 2022, cc. 589, 590; 2023, cc. 668, 669; 2024, cc. 64, 732.

§ 2.2-3705.4. (Effective July 1, 2024) Exclusions to application of chapter; educational records and certain records of educational institutions

A. The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except as provided in subsection B or where such disclosure is otherwise prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of 18 years. For scholastic records of students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a public institution of higher education in the Commonwealth, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such records shall be disclosed.

2. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment or promotion, or (iii) receipt of an honor or honorary recognition.

3. Information held by the Brown v. Board of Education Scholarship Committee that would reveal personally identifiable information, including scholarship applications, personal financial information, and confidential correspondence and letters of recommendation.

4. Information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such information has not been publicly released, published, copyrighted or patented.

5. Information held by the University of Virginia, the University of Virginia Medical Center, Old Dominion University, or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, that contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, has formed, or forms, any

arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the University of Virginia Medical Center or Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be.

6. Personal information, as defined in § 2.2-3801, provided to the Board of the Commonwealth Savers Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, including personal information related to (i) qualified beneficiaries as that term is defined in § 23.1-700, (ii) designated survivors, or (iii) authorized individuals. Nothing in this subdivision shall be construed to prevent disclosure or publication of information in a statistical or other form that does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

For purposes of this subdivision:

"Authorized individual" means an individual who may be named by the account owner to receive information regarding the account but who does not have any control or authority over the account.

"Designated survivor" means the person who will assume account ownership in the event of the account owner's death.

7. Information maintained in connection with fundraising activities by or for a public institution of higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or prospective donors or (ii) wealth assessments; estate, financial, or tax planning information; health-related information; employment, familial, or marital status information; electronic mail addresses, facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or prospective donors. The exclusion provided by this subdivision shall not apply to protect from disclosure (a) information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor or (b) the identities of sponsors providing grants to or contracting with the institution for the performance of research services or other work or the terms and conditions of such grants or contracts. For purposes of clause (a), the identity of the donor may be withheld if (1) the donor has requested anonymity in connection with or as a condition of making a pledge or donation and (2) the pledge or donation does not impose terms or conditions directing academic decision-making.

8. Information held by a threat assessment team established by a local school board pursuant to § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment or intervention with a specific individual. However, in the event an individual who has been under assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious bodily injury, including any felony sexual assault, to another person, such information of the threat assessment team concerning the individual under assessment shall be made available as provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The public body providing such information shall remove personally identifying information of any person who provided information to the threat assessment team under a promise of confidentiality.

9. Records provided to the Governor or the designated reviewers by a qualified institution, as

those terms are defined in § 23.1-1239, related to a proposed memorandum of understanding, or proposed amendments to a memorandum of understanding, submitted pursuant to Chapter 12.1 (§ 23.1-1239 et seq.) of Title 23.1. A memorandum of understanding entered into pursuant to such chapter shall be subject to public disclosure after it is agreed to and signed by the Governor.

B. The custodian of a scholastic record shall not release the address, phone number, or email address of a student in response to a request made under this chapter without written consent. For any student who is (i) 18 years of age or older, (ii) under the age of 18 and emancipated, or (iii) attending an institution of higher education, written consent of the student shall be required. For any other student, written consent of the parent or legal guardian of such student shall be required.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, c. 690; 2006, c. 518; 2008, cc. 561, 665; 2010, cc. 456, 524; 2014, c. 313; 2016, cc. 554, 620, 716; 2017, c. 778; 2018, c. 756; 2019, cc. 638, 639; 2020, cc. 71, 78; 2023, cc. 756, 778; 2024, c. 217.

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include

any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants; information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1; information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that identifies any practitioner who may be, or who is actually, impaired to the extent that disclosure is prohibited by § 54.1-2517; and information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program (Program) pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

3. Reports, documentary evidence, and other information as specified in §§ 51.5-122 and 51.5-184 and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 and information and statistical registries required to be kept confidential pursuant to Chapter 1 (§ 63.2-100 et seq.) of Title 63.2.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Education in connection with an active investigation of an applicant or licensee pursuant to Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. However, nothing in this subdivision shall prevent the disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review Team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6; (iv) by a local or regional overdose fatality review team to the extent that such information is made confidential by § 32.1-283.7; (v) during a review of any death conducted by the Maternal Mortality Review Team to the extent that such information is made confidential by § 32.1-283.8; or (vi) during a review of any death conducted by the Developmental

Disabilities Mortality Review Committee to the extent that such information is made confidential by § 37.2-314.1.

8. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

9. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

10. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

11. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

12. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to prevent the disclosure of statistical summaries, abstracts, or other information in aggregate form.

13. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

14. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

15. Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

16. Records of and information held by the Smartchart Network Program required to be kept confidential pursuant to § 32.1-372.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, cc. 65, 666, 690, 773, 1014, 1021; 2005, cc. 181, 227, 716; 2008, c. 539; 2009, cc. 472, 813, 840; 2011, cc. 110, 175, 535; 2012, cc. 476, 479, 507, 803, 835; 2015, cc. 22, 108, 127; 2016, cc. 620, 716; 2017, cc. 188, 475, 600, 719, 778; 2018, c. 600; 2019, c. 834; 2020, cc. 851, 860, 861; 2023, cc. 628, 629.

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.
2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.
3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.
4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.
5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.
6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.
7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.
8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the

responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Commissioner of Agriculture and Consumer Services related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or
- b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or

bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan, or investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority (the Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory committee of the Authority, or any other entity designated by the Authority to review such applications, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant, loan, or investment application that is not

a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant, loan, or investment application; and memoranda, staff evaluations, or other information prepared by the Authority or its staff, or a reviewing entity designated by the Authority, exclusively for the evaluation of grant, loan, or investment applications, including any scoring or prioritization documents prepared for and forwarded to the Authority.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services or carbon sequestration agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the appropriations act.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information, or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Department shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or confidential proprietary information of the applicant. The Department shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

33. Financial and proprietary records submitted with a loan application to a locality for the preservation or construction of affordable housing that is related to a competitive application to be submitted to either the U.S. Department of Housing and Urban Development (HUD) or the Virginia Housing Development Authority (VHDA), when the release of such records would adversely affect the bargaining or competitive position of the applicant. Such records shall not be withheld after they have been made public by HUD or VHDA.

34. Information of a proprietary or confidential nature disclosed by a health carrier or pharmacy benefits manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a manufacturer pursuant to § 54.1-3442.02.

35. Trade secrets, proprietary information, or financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, supplied by an individual or a private or nongovernmental entity to the Fort Monroe Authority for the purpose of complying with the obligations of any lease, easement,

license, permit, or other agreement, whether of a commercial or residential real estate nature, pertaining to the use or occupancy of any portion of Fort Monroe.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the individual or private or nongovernmental entity shall make a written request to the Fort Monroe Authority:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information, or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

1999, cc. [485](#), [518](#), [703](#), [726](#), [793](#), [849](#), [852](#), [867](#), [868](#), [881](#), § [2.1-342.01](#); 2000, cc. [66](#), [237](#), [382](#), [400](#), [430](#), [583](#), [589](#), [592](#), [594](#), [618](#), [632](#), [657](#), [720](#), [932](#), [933](#), [947](#), [1006](#), [1064](#); 2001, cc. [288](#), [518](#), [844](#), § [2.2-3705](#); 2002, cc. [87](#), [155](#), [242](#), [393](#), [478](#), [481](#), [499](#), [522](#), [571](#), [572](#), [633](#), [655](#), [715](#), [798](#), [830](#); 2003, cc. [274](#), [307](#), [327](#), [332](#), [358](#), [704](#), [801](#), [884](#), [891](#), [893](#), [897](#), [968](#); 2004, cc. [593](#), [690](#); 2005, cc. [258](#), [411](#); 2006, cc. [73](#), [76](#), [467](#), [831](#), [921](#), [936](#); 2006, Sp. Sess. I, c. [1](#); 2007, cc. [374](#), [693](#); 2008, cc. [71](#), [102](#), [266](#), [387](#), [633](#), [689](#), [736](#), [743](#); 2009, cc. [246](#), [311](#), [325](#), [765](#), [810](#), [869](#); 2010, cc. [310](#), [808](#); 2011, cc. [541](#), [781](#), [798](#), [871](#); 2012, cc. [693](#), [709](#); 2013, cc. [54](#), [482](#), [574](#); 2015, cc. [696](#), [697](#); 2016, cc. [620](#), [716](#), [724](#), [725](#), [775](#); 2017, cc. [662](#), [737](#), [778](#), [796](#), [816](#); 2018, cc. [470](#), [532](#), [533](#); 2019, cc. [358](#), [629](#); 2020, cc. [72](#), [79](#), [1164](#), [1169](#); 2021, Sp. Sess. I, cc. [298](#), [304](#), [532](#); 2022, cc. [554](#), [609](#); 2023, cc. [575](#), [576](#).

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § [2.2-3704.01](#).

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § [58.1-3](#).
2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § [2.2-106](#) or [2.2-107](#).

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House

of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed or accessed material or resources from a library and (b) the material or resources such patron borrowed or accessed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and

archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Commonwealth Savers Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Commonwealth Savers Plan, or provided to the retirement system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any

customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

15. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed. If the value of the prize won by the winner exceeds \$10 million, the information described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

20. Information held by the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

21. Information held by state or local park and recreation departments and local and regional

park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to prevent the disclosure of information defined as directory information under regulations implementing the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

22. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Commonwealth Savers Plan, acting pursuant to § 23.1-704 relating to:

- a. Internal deliberations of or decisions by the retirement system or the Commonwealth Savers Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Commonwealth Savers Plan; and
- b. Trade secrets provided by a private entity to the retirement system or the Commonwealth Savers Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Commonwealth Savers Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Commonwealth Savers Plan:

- (1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The retirement system or the Commonwealth Savers Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by former § 53.1-233.
26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.
27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.
28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.
29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.
30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.
31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.
32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, (iii) individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases are discussed by any human trafficking response team established pursuant to § 15.2-1627.6. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific

individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

34. Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § 54.1-3491.

35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i) internal deliberations of or decisions by the Authority on the pursuit of particular investment strategies prior to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.

36. Personal information provided to or obtained by the Virginia Lottery in connection with the voluntary exclusion program administered pursuant to § 58.1-4015.1.

37. Personal information provided to or obtained by the Virginia Lottery concerning the identity of any person reporting prohibited conduct pursuant to § 58.1-4043.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, cc. 426, 690, 832; 2005, cc. 165, 508; 2007, cc. 406, 652, 660, 737, 739; 2008, cc. 16, 739; 2009, cc. 223, 827, 845; 2010, c. 300; 2011, cc. 827, 867; 2012, c. 726; 2013, cc. 199, 481, 554, 574; 2014, cc. 225, 808; 2015, cc. 38, 137, 549, 730; 2016, cc. 550, 620, 716, 729; 2017, cc. 587, 642, 778, 804, 824; 2018, cc. 58, 141; 2019, cc. 163, 170, 247, 300, 358, 729, 775; 2020, cc. 70, 587, 1164, 1169, 1218, 1227, 1246, 1256; 2021, Sp. Sess. I, cc. 344, 345; 2024, cc. 217, 366.

§ 2.2-3705.8. Limitation on record exclusions

Nothing in this chapter shall be construed as denying public access to the nonexempt portions of a report of a consultant hired by or at the request of a local public body or the mayor or chief executive or administrative officer of such public body if (i) the contents of such report have been distributed or disclosed to members of the local public body or (ii) the local public body has scheduled any action on a matter that is the subject of the consultant's report.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, c. 690; 2017, c. 778.

§ 2.2-3706. Disclosure of law-enforcement and criminal records; limitations

A. Records required to be released. All public bodies engaged in criminal law-enforcement activities shall provide the following records when requested in accordance with the provisions of this chapter:

1. Adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation;
2. Information relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest; and
3. Records of completed unattended death investigations to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death" means a death determined to be a suicide, accidental or natural death where no criminal charges will be initiated, and "immediate family" means the decedent's personal representative or, if no personal representative has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.

B. Discretionary releases. The following records are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such disclosure is prohibited by law:

1. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence, relating to a criminal investigation or prosecution not required to be disclosed in accordance with § 2.2-3706.1;
2. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1;
3. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity;
4. All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment;
5. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public;
6. All records of adult persons under (i) investigation or supervision by a local pretrial services agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation, probation supervision, or monitoring by a local community-based probation services agency in accordance with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state probation and parole services in accordance with Article 2 (§

53.1-141 et seq.) of Chapter 4 of Title 53.1;

7. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties;

8. Those portions of any records containing information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective details. Nothing in this subdivision shall operate to allow the withholding of information concerning the overall costs or expenses associated with undercover operations or protective details;

9. Records of (i) background investigations of applicants for law-enforcement agency employment, (ii) administrative investigations relating to allegations of wrongdoing by employees of a law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement agencies that are made confidential by law;

10. The identity of any victim, witness, or undercover officer, or investigative techniques or procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited or restricted under § 19.2-11.2; and

11. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including information obtained from state, local, and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913.

C. Prohibited releases. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

D. Noncriminal records. Public bodies (i) engaged in emergency medical services, (ii) engaged in fire protection services, (iii) engaged in criminal law-enforcement activities, or (iv) engaged in processing calls for service or other communications to an emergency 911 system or any other equivalent reporting system may withhold those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature where the release of such information would jeopardize the safety or privacy of any person. Access to personnel records of persons employed by a public body engaged in emergency medical services or fire protection services, a law-enforcement agency, or an emergency 911 system or any other equivalent reporting system shall be governed by the provisions of subdivision B 9 and subdivision 1 of § 2.2-3705.1, as applicable.

E. Records of any call for service or other communication to an emergency 911 system or communicated with any other equivalent reporting system shall be subject to the provisions of this chapter.

F. Conflict resolution. In the event of conflict between this section as it relates to requests made under this section and other provisions of law, this section shall control.

1999, cc. 703, 726, § 2.1-342.2; 2000, c. 227; 2001, c. 844; 2002, cc. 393, 715, 769, 830; 2004, cc. 685, 735; 2006, cc. 857, 914; 2007, c. 133; 2010, c. 627; 2011, cc. 798, 871; 2013, c. 695; 2016, cc. 184, 546; 2017, c. 828; 2018, c. 48; 2021, Sp. Sess. I, c. 483; 2023, c. 420.

§ 2.2-3706.1. Disclosure of law-enforcement records; criminal incident information and certain

criminal investigative files; limitations

A. For purposes of this section:

"Criminal investigative files" means any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence, relating to a criminal investigation or prosecution, other than criminal incident information subject to disclosure in accordance with subsection B.

"Family representative" means the decedent's personal representative or, if no personal representative as set forth in § 64.2-100 has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.

"Immediate family members" means the decedent's family representative, spouse, child, sibling, parent, grandparent, or grandchild. "Immediate family members" include a stepparent, stepchild, stepsibling, and adoptive relationships.

"Ongoing" refers to a case in which the prosecution has not been finally adjudicated, the investigation continues to gather evidence for a possible future criminal case, and such case would be jeopardized by the premature release of evidence.

B. All public bodies engaged in criminal law-enforcement activities shall provide records and information when requested in accordance with the provisions of this chapter regarding criminal incident information relating to felony offenses contained in any report, notes, electronic communication, or other document, including filings through an incident-based reporting system, which shall include:

1. A general description of the criminal activity reported;
2. The date and time the alleged crime was committed;
3. The general location where the alleged crime was committed;
4. The identity of the investigating officer or other point of contact; and
5. A description of any injuries suffered or property damaged or stolen.

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of this subsection.

C. Criminal investigative files relating to an ongoing criminal investigation or proceeding are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his discretion, except as provided in subsection E or where such disclosure is prohibited by law.

D. Criminal investigative files relating to a criminal investigation or proceeding that is not ongoing are excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian, in his discretion, except as provided in subsection E; however, such records shall be disclosed, by request, to the following persons, regardless of whether any such person is a citizen of the Commonwealth:

1. The victim;
2. The victim's immediate family members, if the victim is deceased and the immediate family

member to which the records are to be disclosed is not a person of interest or a suspect in the criminal investigation or proceeding;

3. The parent or guardian of the victim, if the victim is a minor and the parent or guardian is not a person of interest or a suspect in the criminal investigation or proceeding;

4. An attorney representing a petitioner in a petition for a writ of habeas corpus or writ of actual innocence pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) of Title 19.2 or any other federal or state post-conviction proceeding or pardon; and

5. For the sole purpose of inspection at the location where such records are maintained by the public body that is the custodian of the records, (i) an attorney or his agent when such attorney is considering representing a petitioner in a post-conviction proceeding or pardon, (ii) an attorney who provides a sworn declaration that the attorney has been retained by an individual for purposes of pursuing a civil or criminal action and has a good faith basis to believe that the records being requested are material to such action, or (iii) a person who is proceeding pro se in a petition for a writ of habeas corpus or writ of actual innocence pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) of Title 19.2 or any other federal or state post-conviction proceeding or pardon, who provides a sworn affidavit that the records being requested are material to such action.

An attorney or his agent who is in receipt of criminal investigative files or has inspected criminal investigative files pursuant to subdivision 4 or 5 shall not release such criminal investigative files or any information contained therein except as necessary to provide adequate legal advice or representation to a person whom the attorney either represents or is considering representing in a post-conviction proceeding or pardon or represents in a civil or criminal action.

An attorney who is in receipt of criminal investigative files pursuant to subdivision 4 shall return the criminal investigative files to the public body that is the custodian of such records within 90 days of a final determination of any writ of habeas corpus, writ of actual innocence, or other federal or state post-conviction proceeding or pardon or, if no petition for such writ or post-conviction proceeding or pardon was filed, within six months of the attorney's receipt of the records.

No disclosure for the purpose of inspection pursuant to clause (iii) of subdivision 5 shall be made unless an appropriate circuit court has reviewed the affidavit provided and determined the records requested are material to the action being pursued. The court shall order the person not to disclose or otherwise release any information contained in a criminal investigative file except as necessary for the pending action and may include other conditions as appropriate.

E. The provisions of subsections C and D shall not apply if the release of such information:

1. Would interfere with a particular ongoing criminal investigation or proceeding in a particularly identifiable manner;
2. Would deprive a person of a right to a fair trial or an impartial adjudication;
3. Would constitute an unwarranted invasion of personal privacy;
4. Would disclose (i) the identity of a confidential source or (ii) in the case of a record compiled by a law-enforcement agency in the course of a criminal investigation, information furnished only by a confidential source;

5. Would disclose law-enforcement investigative techniques and procedures, if such disclosure could reasonably be expected to risk circumvention of the law; or
6. Would endanger the life or physical safety of any individual.

Nothing in this subsection shall be construed to authorize the withholding of those portions of such information that are unlikely to cause any effect listed herein.

F. Notwithstanding the provisions of subsection C or D, no criminal investigative file or portion thereof, except disclosure of records under subdivision D 4 or clause (i) of subdivision D 5, shall be disclosed to any requester pursuant to this section, unless the public body has made reasonable efforts to notify (i) the victim; (ii) the victim's immediate family members, if the victim is deceased and the immediate family member to be notified is not a person of interest or a suspect in the criminal investigation or proceeding; or (iii) the victim's parent or guardian, if the victim is a minor and the parent or guardian to be notified is not a person of interest or a suspect in the criminal investigation or proceeding.

Upon receipt of notice that a public body has received a request for criminal investigative files pursuant to this section, an individual listed in clause (i), (ii), or (iii) shall have 14 days to file in an appropriate court a petition for an injunction to prevent the disclosure of the records as set forth in § 8.01-622.2. The public body shall not respond to the request until at least 14 days has passed from the time notice was received by an individual listed in clause (i), (ii), or (iii) unless such individual has waived the 14-day period or at the request of the victim's insurance company or attorney. The period within which the public body shall respond to the underlying request pursuant to § 2.2-3704 shall be tolled pending the notification process and any subsequent disposition by the court.

G. No photographic, audio, video, or other record depicting a victim or allowing for a victim to be readily identified shall be released pursuant to subsection C or D to anyone except (i) the victim; (ii) the victim's family representative, if the victim is deceased and the family representative to which the records are to be disclosed is not a person of interest or a suspect in the criminal investigation or proceeding; (iii) the victim's parent or guardian, if the victim is a minor and the parent or guardian is not a person of interest or a suspect in the criminal investigation or proceeding; or (iv) the victim's insurance company or attorney.

H. Nothing in this section shall prohibit the disclosure of current anonymized, aggregate location and demographic data collected pursuant to § 52-30.2 or similar data documenting law-enforcement officer encounters with members of the public.

I. In the event of a conflict between this section as it relates to requests made under this section and other provisions of law, the other provisions of law, including court sealing orders, that restrict disclosure of criminal investigative files shall control.

2021, Sp. Sess. I, c. 483;2022, c. 386;2024, cc. 580, 582.

§ 2.2-3707. Meetings to be public; notice of meetings; recordings; minutes

A. All meetings of public bodies shall be open, except as provided in §§ 2.2-3707.01 and 2.2-3711.

B. All state public bodies subject to the provisions of this chapter:

1. May allow public access to their meetings through electronic communication means, including telephone or videoconferencing, if already used by the state public body;

2. May provide the public with the opportunity to comment through the use of such electronic communication means at such meetings at the point when public comment is customarily received; and

3. Shall otherwise comply with the provisions of this chapter.

No cause of action shall arise against a state public body for accidental or involuntary loss of audio or video signal or inability of the public to comment through the electronic communications means described in this subsection.

C. No meeting shall be conducted through telephonic, video, electronic, or other electronic communication means where the members are not physically assembled to discuss or transact public business, except as provided in §§ 2.2-3708.2 and 2.2-3708.3 or as may be specifically provided in Title 54.1 for the summary suspension of professional licenses.

D. Every public body shall give notice of the date, time, location, and remote location, if required, of its meetings by:

1. Posting such notice on its official public government website, if any;
2. Placing such notice in a prominent public location at which notices are regularly posted; and
3. Placing such notice at the office of the clerk of the public body or, in the case of a public body that has no clerk, at the office of the chief administrator.

All state public bodies subject to the provisions of this chapter shall also post notice of their meetings on a central, publicly available electronic calendar maintained by the Commonwealth. Publication of meeting notices by electronic means by other public bodies shall be encouraged.

The notice shall be posted at least three working days prior to the meeting.

E. Notice, reasonable under the circumstance, of special, emergency, or continued meetings shall be given contemporaneously with the notice provided to the members of the public body conducting the meeting.

F. Any person may annually file a written request for notification with a public body. The request shall include the requester's name, address, zip code, daytime telephone number, electronic mail address, if available, and organization, if any. The public body receiving such request shall provide notice of all meetings directly to each such person. Without objection by the person, the public body may provide electronic notice of all meetings in response to such requests.

G. At least one copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body. The proposed agendas for meetings of state public bodies where at least one member has been appointed by the Governor shall state whether or not public comment will be received at the meeting and, if so, the approximate point during the meeting when public comment will be received.

H. Any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open. The public body conducting the meeting may adopt rules governing the placement and use of equipment necessary for broadcasting, photographing, filming, or

recording a meeting to prevent interference with the proceedings, but shall not prohibit or otherwise prevent any person from photographing, filming, recording, or otherwise reproducing any portion of a meeting required to be open. No public body shall conduct a meeting required to be open in any building or facility where such recording devices are prohibited.

I. Minutes shall be taken at all open meetings. However, minutes shall not be required to be taken at deliberations of (i) standing and other committees of the General Assembly; (ii) legislative interim study commissions and committees, including the Virginia Code Commission; (iii) study committees or commissions appointed by the Governor; or (iv) study commissions or study committees, or any other committees or subcommittees appointed by the governing bodies or school boards of counties, cities, and towns, except where the membership of any such commission, committee, or subcommittee includes a majority of the governing body of the county, city, or town or school board.

Minutes, including draft minutes, and all other records of open meetings, including audio or audio/visual records shall be deemed public records and subject to the provisions of this chapter.

Minutes shall be in writing and shall include (a) the date, time, and location of the meeting; (b) the members of the public body recorded as present and absent; and (c) a summary of the discussion on matters proposed, deliberated, or decided, and a record of any votes taken. In addition, for electronic communication meetings conducted in accordance with § 2.2-3708.2 or 2.2-3708.3, minutes shall include (1) the identity of the members of the public body who participated in the meeting through electronic communication means, (2) the identity of the members of the public body who were physically assembled at one physical location, and (3) the identity of the members of the public body who were not present at the location identified in clause (2) but who monitored such meeting through electronic communication means.

1968, c. 479, § 2.1-343; 1973, c. 461; 1976, c. 467; 1977, c. 677; 1982, c. 333; 1989, c. 358; 1990, c. 538; 1993, c. 720; 1995, c. 562; 1999, cc. 696, 703, 726; 2000, c. 227; 2001, c. 844; 2004, cc. 730, 768; 2005, c. 352; 2007, c. 300; 2009, c. 628; 2010, c. 309; 2015, c. 131; 2017, c. 616; 2018, c. 55; 2022, c. 597; 2023, c. 536.

§ 2.2-3707.01. Meetings of the General Assembly

A. Except as provided in subsection B, public access to any meeting of the General Assembly or a portion thereof shall be governed by rules established by the Joint Rules Committee and approved by a majority vote of each house at the next regular session of the General Assembly. At least 60 days before the adoption of such rules, the Joint Rules Committee shall (i) hold regional public hearings on such proposed rules and (ii) provide a copy of such proposed rules to the Virginia Freedom of Information Advisory Council.

B. Floor sessions of either house of the General Assembly; meetings, including work sessions, of any standing or interim study committee of the General Assembly; meetings, including work sessions, of any subcommittee of such standing or interim study committee; and joint committees of conference of the General Assembly; or a quorum of any such committees or subcommittees, shall be open and governed by this chapter.

C. Meetings of the respective political party caucuses of either house of the General Assembly, including meetings conducted by telephonic or other electronic communication means, without regard to (i) whether the General Assembly is in or out of regular or special session or (ii) whether such caucuses invite staff or guests to participate in their deliberations, shall not be deemed

meetings for the purposes of this chapter.

D. No regular, special, or reconvened session of the General Assembly held pursuant to Article IV, § 6 of the Constitution of Virginia shall be conducted using electronic communication means pursuant to § [2.2-3708.2](#) or [2.2-3708.3](#).

2004, c. [768](#);2005, c. [352](#);2018, c. [55](#);2022, c. [597](#).

§ 2.2-3707.1. Posting of minutes for state boards and commissions

All boards, commissions, councils, and other public bodies created in the executive branch of state government and subject to the provisions of this chapter shall post minutes of their meetings on such body's official public government website and on a central electronic calendar maintained by the Commonwealth. Draft minutes of meetings shall be posted as soon as possible but no later than 10 working days after the conclusion of the meeting. Final approved meeting minutes shall be posted within three working days of final approval of the minutes.

2002, cc. [580](#), [618](#);2006, cc. [474](#), [595](#);2007, c. [300](#);2017, c. [616](#).

§ 2.2-3707.2. Posting of minutes for local public bodies

Except as provided in subsection I of § [2.2-3707](#), any local public body subject to the provisions of this chapter shall post minutes of its meetings on its official public government website, if any, within seven working days of final approval of the minutes.

If a local public body does not own or maintain an official public government website, such public body shall make copies of all meeting minutes available no later than seven working days after final approval of the minutes (i) at a prominent public location in which meeting notices are regularly posted pursuant to subdivision D 2 of § [2.2-3707](#); (ii) at the office of the clerk of the public body; or (iii) in the case of a public body that has no clerk, at the office of the chief administrator.

2022, c. [396](#);2023, c. [536](#).

§§ 2.2-3708 and 2.2-3708.1. Repealed

Repealed by Acts 2018, c. [55](#), cl. 2.

§ 2.2-3708.1. Repealed

Repealed by Acts 2018, c. [55](#), cl. 2, effective July 1, 2018.

§ 2.2-3708.2. Meetings held through electronic communication means during declared states of emergency

Any public body, or any joint meetings thereof, may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § [44-146.17](#) or the locality in which the public body is located has declared a local state of emergency pursuant to § [44-146.21](#), provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities. The public body convening a meeting in accordance with this section shall:

1. Give public notice using the best available method given the nature of the emergency, which

notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;

2. Make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the public body;
3. Provide the public with the opportunity to comment at those meetings of the public body when public comment is customarily received; and
4. Otherwise comply with the provisions of this chapter.

The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.

The provisions of this section shall be applicable only for the duration of the emergency declared pursuant to § [44-146.17](#) or [44-146.21](#).

Nothing herein shall be deemed to invalidate any action taken at a meeting held by a public body using electronic communication means that occurred between March 20, 2020, and July 1, 2021, if such public body provided public notice, public access, and public comment commensurate with the requirements of this section and §§ [2.2-3710](#), [2.2-3711](#), and [2.2-3712](#).

2018, cc. [55](#), [56](#);2019, c. [359](#);2021, Sp. Sess. I, cc. [33](#), [490](#);2022, c. [597](#);2024, cc. [305](#), [344](#).

§ 2.2-3708.3. Meetings held through electronic communication means; situations other than declared states of emergency

A. Public bodies are encouraged to (i) provide public access, both in person and through electronic communication means, to public meetings and (ii) provide avenues for public comment at public meetings when public comment is customarily received, which may include public comments made in person or by electronic communication means or other methods.

B. Individual members of a public body may use remote participation instead of attending a public meeting in person if, in advance of the public meeting, the public body has adopted a policy as described in subsection D and the member notifies the public body chair that:

1. The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance. For purposes of determining whether a quorum is physically assembled, an individual member of a public body who is a person with a disability as defined in § [51.5-40.1](#) and uses remote participation counts toward the quorum as if the individual was physically present;
2. A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance or the member is a caregiver who must provide care for a person with a disability at the time the public meeting is being held thereby preventing the member's physical attendance. For purposes of determining whether a quorum is physically assembled, an individual member of a public body who is a caregiver for a person with a disability and uses remote participation counts toward the quorum as if the individual was physically present;
3. The member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or

4. The member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. However, the member may not use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public and may be identified in the minutes by a general description. If participation is approved pursuant to subdivision 1 or 2, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision 3, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to the distance between the member's principal residence and the meeting location. If participation is approved pursuant to subdivision 4, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.

C. With the exception of local governing bodies, local school boards, planning commissions, architectural review boards, zoning appeals boards, and boards with the authority to deny, revoke, or suspend a professional or occupational license, any public body may hold all-virtual public meetings, provided that the public body follows the other requirements in this chapter for meetings, the public body has adopted a policy as described in subsection D, and:

1. An indication of whether the meeting will be an in-person or all-virtual public meeting is included in the required meeting notice along with a statement notifying the public that the method by which a public body chooses to meet shall not be changed unless the public body provides a new meeting notice in accordance with the provisions of § [2.2-3707](#);
2. Public access to the all-virtual public meeting is provided via electronic communication means;
3. The electronic communication means used allows the public to hear all members of the public body participating in the all-virtual public meeting and, when audio-visual technology is available, to see the members of the public body as well. When audio-visual technology is available, a member of a public body shall, for purposes of a quorum, be considered absent from any portion of the meeting during which visual communication with the member is voluntarily disconnected or otherwise fails or during which audio communication involuntarily fails;
4. A phone number or other live contact information is provided to alert the public body if the audio or video transmission of the meeting provided by the public body fails, the public body monitors such designated means of communication during the meeting, and the public body takes a recess until public access is restored if the transmission fails for the public;

5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting is made available to the public in electronic format at the same time that such materials are provided to members of the public body;
6. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;
7. No more than two members of the public body are together in any one remote location unless that remote location is open to the public to physically access it;
8. If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public resumes before the public body votes to certify the closed meeting as required by subsection D of § 2.2-3712;
9. The public body does not convene an all-virtual public meeting (i) more than two times per calendar year or 50 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual public meeting; and
10. Minutes of all-virtual public meetings held by electronic communication means are taken as required by § 2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held. If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.

D. Before a public body uses all-virtual public meetings as described in subsection C or allows members to use remote participation as described in subsection B, the public body shall at least once annually adopt a policy, by recorded vote at a public meeting, that shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting. The policy shall:

1. Describe the circumstances under which an all-virtual public meeting and remote participation will be allowed and the process the public body will use for making requests to use remote participation, approving or denying such requests, and creating a record of such requests; and
2. Fix the number of times remote participation for personal matters or all-virtual public meetings can be used per calendar year, not to exceed the limitations set forth in subdivisions B 4 and C 9.

The policy shall not prohibit or restrict any individual member of a public body who is participating in an all-virtual meeting or who is using remote participation from voting on matters before the public body.

Any public body that creates a committee, subcommittee, or other entity however designated of the public body to perform delegated functions of the public body or to advise the public body may also adopt a policy on behalf of its committee, subcommittee, or other entity that shall apply to the committee, subcommittee, or other entity's use of individual remote participation and all-virtual public meetings.

2022, c. 597;2024, cc. 56, 129, 610, 617.

§ 2.2-3709. Expired

Expired.

§ 2.2-3710. Transaction of public business other than by votes at meetings prohibited

A. Unless otherwise specifically provided by law, no vote of any kind of the membership, or any part thereof, of any public body shall be taken to authorize the transaction of any public business, other than a vote taken at a meeting conducted in accordance with the provisions of this chapter. No public body shall vote by secret or written ballot, and unless expressly provided by this chapter, no public body shall vote by telephone or other electronic communication means.

B. Notwithstanding the foregoing, nothing contained herein shall be construed to prohibit (i) separately contacting the membership, or any part thereof, of any public body for the purpose of ascertaining a member's position with respect to the transaction of public business, whether such contact is done in person, by telephone or by electronic communication, provided the contact is done on a basis that does not constitute a meeting as defined in this chapter or (ii) the House of Delegates or the Senate of Virginia from adopting rules relating to the casting of votes by members of standing committees. Nothing in this subsection shall operate to exclude any public record from the provisions of this chapter.

1987, c. 71, § 2.1-343.2; 1999, cc. 703, 726; 2000, c. 932; 2001, cc. 710, 844; 2002, c. 491.

§ 2.2-3711. (Effective July 1, 2024) Closed meetings authorized for certain limited purposes

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.
2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.
3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.
5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.
6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.
7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.
8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.
9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.
10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.
11. Discussion or consideration of honorary degrees or special awards.
12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § [2.2-3705.1](#).
13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the

disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § [2.2-3705.5](#).

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § [58.1-4007](#) regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § [2.2-3705.3](#) and subdivision 11 of § [2.2-3705.7](#).

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § [2.2-3705.2](#), where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § [51.1-124.30](#), or of any local retirement system, acting pursuant to § [51.1-803](#), or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ [15.2-1544](#) et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § [23.1-2210](#), or by the Board of the Commonwealth Savers Plan, acting pursuant to § [23.1-706](#), regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Commonwealth Savers

Plan or provided to the retirement system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee

within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory

Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow

identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established pursuant to § 15.2-1627.6.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in

a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

1968, c. 479, § 2.1-344; 1970, c. 456; 1973, c. 461; 1974, c. 332; 1976, cc. 467, 709; 1979, cc. 369, 684; 1980, cc. 221, 475, 476, 754; 1981, cc. 35, 471; 1982, cc. 497, 516; 1984, cc. 473, 513; 1985, c. 277; 1988, c. 891; 1989, cc. 56, 358, 478; 1990, cc. 435, 538; 1991, c. 708; 1992, c. 444; 1993, cc. 270, 499; 1995, c. 499; 1996, cc. 855, 862, 902, 905, 1046; 1997, cc. 439, 641, 785, 861; 1999, cc. 485, 518, 703, 726, 849, 867, 868; 2000, cc. 382, 400, 720, 1064; 2001, cc. 231, 844; 2002, cc. 87, 393, 455, 478, 499, 655, 715, 830; 2003, cc. 274, 291, 332, 618, 703; 2004, cc. 398, 690, 770; 2005, cc. 258, 411, 568; 2006, cc. 430, 499, 518, 560; 2007, cc. 133, 374, 566, 739; 2008, cc. 626, 633, 668, 721, 743; 2009, cc. 223, 325, 472, 765, 810, 827, 845; 2010, cc. 310, 630, 808; 2011, cc. 89, 111, 147, 536, 541, 816, 874; 2012, cc. 476, 507, 803, 835; 2013, cc. 571, 580, 695; 2014, c. 225; 2015, cc. 27, 38, 108, 169, 182, 549, 730; 2016, cc. 544, 620, 716, 724, 725, 775, 778, 779; 2017, cc. 587, 616, 778, 796, 804, 816, 824; 2018, cc. 48, 532, 533, 600, 829; 2019, cc. 4, 170, 358, 426, 500, 729, 775, 834; 2020, cc. 759, 851, 1164, 1169, 1197, 1218, 1248, 1256; 2021, Sp. Sess. I, cc. 7, 483; 2023, cc. 624, 625, 756, 778; 2024, cc. 217, 366, 494.

§ 2.2-3712. Closed meetings procedures; certification of proceedings

A. No closed meeting shall be held unless the public body proposing to convene such meeting has taken an affirmative recorded vote in an open meeting approving a motion that (i) identifies the subject matter, (ii) states the purpose of the meeting as authorized in subsection A of § 2.2-3711 or other provision of law and (iii) cites the applicable exemption from open meeting requirements provided in subsection A of § 2.2-3711 or other provision of law. The matters contained in such motion shall be set forth in detail in the minutes of the open meeting. A general reference to the provisions of this chapter, the authorized exemptions from open meeting requirements, or the subject matter of the closed meeting shall not be sufficient to satisfy the requirements for holding a closed meeting.

B. The notice provisions of this chapter shall not apply to closed meetings of any public body held solely for the purpose of interviewing candidates for the position of chief administrative officer. Prior to any such closed meeting for the purpose of interviewing candidates, the public

body shall announce in an open meeting that such closed meeting shall be held at a disclosed or undisclosed location within 15 days thereafter.

C. The public body holding a closed meeting shall restrict its discussion during the closed meeting only to those matters specifically exempted from the provisions of this chapter and identified in the motion required by subsection A.

D. At the conclusion of any closed meeting, the public body holding such meeting shall immediately reconvene in an open meeting and shall take a roll call or other recorded vote to be included in the minutes of that body, certifying that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Any member of the public body who believes that there was a departure from the requirements of clauses (i) and (ii), shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place. The statement shall be recorded in the minutes of the public body.

E. Failure of the certification required by subsection D to receive the affirmative vote of a majority of the members of the public body present during a meeting shall not affect the validity or confidentiality of such meeting with respect to matters considered therein in compliance with the provisions of this chapter. The recorded vote and any statement made in connection therewith, shall upon proper authentication, constitute evidence in any proceeding brought to enforce the provisions of this chapter.

F. A public body may permit nonmembers to attend a closed meeting if such persons are deemed necessary or if their presence will reasonably aid the public body in its consideration of a topic that is a subject of the meeting.

G. A member of a public body shall be permitted to attend a closed meeting held by any committee or subcommittee of that public body, or a closed meeting of any entity, however designated, created to perform the delegated functions of or to advise that public body. Such member shall in all cases be permitted to observe the closed meeting of the committee, subcommittee or entity. In addition to the requirements of § 2.2-3707, the minutes of the committee or other entity shall include the identity of the member of the parent public body who attended the closed meeting.

H. Except as specifically authorized by law, in no event may any public body take action on matters discussed in any closed meeting, except at an open meeting for which notice was given as required by § 2.2-3707.

I. Minutes may be taken during closed meetings of a public body, but shall not be required. Such minutes shall not be subject to mandatory public disclosure.

1989, c. 358, § 2.1-344.1; 1999, cc. 703, 726; 2001, c. 844; 2012, c. 428; 2017, c. 616.

§ 2.2-3713. Proceedings for enforcement of chapter

A. Any person, including the attorney for the Commonwealth acting in his official or individual capacity, denied the rights and privileges conferred by this chapter may proceed to enforce such rights and privileges by filing a petition for mandamus or injunction, supported by an affidavit showing good cause. Such petition may be brought in the name of the person notwithstanding

that a request for public records was made by the person's attorney in his representative capacity. Venue for the petition shall be addressed as follows:

1. In a case involving a local public body, to the general district court or circuit court of the county or city from which the public body has been elected or appointed to serve and in which such rights and privileges were so denied;
2. In a case involving a regional public body, to the general district or circuit court of the county or city where the principal business office of such body is located; and
3. In a case involving a board, bureau, commission, authority, district, institution, or agency of the state government, including a public institution of higher education, or a standing or other committee of the General Assembly, to the general district court or the circuit court of the residence of the aggrieved party or of the City of Richmond.

B. In any action brought before a general district court, a corporate petitioner may appear through its officer, director or managing agent without the assistance of counsel, notwithstanding any provision of law or Rule of Supreme Court of Virginia to the contrary.

C. Notwithstanding the provisions of § 8.01-644, the petition for mandamus or injunction shall be heard within seven days of the date when the same is made, provided the party against whom the petition is brought has received a copy of the petition at least three working days prior to filing. However, if the petition or the affidavit supporting the petition for mandamus or injunction alleges violations of the open meetings requirements of this chapter, the three-day notice to the party against whom the petition is brought shall not be required. The hearing on any petition made outside of the regular terms of the circuit court of a locality that is included in a judicial circuit with another locality or localities shall be given precedence on the docket of such court over all cases that are not otherwise given precedence by law.

D. The petition shall allege with reasonable specificity the circumstances of the denial of the rights and privileges conferred by this chapter. A single instance of denial of the rights and privileges conferred by this chapter shall be sufficient to invoke the remedies granted herein. If the court finds the denial to be in violation of the provisions of this chapter, the petitioner shall be entitled to recover reasonable costs, including costs and reasonable fees for expert witnesses, and attorney fees from the public body if the petitioner substantially prevails on the merits of the case, unless special circumstances would make an award unjust. In making this determination, a court may consider, among other things, the reliance of a public body on an opinion of the Attorney General or a decision of a court that substantially supports the public body's position.

E. In any action to enforce the provisions of this chapter, the public body shall bear the burden of proof to establish an exclusion by a preponderance of the evidence. No court shall be required to accord any weight to the determination of a public body as to whether an exclusion applies. Any failure by a public body to follow the procedures established by this chapter shall be presumed to be a violation of this chapter.

F. Failure by any person to request and receive notice of the time and place of meetings as provided in § 2.2-3707 shall not preclude any person from enforcing his rights and privileges conferred by this chapter.

1968, c. 479, § 2.1-346; 1976, c. 709; 1978, c. 826; 1989, c. 358; 1990, c. 217; 1996, c. 578; 1999, cc. 703, 726; 2001, c. 844; 2007, c. 560; 2009, c. 634; 2010, c. 299; 2011, cc. 133, 783; 2016, cc. 620, 716;

2019, c. 531.

§ 2.2-3714. Violations and penalties

A. In a proceeding commenced against any officer, employee, or member of a public body under § 2.2-3713 for a violation of § 2.2-3704, 2.2-3705.1 through 2.2-3705.7, 2.2-3706, 2.2-3706.1, 2.2-3707, 2.2-3708.2, 2.2-3708.3, 2.2-3710, 2.2-3711, or 2.2-3712, the court, if it finds that a violation was willfully and knowingly made, shall impose upon such officer, employee, or member in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500 nor more than \$2,000, which amount shall be paid into the Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than \$2,000 nor more than \$5,000.

B. In addition to any penalties imposed pursuant to subsection A, if the court finds that any officer, employee, or member of a public body failed to provide public records to a requester in accordance with the provisions of this chapter because such officer, employee, or member altered or destroyed the requested public records with the intent to avoid the provisions of this chapter with respect to such request prior to the expiration of the applicable record retention period set by the retention regulations promulgated pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.) by the State Library Board, the court may impose upon such officer, employee, or member in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$100 per record altered or destroyed, which amount shall be paid into the Literary Fund.

C. In addition to any penalties imposed pursuant to subsections A and B, if the court finds that a public body voted to certify a closed meeting in accordance with subsection D of § 2.2-3712 and such certification was not in accordance with the requirements of clause (i) or (ii) of subsection D of § 2.2-3712, the court may impose on the public body, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$1,000, which amount shall be paid into the Literary Fund. In determining whether a civil penalty is appropriate, the court shall consider mitigating factors, including reliance of members of the public body on (i) opinions of the Attorney General, (ii) court cases substantially supporting the rationale of the public body, and (iii) published opinions of the Virginia Freedom of Information Advisory Council.

1976, c. 467, § 2.1-346.1; 1978, c. 826; 1984, c. 252; 1989, c. 358; 1996, c. 578; 1999, cc. 703, 726; 2001, c. 844; 2003, c. 319; 2004, c. 690; 2008, cc. 233, 789; 2011, c. 327; 2017, c. 778; 2018, c. 55; 2019, c. 843; 2021, Sp. Sess. I, c. 483; 2022, c. 597.

§ 2.2-3715. Effect of advisory opinions from the Freedom of Information Advisory Council on liability for willful and knowing violations

Any officer, employee, or member of a public body who is alleged to have committed a willful and knowing violation pursuant to § 2.2-3714 shall have the right to introduce at any proceeding a copy of a relevant advisory opinion issued pursuant to § 30-179 as evidence that he did not willfully and knowingly commit the violation if the alleged violation resulted from his good faith reliance on the advisory opinion.

2019, c. 354.

Chapter 7. Virginia Public Records Act

§ 42.1-76. Legislative intent; title of chapter

The General Assembly intends by this chapter to establish a single body of law applicable to all public officers and employees on the subject of public records management and preservation and to ensure that the procedures used to manage and preserve public records will be uniform throughout the Commonwealth.

This chapter may be cited as the Virginia Public Records Act.

1976, c. 746.

§ 42.1-76.1. Notice of Chapter

Any person elected, reelected, appointed, or reappointed to the governing body of any agency subject to this chapter shall (i) be furnished by the agency or public body's administrator or legal counsel with a copy of this chapter within two weeks following election, reelection, appointment, or reappointment and (ii) read and become familiar with the provisions of this chapter.

2006, c. 60.

§ 42.1-77. Definitions

As used in this chapter, unless the context requires a different meaning:

"Agency" means all boards, commissions, departments, divisions, institutions, and authorities, and parts thereof, of the Commonwealth or its political subdivisions and includes the offices of constitutional officers.

"Archival record" means a public record of continuing and enduring value useful to the citizens of the Commonwealth and necessary to the administrative functions of public agencies in the conduct of services and activities mandated by law that is identified on a Library of Virginia approved records retention and disposition schedule as having sufficient informational value to be permanently maintained by the Commonwealth.

"Archives" means the program administered by The Library of Virginia for the preservation of archival records.

"Board" means the State Library Board.

"Conversion" means the act of moving electronic records to a different format, especially data from an obsolete format to a current format.

"Custodian" means the public official in charge of an office having public records.

"Disaster plan" means the information maintained by an agency that outlines recovery techniques and methods to be followed in case of an emergency that impacts the agency's records.

"Electronic record" means a public record whose creation, storage, and access require the use of an automated system or device. Ownership of the hardware, software, or media used to create, store, or access the electronic record has no bearing on a determination of whether such record is

a public record.

"Essential public record" means records that are required for recovery and reconstruction of any agency to enable it to resume its core operations and functions and to protect the rights and interests of persons.

"Librarian of Virginia" means the State Librarian of Virginia or his designated representative.

"Lifecycle" means the creation, use, maintenance, and disposition of a public record.

"Migration" means the act of moving electronic records from one information system or medium to another to ensure continued access to the records while maintaining the records' authenticity, integrity, reliability, and usability.

"Original record" means the first generation of the information and is the preferred version of a record. Archival records should to the maximum extent possible be original records.

"Preservation" means the processes and operations involved in ensuring the technical and intellectual survival of authentic records through time.

"Public official" means all persons holding any office created by the Constitution of Virginia or by any act of the General Assembly, the Governor and all other officers of the executive branch of the state government, and all other officers, heads, presidents, or chairmen of boards, commissions, departments, and agencies of the state government or its political subdivisions.

"Public record" or "record" means recorded information that documents a transaction or activity by or with any public officer, agency, or employee of an agency. Regardless of physical form or characteristic, the recorded information is a "public record" if it is produced, collected, received, or retained in pursuance of law or in connection with the transaction of public business. The medium upon which such information is recorded has no bearing on the determination of whether the recording is a "public record."

For purposes of this chapter, "public record" does not include (i) nonrecord materials, meaning materials made or acquired and preserved solely for reference use or exhibition purposes, extra copies of documents preserved only for convenience or reference, or stocks of publications or (ii) records that are not related to or affect the carrying out of the constitutional, statutory, or other official ceremonial duties of a public official, including the correspondence, diaries, journals, or notes that are not prepared for, utilized for, circulated, or communicated in the course of the transaction of public business.

"Records retention and disposition schedule" means a Library of Virginia-approved timetable stating the required retention period and disposition action of a records series. The administrative, fiscal, historical, and legal value of a public record shall be considered in appraising its appropriate retention schedule. The terms "administrative," "fiscal," "historical," and "legal" value shall be defined as:

1. "Administrative value": Records shall be deemed of administrative value if they have continuing utility in the operation of an agency.
2. "Fiscal value": Records shall be deemed of fiscal value if they are needed to document and verify financial authorizations, obligations, and transactions.
3. "Historical value": Records shall be deemed of historical value if they contain unique

information, regardless of age, that provides understanding of some aspect of the government and promotes the development of an informed and enlightened citizenry.

4. "Legal value": Records shall be deemed of legal value if they document actions taken in the protection and proving of legal or civil rights and obligations of individuals and agencies.

1976, c. 746; 1977, c. 501; 1981, c. 637; 1987, c. 217; 1990, c. 778; 1994, cc. 390, 955; 1998, cc. 427, 470; 2005, c. 787; 2006, c. 60; 2022, c. 355.

§ 42.1-78. Confidentiality safeguarded

Any records made confidential by law shall be so treated. Records that by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of this chapter. Records in the custody of The Library of Virginia that are required to be closed to the public shall be open for public access 75 years after the date of creation of the record. No provision of this chapter shall be construed to authorize or require the opening of any records ordered to be sealed by a court; however, upon a petition filed with the clerk, a judge may enter an order releasing any record sealed prior to January 1, 1901. Medical and educational records made confidential by law shall remain so after being deposited in the archives. All records deposited in the archives that are not made confidential by law shall be open to public access.

1976, c. 746; 1979, c. 110; 1990, c. 778; 1994, c. 64; 2006, c. 60; 2020, c. 773; 2023, cc. 126, 127.

§ 42.1-79. Records management function vested in The Library of Virginia

A. The archival and records management function shall be vested in The Library of Virginia. The Library of Virginia shall be the official custodian and trustee for the Commonwealth of all public records of whatever kind, and regardless of physical form or characteristics, that are transferred to it from any agency. As the Commonwealth's official repository of public records, The Library of Virginia shall assume ownership and administrative control of such records on behalf of the Commonwealth. The Library of Virginia shall own and operate any equipment necessary to manage and retain control of electronic archival records in its custody, but may, at its discretion, contract with third-party entities to provide any or all services related to managing archival records on equipment owned by the contractor, by other third parties, or by The Library of Virginia.

B. The Librarian of Virginia shall name a State Archivist who shall perform such functions as the Librarian of Virginia assigns.

C. Whenever legislation affecting public records management and preservation is under consideration, The Library of Virginia shall review the proposal and advise the General Assembly on the effects of its proposed implementation.

1976, c. 746; 1986, c. 565; 1990, c. 778; 1994, c. 64; 1998, c. 427; 2005, c. 787; 2006, c. 60.

§ 42.1-79.1. Repealed

Repealed by Acts 2005, c. 787, cl. 2.

§§ 42.1-80, 42.1-81. Repealed

Repealed by Acts 2003, c. 177.

§ 42.1-82. Duties and powers of Library Board

A. The State Library Board shall:

1. Issue regulations concerning procedures for the disposal, physical destruction or other disposition of public records containing social security numbers. The procedures shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or undecipherable by any means.

2. Issue regulations and guidelines designed to facilitate the creation, preservation, storage, filing, reformatting, management, and destruction of public records by agencies. Such regulations shall mandate procedures for records management and include recommendations for the creation, retention, disposal, or other disposition of public records.

B. The State Library Board may establish advisory committees composed of persons with expertise in the matters under consideration to assist the Library Board in developing regulations and guidelines.

1976, c. 746; 1977, c. 501; 1981, c. 637; 1990, c. 778; 1994, cc. 64, 955; 2003, cc. 914, 918; 2005, c. 787; 2006, c. 60.

§ 42.1-83. Repealed

Repealed by Acts 2006, c. 60, cl. 2.

§ 42.1-84. Repealed

Repealed by Acts 2005, c. 787, cl. 2.

§ 42.1-85. Records Management Program; agencies to cooperate; agencies to designate records officer

A. The Library of Virginia shall administer a records management program for the application of efficient and economical methods for managing the lifecycle of public records consistent with regulations and guidelines promulgated by the State Library Board, including operation of a records center or centers. The Library of Virginia shall establish procedures and techniques for the effective management of public records, make continuing surveys of records and records keeping practices, and recommend improvements in current records management practices, including the use of space, equipment, software, and supplies employed in creating, maintaining, and servicing records.

B. Any agency with public records shall cooperate with The Library of Virginia in conducting surveys. Each agency shall establish and maintain an active, continuing program for the economical and efficient management of the records of such agency. The agency shall be responsible for ensuring that its public records are preserved, maintained, and accessible throughout their lifecycle, including converting and migrating electronic records as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration. Any public official who converts or migrates an electronic record shall ensure that it is an accurate copy of the original record. The converted or migrated record shall have the force of the original.

C. Each state agency and political subdivision of this Commonwealth shall designate as many as appropriate, but at least one, records officer to serve as a liaison to The Library of Virginia for the purposes of implementing and overseeing a records management program, and coordinating legal disposition, including destruction, of obsolete records. Designation of state agency records officers shall be by the respective agency head. Designation of a records officer for political

subdivisions shall be by the governing body or chief administrative official of the political subdivision. Each entity responsible for designating a records officer shall provide The Library of Virginia with the name and contact information of the designated records officer, and shall ensure that such information is updated in a timely manner in the event of any changes.

D. The Library of Virginia shall develop and make available training and education opportunities concerning the requirements of and compliance with this chapter for records officers in the Commonwealth.

1976, c. 746; 1990, c. 778; 1994, c. 64; 1998, c. 427; 2006, c. 60.

§ 42.1-86. Essential public records; security recovery copies; disaster plans

A. In cooperation with the head of each agency, The Library of Virginia shall establish and maintain a program for the selection and preservation of essential public records. The program shall provide for preserving, classifying, arranging, and indexing essential public records so that such records are made available to the public. The program shall provide for making recovery copies or designate as recovery copies existing copies of such essential public records.

B. Recovery copies shall meet quality standards established by The Library of Virginia and shall be made by a process that accurately reproduces the record and forms a durable medium. A recovery copy may also be made by creating a paper or electronic copy of an original electronic record. Recovery copies shall have the same force and effect for all purposes as the original record and shall be as admissible in evidence as the original record whether the original record is in existence or not. Recovery copies shall be preserved in the place and manner prescribed by the State Library Board and the Governor.

C. The Library of Virginia shall develop a plan to ensure preservation of public records in the event of disaster or emergency as defined in § 44-146.16. This plan shall be coordinated with the Department of Emergency Management and copies shall be distributed to all agency heads. The plan shall be reviewed and updated at least once every five years. The personnel of the Library shall be responsible for coordinating emergency recovery operations when public records are affected. Each agency shall ensure that a plan for the protection and recovery of public records is included in its comprehensive disaster plan.

1976, c. 746; 1980, c. 365; 1990, c. 778; 1994, c. 64; 1998, c. 427; 2005, c. 787; 2006, c. 60.

§ 42.1-86.01. Records may be retained in electronic medium

Notwithstanding any provision of law requiring a public record to be retained in a tangible medium, an agency may retain any public record in an electronic medium, provided that the record remains accessible for the duration of its retention schedule and meets all other requirements of this chapter. Nothing herein shall affect any law governing the retention of exhibits received into evidence in a criminal case in any court.

2018, c. 252.

§ 42.1-86.1. Disposition of public records

A. No agency shall sell or give away public records. No agency shall destroy or discard a public record unless (i) the record appears on a records retention and disposition schedule approved pursuant to § 42.1-82 and the record's retention period has expired; (ii) a certificate of records destruction, as designated by the Librarian of Virginia, has been properly completed and approved by the agency's designated records officer; and (iii) there is no litigation, audit,

investigation, request for records pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), or renegotiation of the relevant records retention and disposition schedule pending at the expiration of the retention period for the applicable records series. After a record is destroyed or discarded, the agency shall forward the original certificate of records destruction to The Library of Virginia.

B. No agency shall destroy any public record created before 1912 without first offering it to The Library of Virginia.

C. Each agency shall ensure that records created after July 1, 2006 and authorized to be destroyed or discarded in accordance with subsection A, are destroyed or discarded in a timely manner in accordance with the provisions of this chapter; provided, however, such records that contain identifying information as defined in clauses (iii) through (ix), or clause (xii) of subsection C of § 18.2-186.3, shall be destroyed within six months of the expiration of the records retention period.

1990, c. 778; 1998, c. 427; 2005, c. 787; 2006, cc. 60, 909.

§ 42.1-87. Archival public records

A. Custodians of archival public records shall keep them in fire-resistant, environmentally controlled, physically secure rooms designed to ensure proper preservation and in such arrangement as to be easily accessible. Current public records should be kept in the buildings in which they are ordinarily used. It shall be the duty of each agency to consult with The Library of Virginia to determine the best manner in which to store long-term or archival electronic records. In entering into a contract with a third-party storage provider for the storage of public records, an agency shall require the third-party to cooperate with The Library of Virginia in complying with rules and regulations promulgated by the Board.

B. Public records deemed unnecessary for the transaction of the business of any state agency, yet deemed to be of archival value, may be transferred with the consent of the Librarian of Virginia to the custody of the Library of Virginia.

C. Public records deemed unnecessary for the transaction of the business of any county, city, or town, yet deemed to be of archival value, shall be stored either in The Library of Virginia or in the locality, at the decision of the local officials responsible for maintaining public records. Archival public records shall be returned to the locality upon the written request of the local officials responsible for maintaining local public records. Microfilm shall be stored in The Library of Virginia but the use thereof shall be subject to the control of the local officials responsible for maintaining local public records.

D. Record books deemed archival should be copied or repaired, renovated or rebound if worn, mutilated, damaged or difficult to read. Whenever the public records of any public official are in need of repair, restoration or rebinding, a judge of the court of record or the head of such agency or political subdivision of the Commonwealth may authorize that the records in need of repair be removed from the building or office in which such records are ordinarily kept, for the length of time necessary to repair, restore or rebind them, provided such restoration and rebinding preserves the records without loss or damage to them. Before any restoration or repair work is initiated, a treatment proposal from the contractor shall be submitted and reviewed in consultation with The Library of Virginia. Any public official who causes a record book to be copied shall attest it and shall certify an oath that it is an accurate copy of the original book. The

copy shall then have the force of the original.

E. Nothing in this chapter shall be construed to divest agency heads of the authority to determine the nature and form of the records required in the administration of their several departments or to compel the removal of records deemed necessary by them in the performance of their statutory duty.

1976, c. 746; 1994, cc. [64](#), [955](#); 2005, c. [787](#); 2006, c. [60](#).

§ 42.1-88. Custodians to deliver all records at expiration of term; penalty for noncompliance

Any custodian of any public records shall, at the expiration of his term of office, appointment or employment, deliver to his successor, or, if there be none, to The Library of Virginia, all books, writings, letters, documents, public records, or other information, recorded on any medium kept or received by him in the transaction of his official business; and any such person who shall refuse or neglect for a period of ten days after a request is made in writing by the successor or Librarian of Virginia to deliver the public records as herein required shall be guilty of a Class 3 misdemeanor.

1976, c. 746; 1994, c. [64](#); 1998, c. [427](#).

§ 42.1-89. Petition and court order for return of public records not in authorized possession

The Librarian of Virginia or his designated representative such as the State Archivist or any public official who is the custodian of public records in the possession of a person or agency not authorized by the custodian or by law to possess such public records shall petition the circuit court in the city or county in which the person holding such records resides or in which the materials in issue, or any part thereof, are located for the return of such records. The court shall order such public records be delivered to the petitioner upon finding that the materials in issue are public records and that such public records are in the possession of a person not authorized by the custodian of the public records or by law to possess such public records. If the order of delivery does not receive compliance, the plaintiff shall request that the court enforce such order through its contempt power and procedures.

1975, c. 180; 1976, c. 746; 1998, c. [427](#).

§ 42.1-90. Seizure of public records not in authorized possession

A. At any time after the filing of the petition set out in § [42.1-89](#) or contemporaneous with such filing, the person seeking the return of the public records may by ex parte petition request the judge or the court in which the action was filed to issue an order directed at the sheriff or other proper officer, as the case may be, commanding him to seize the materials which are the subject of the action and deliver the same to the court under the circumstances hereinafter set forth.

B. The judge aforesaid shall issue an order of seizure upon receipt of an affidavit from the petitioner which alleges that the material at issue may be sold, secreted, removed out of this Commonwealth or otherwise disposed of so as not to be forthcoming to answer the final judgment of the court respecting the same; or that such property may be destroyed or materially damaged or injured if permitted to remain out of the petitioner's possession.

C. The aforementioned order of seizure shall issue without notice to the respondent and without the posting of any bond or other security by the petitioner.

1975, c. 180; 1976, c. 746.

Virginia Freedom of Information Act

§ 2.2-3700. Short title; policy

A. This chapter may be cited as "The Virginia Freedom of Information Act."

B. By enacting this chapter, the General Assembly ensures the people of the Commonwealth ready access to public records in the custody of a public body or its officers and employees, and free entry to meetings of public bodies wherein the business of the people is being conducted. The affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government. Unless a public body or its officers or employees specifically elect to exercise an exemption provided by this chapter or any other statute, every meeting shall be open to the public and all public records shall be available for inspection and copying upon request. All public records and meetings shall be presumed open, unless an exemption is properly invoked.

The provisions of this chapter shall be liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government. Any exemption from public access to records or meetings shall be narrowly construed and no record shall be withheld or meeting closed to the public unless specifically made exempt pursuant to this chapter or other specific provision of law. This chapter shall not be construed to discourage the free discussion by government officials or employees of public matters with the citizens of the Commonwealth.

All public bodies and their officers and employees shall make reasonable efforts to reach an agreement with a requester concerning the production of the records requested.

Any ordinance adopted by a local governing body that conflicts with the provisions of this chapter shall be void.

1968, c. 479, § 2.1-340; 1976, c. 467, § 2.1-340.1; 1989, c. 358; 1990, c. 538; 1999, cc. [703](#), [726](#); 2001, c. [844](#); 2002, c. [393](#).

§ 2.2-3701. Definitions

As used in this chapter, unless the context requires a different meaning:

"All-virtual public meeting" means a public meeting (i) conducted by a public body, other than those excepted pursuant to subsection C of § [2.2-3708.3](#), using electronic communication means, (ii) during which all members of the public body who participate do so remotely rather than being assembled in one physical location, and (iii) to which public access is provided through electronic communication means.

"Caregiver" means an adult who provides care for a person with a disability as defined in § [51.5-40.1](#). A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the person with a disability for whom he is caring.

"Closed meeting" means a meeting from which the public is excluded.

"Electronic communication" means the use of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities to transmit or receive information.

"Emergency" means an unforeseen circumstance rendering the notice required by this chapter impossible or impracticable and which circumstance requires immediate action.

"Information," as used in the exclusions established by §§ 2.2-5705.1 through 2.2-3705.7, means the content within a public record that references a specifically identified subject matter, and shall not be interpreted to require the production of information that is not embodied in a public record.

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2 or 2.2-3708.3, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. Neither the gathering of employees of a public body nor the gathering or attendance of two or more members of a public body (a) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, and no discussion or transaction of public business takes place among the members of the public body or (b) at a public forum, informational gathering, candidate appearance, meeting of another public body, or debate, the purpose of which is to inform the electorate or to gather information from the public and not to transact public business or to hold discussions relating to the transaction of public business, where no discussion or transaction of public business takes place among the members of the public body, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion, debate, or question presented by others at such public meeting, shall be deemed a "meeting" subject to the provisions of this chapter. The appointment of more than two members of a public body to another public body does not constitute a meeting of the first public body. For purposes of this definition of "meeting" only, the term "public business" means any activity a public body has undertaken or proposes to undertake on behalf of the people it represents.

"Official public government website" means any Internet site controlled by a public body and used, among any other purposes, to post required notices and other content pursuant to this chapter on behalf of the public body.

"Open meeting" or "public meeting" means a meeting at which the public may be present.

"Public body" means any legislative body, authority, board, bureau, commission, district, or agency of the Commonwealth or of any political subdivision of the Commonwealth, including counties, cities, and towns, municipal councils, governing bodies of counties, school boards, and planning commissions; governing boards of public institutions of higher education; and other organizations, corporations, or agencies in the Commonwealth supported wholly or principally by public funds. It shall include (i) the Virginia Birth-Related Neurological Injury Compensation Program and its board of directors established pursuant to Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 and (ii) any committee, subcommittee, or other entity however designated of the public body created to perform delegated functions of the public body or to advise the public body. It shall not exclude any such committee, subcommittee, or entity because it has private sector or citizen members. Corporations organized by the Virginia Retirement System are "public bodies" for purposes of this chapter.

For the purposes of the provisions of this chapter applicable to access to public records, constitutional officers and private police departments as defined in § 9.1-101 shall be considered public bodies and, except as otherwise expressly provided by law, shall have the same obligations to disclose public records as other custodians of public records.

"Public records" means all writings and recordings that consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording, or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees, or agents in the transaction of public business.

"Regional public body" means a unit of government organized as provided by law within defined boundaries, as determined by the General Assembly, which unit includes two or more localities.

"Remote participation" means participation by an individual member of a public body by electronic communication means in a public meeting where a quorum of the public body is otherwise physically assembled.

"Scholastic records" means those records containing information directly related to a student or an applicant for admission and maintained by a public body that is an educational agency or institution or by a person acting for such agency or institution.

"Trade secret" means the same as that term is defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.).

1968, c. 479, § 2.1-341; 1970, c. 456; 1974, c. 332; 1975, c. 307; 1977, c. 677; 1978, cc. 573, 826; 1979, cc. 369, 687; 1980, c. 754; 1984, c. 252; 1989, c. 358; 1990, c. 538; 1993, cc. 270, 720; 1994, cc. 845, 931; 1996, c. 609; 1997, c. 641; 1999, cc. 703, 726; 2001, c. 844; 2002, c. 393; 2003, c. 897; 2007, c. 945; 2008, cc. 233, 789; 2010, c. 706; 2011, c. 242; 2015, cc. 131, 195, 224; 2016, cc. 620, 716; 2017, cc. 616, 778; 2018, cc. 54, 55; 2019, c. 358; 2022, cc. 325, 597; 2024, cc. 610, 617, 733, 756.

§ 2.2-3702. Notice of chapter

Any person elected, reelected, appointed or reappointed to any body not excepted from this chapter shall (i) be furnished by the public body's administrator or legal counsel with a copy of this chapter within two weeks following election, reelection, appointment or reappointment and (ii) read and become familiar with the provisions of this chapter.

1976, c. 467, § 2.1-341.1; 1999, cc. 703, 726; 2001, c. 844; 2002, c. 393.

§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election records; access by persons incarcerated in a state, local, or federal correctional facility

A. The provisions of this chapter shall not apply to:

1. Petit juries and grand juries;
2. Family assessment and planning teams established pursuant to § 2.2-5207;
3. Sexual assault response teams established pursuant to § 15.2-1627.4 and human trafficking response teams established pursuant to § 15.2-1627.6, except that records relating to (i) protocols and policies of the sexual assault or human trafficking response team and (ii) guidelines for the community's response established by the sexual assault or human trafficking

response team shall be public records and subject to the provisions of this chapter;

4. Multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5;

5. The Virginia State Crime Commission; and

6. The records maintained by the clerks of the courts of record, as defined in § 1-212, for which clerks are custodians under § 17.1-242, and courts not of record, as defined in § 16.1-69.5, for which clerks are custodians under § 16.1-69.54, including those transferred for storage, maintenance, or archiving. Such records shall be requested in accordance with the provisions of §§ 16.1-69.54:1 and 17.1-208, as appropriate. However, other records maintained by the clerks of such courts shall be public records and subject to the provisions of this chapter.

B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

C. No provision of this chapter or Chapter 21 (§ 50-178 et seq.) of Title 30 shall be construed to afford any rights to any person (i) incarcerated in a state, local, or federal correctional facility, whether or not such facility is (a) located in the Commonwealth or (b) operated pursuant to the Corrections Private Services Act (§ 53.1-261 et seq.) or (ii) civilly committed pursuant to the Sexually Violent Predators Act (§ 37.2-900 et seq.). However, this subsection shall not be construed to prevent such persons from exercising their constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a criminal prosecution.

1999, cc. 703, 726, § 2.1-341.2; 2001, c. 844; 2003, cc. 989, 1018; 2004, cc. 398, 690; 2007, cc. 458, 548, 626; 2017, c. 620; 2018, cc. 127, 584; 2019, c. 729; 2022, cc. 25, 26; 2023, cc. 805, 806; 2024, c. 366; 2025, c. 337.

§ 2.2-3703.1. Disclosure pursuant to court order or subpoena

Nothing contained in this chapter shall have any bearing upon disclosures required to be made pursuant to any court order or subpoena. No discretionary exemption from mandatory disclosure shall be construed to make records covered by such discretionary exemption privileged under the rules of discovery, unless disclosure is otherwise prohibited by law.

2014, c. 319.

§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; charges; transfer of records for storage, etc

A. Except as otherwise specifically provided by law, all public records shall be open to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall be provided by the custodian in accordance with this chapter by inspection or by providing copies of the requested records, at the option of the requester. The custodian may require the requester to provide his name and legal address. The custodian of such records shall take all necessary precautions for their preservation and safekeeping.

B. A request for public records shall identify the requested records with reasonable specificity. The request need not make reference to this chapter in order to invoke the provisions of this

chapter or to impose the time limits for response by a public body. Any public body that is subject to this chapter and that is the custodian of the requested records shall promptly, but in all cases within five working days of receiving a request, provide the requested records to the requester or make one of the following responses in writing:

1. The requested records are being entirely withheld. Such response shall identify with reasonable particularity the volume and subject matter of withheld records, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.
2. The requested records are being provided in part and are being withheld in part. Such response shall identify with reasonable particularity the subject matter of withheld portions, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.
3. The requested records could not be found or do not exist. However, if the public body that received the request knows that another public body has the requested records, the response shall include contact information for the other public body.
4. It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. Such response shall specify the conditions that make a response impossible. If the response is made within five working days, the public body shall have an additional seven work days or, in the case of a request for criminal investigative files pursuant to § 2.2-3706.1, 60 work days in which to provide one of the four preceding responses.

C. Any public body may petition the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records or requires an extraordinarily lengthy search, and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with the petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

D. Subject to the provisions of subsection G, no public body shall be required to create a new record if the record does not already exist. However, a public body may abstract or summarize information under such terms and conditions as agreed between the requester and the public body.

E. Failure to respond to a request for records shall be deemed a denial of the request and shall constitute a violation of this chapter.

F. Except with regard to scholastic records requested pursuant to subdivision A 1 of § 2.2-3705.4 that must be made available for inspection pursuant to the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and such requests for scholastic records by a parent or legal guardian of a minor student or by a student who is 18 years of age or older, a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. The public body may also make a reasonable charge for the cost incurred in supplying records produced from a

geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than 50 acres. Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records. The public body shall provide the requester with a cost estimate if requested. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the cost estimate and the response of the requester. If the public body receives no response from the requester within 30 days of sending the cost estimate, the request shall be deemed to be withdrawn. Any costs incurred by the public body in estimating the cost of supplying the requested records shall be applied toward the overall charges to be paid by the requester for the supplying of such requested records. Any local public body that charges for the production of records pursuant to this section may provide an electronic method of payment through which all payments for the production of such records to such locality may be made. For purposes of this subsection, "electronic method of payment" means any kind of noncash payment that does not involve a paper check and includes credit cards, debit cards, direct deposit, direct debit, electronic checks, and payment through the use of telephonic or similar communications.

G. Public records maintained by a public body in an electronic data processing system, computer database, or any other structured collection of data shall be made available to a requester at a reasonable cost, not to exceed the actual cost in accordance with subsection F. When electronic or other databases are combined or contain exempt and nonexempt records, the public body may provide access to the exempt records if not otherwise prohibited by law, but shall provide access to the nonexempt records as provided by this chapter.

Public bodies shall produce nonexempt records maintained in an electronic database in any tangible medium identified by the requester, including, where the public body has the capability, the option of posting the records on a website or delivering the records through an electronic mail address provided by the requester, if that medium is used by the public body in the regular course of business. No public body shall be required to produce records from an electronic database in a format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in any format under such terms and conditions as agreed between the requester and public body, including the payment of reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available format to another shall not be deemed the creation, preparation, or compilation of a new public record.

H. In any case where a public body determines in advance that charges for producing the requested records are likely to exceed \$200, the public body may, before continuing to process the request, require the requester to pay a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the requester.

I. Before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.

J. In the event a public body has transferred possession of public records to any entity, including but not limited to any other public body, for storage, maintenance, or archiving, the public body initiating the transfer of such records shall remain the custodian of such records for purposes of responding to requests for public records made pursuant to this chapter and shall be responsible for retrieving and supplying such public records to the requester. In the event a public body has transferred public records for storage, maintenance, or archiving and such transferring public body is no longer in existence, any public body that is a successor to the transferring public body shall be deemed the custodian of such records. In the event no successor entity exists, the entity in possession of the public records shall be deemed the custodian of the records for purposes of compliance with this chapter, and shall retrieve and supply such records to the requester. Nothing in this subsection shall be construed to apply to records transferred to the Library of Virginia for permanent archiving pursuant to the duties imposed by the Virginia Public Records Act (§ 42.1-76 et seq.). In accordance with § 42.1-79, the Library of Virginia shall be the custodian of such permanently archived records and shall be responsible for responding to requests for such records made pursuant to this chapter.

1968, c. 479, § 2.1-342; 1973, c. 461; 1974, c. 332; 1975, cc. 307, 312; 1976, cc. 640, 709; 1977, c. 677; 1978, c. 810; 1979, cc. 682, 684, 686, 689; 1980, cc. 678, 754; 1981, cc. 456, 464, 466, 589; 1982, cc. 225, 449, 452, 560, 635; 1983, cc. 372, 462, 607; 1984, cc. 85, 395, 433, 513, 532; 1985, cc. 81, 155, 502, 618; 1986, cc. 273, 291, 383, 469, 592; 1987, cc. 401, 491, 581; 1988, cc. 39, 151, 395, 411, 891, 902; 1989, cc. 56, 358, 478; 1990, cc. 217, 538, 721, 819, 968; 1991, cc. 213, 561; 1992, cc. 40, 150, 167, 200, 203, 207, 593, 612; 1993, cc. 205, 270, 296, 537, 552, 638, 750, 883; 1994, cc. 485, 532, 606, 839, 853, 918; 1995, cc. 299, 362, 499, 562, 638, 722, 812, 837; 1996, cc. 168, 469, 589, 599, 783, 786, 794, 855, 862, 902, 905, 1001, 1046; 1997, cc. 198, 295, 439, 567, 636, 641, 777, 782, 785, 838, 861; 1998, cc. 427, 891; 1999, cc. 438, 703, 726; 2001, c. 844; 2002, cc. 715, 830; 2003, cc. 275, 981, 1021; 2007, c. 439; 2009, c. 626; 2010, c. 627; 2011, c. 604; 2016, cc. 620, 716; 2017, c. 778; 2020, c. 1142; 2021, Sp. Sess. I, c. 483; 2022, c. 756; 2023, c. 534.

§ 2.2-3704.01. Records containing both excluded and nonexcluded information; duty to redact

No provision of this chapter is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by this chapter or by any other provision of law. A public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under this chapter or other provision of law applies to the entire content of the public record. Otherwise, only those portions of the public record containing information subject to an exclusion under this chapter or other provision of law may be withheld, and all portions of the public record that are not so excluded shall be disclosed.

2016, cc. 620, 716.

§ 2.2-3704.1. Posting of notice of rights and responsibilities by state and local public bodies; assistance by the Freedom of Information Advisory Council

A. All state public bodies subject to the provisions of this chapter, any county or city, any town with a population of more than 250, and any school board shall make available the following information to the public upon request and shall post a link to such information on the

homepage of their respective official public government websites:

1. A plain English explanation of the rights of a requester under this chapter, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with this chapter. For purposes of this section, "plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession;
2. Contact information for the FOIA officer designated by the public body pursuant to § 2.2-3704.2 to (i) assist a requester in making a request for records or (ii) respond to requests for public records;
3. A general description, summary, list, or index of the types of public records maintained by such public body;
4. A general description, summary, list, or index of any exemptions in law that permit or require such public records to be withheld from release;
5. Any policy the public body has concerning the type of public records it routinely withholds from release as permitted by this chapter or other law;
6. The following statement: "A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records as set forth in subsection F of § 2.2-3704 of the Code of Virginia."; and
7. A written policy (i) explaining how the public body assesses charges for accessing or searching for requested records and (ii) noting the current fee charged, if any, for accessing and searching for such requested records.

B. Any state public body subject to the provisions of this chapter and any county or city, and any town with a population of more than 250, shall post a link on its official public government website to the online public comment form on the Freedom of Information Advisory Council's website to enable any requester to comment on the quality of assistance provided to the requester by the public body.

C. The Freedom of Information Advisory Council, created pursuant to § 30-178, shall assist in the development and implementation of the provisions of subsection A, upon request.

2004, c. 730;2009, c. 626;2014, c. 421;2016, c. 748;2017, cc. 645, 778;2022, c. 756;2023, c. 599.

§ 2.2-3704.2. Public bodies to designate FOIA officer

A. All state public bodies, including state authorities, that are subject to the provisions of this chapter and all local public bodies and regional public bodies that are subject to the provisions of

this chapter shall designate and publicly identify one or more Freedom of Information Act officers (FOIA officer) whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body's compliance with the provisions of this chapter.

B. For such state public bodies, the name and contact information of the public body's FOIA officer to whom members of the public may direct requests for public records and who will oversee the public body's compliance with the provisions of this chapter shall be made available to the public upon request and be posted on the respective public body's official public government website at the time of designation and maintained thereafter on such website for the duration of the designation.

C. For such local public bodies and regional public bodies, the name and contact information of the public body's FOIA officer to whom members of the public may direct requests for public records and who will oversee the public body's compliance with the provisions of this chapter shall be made available in a way reasonably calculated to provide notice to the public, including posting at the public body's place of business, posting on its official public government website, or including such information in its publications.

D. For the purposes of this section, local public bodies shall include constitutional officers.

E. Any such FOIA officer shall possess specific knowledge of the provisions of this chapter and be trained at least once during each consecutive period of two calendar years commencing with the date on which he last completed a training session by legal counsel for the public body or the Virginia Freedom of Information Advisory Council (the Council) or through an online course offered or approved by the Council. Any legal counsel for a public body who is also designated as the public body's FOIA officer shall complete a training session or online course offered or approved by the Council. Any such training shall document that the training required by this subsection has been fulfilled.

F. The name and contact information of a FOIA officer trained by legal counsel of a public body shall be (i) submitted to the Council by July 1 of the year a FOIA officer is initially trained on a form developed by the Council for that purpose and (ii) updated in a timely manner in the event of any changes to such information.

G. The Council shall maintain on its website a listing of all FOIA officers, including name, contact information, and the name of the public body such FOIA officers serve.

2016, c. 748;2017, cc. 290, 778;2020, c. 1141;2025, c. 533.

§ 2.2-3704.3. Training for local officials

A. The Virginia Freedom of Information Advisory Council (the Council) or the local government attorney shall provide in-person or online training sessions for local elected officials; the executive directors and members of industrial development authorities and economic development authorities, as created by the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.); and members of any boards governing any authority established pursuant to the Park Authorities Act (§ 15.2-5700 et seq.) on the provisions of this chapter.

B. Each local elected official, the executive director and members of each industrial development authority and economic development authority, as created by the Industrial Development and Revenue Bond Act, and members of any boards governing any authority established pursuant to

the Park Authorities Act (§ 15.2-5700 et seq.) shall complete a training session described in subsection A within two months after assuming the local elected office and thereafter at least once during each consecutive period of two calendar years commencing with the date on which he last completed a training session, for as long as he holds such office. No penalty shall be imposed on a local elected official or an executive director or member of an industrial development authority or an economic development authority for failing to complete a training session.

C. The clerk of each governing body or school board shall maintain records indicating the names of elected officials, executive directors and members of industrial development authorities and economic development authorities, and members of any boards governing any authority established pursuant to the Park Authorities Act (§ 15.2-5700 et seq.) subject to the training requirements in subsection B and the dates on which each such official completed training sessions satisfying such requirements. Such records shall be maintained for five years in the office of the clerk of the respective governing body or school board.

D. For purposes of this section, "local elected officials" shall include constitutional officers.

2019, c. 531;2020, cc. 76, 80, 904;2023, c. 461.

§ 2.2-3705. Repealed

Repealed by Acts 2004, c. 690.

§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to public bodies

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Personnel information concerning identifiable individuals, except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of such information and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such information shall be disclosed. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

No provision of this chapter or any provision of Chapter 38 (§ 2.2-3800 et seq.) shall be construed as denying public access to (i) contracts between a public body and its officers or employees, other than contracts settling public employee employment disputes held confidential as personnel records under § 2.2-3705.1;(ii) records of the name, position, job classification, official salary, or rate of pay of, and records of the allowances or reimbursements for expenses paid to, any officer, official, or employee of a public body; or (iii) the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees. The provisions of this subdivision, however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

2. Written advice of legal counsel to state, regional or local public bodies or the officers or employees of such public bodies, and any other information protected by the attorney-client privilege.

3. Legal memoranda and other work product compiled specifically for use in litigation or for use in an active administrative investigation concerning a matter that is properly the subject of a closed meeting under § 2.2-3711.

4. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by a public body.

As used in this subdivision, "test or examination" shall include (a) any scoring key for any such test or examination and (b) any other document that would jeopardize the security of the test or examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as provided by law, or limit access to individual records as provided by law. However, the subject of such employment tests shall be entitled to review and inspect all records relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, the test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

5. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

6. Vendor proprietary information software that may be in the public records of a public body. For the purpose of this subdivision, "vendor proprietary information software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

7. Computer software developed by or for a state agency, public institution of higher education in the Commonwealth, or political subdivision of the Commonwealth.

8. Appraisals and cost estimates of real property subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease.

9. Information concerning reserves established in specific claims administered by the Department of the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of Chapter 18, or by any county, city, or town; and investigative notes, correspondence and information furnished in confidence with respect to an investigation of a claim or a potential claim against a public body's insurance policy or self-insurance plan. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports upon expiration of the period of limitations for the filing of a civil suit.

10. Personal contact information furnished to a public body or any of its members for the purpose of receiving electronic communications from the public body or any of its members, unless the recipient of such electronic communications indicates his approval for the public body to disclose such information. However, access shall not be denied to the person who is the

subject of the record. As used in this subdivision, "personal contact information" means the information provided to the public body or any of its members for the purpose of receiving electronic communications from the public body or any of its members and includes home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device.

11. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the Virginia Administrative Dispute Resolution Act (§ 2.2-4115 et seq.).

12. Information relating to the negotiation and award of a specific contract where competition or bargaining is involved and where the release of such information would adversely affect the bargaining position or negotiating strategy of the public body. Such information shall not be withheld after the public body has made a decision to award or not to award the contract. In the case of procurement transactions conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the provisions of this subdivision shall not apply, and any release of information relating to such transactions shall be governed by the Virginia Public Procurement Act.

13. Account numbers or routing information for any credit card, debit card, or other account with a financial institution of any person or public body. However, access shall not be denied to the person who is the subject of the information. For the purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, savings and loan companies or associations, and credit unions.

14. Names and data of any kind that directly or indirectly identify an individual as a member, supporter, or volunteer of, or donor of financial or nonfinancial support to, any entity exempt from federal income tax pursuant to § 501(c) of the Internal Revenue Code, except for those entities established by or for, or in support of, a public body as authorized by state law, not to include a nonprofit foundation designed to support an institution of higher education or other educational or cultural institution subject to Title 23.1.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, c. 690; 2010, c. 553; 2016, cc. 620, 716, 729; 2017, cc. 140, 778; 2021, Sp. Sess. I, c. 484; 2022, c. 525; 2022, Sp. Sess. I, c. 19.

§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Confidential information, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

2. Information that describes the design, function, operation, or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

3. Information that would disclose the security aspects of a system safety program plan adopted pursuant to Federal Transit Administration regulations by the Commonwealth's designated Rail Fixed Guideway Systems Safety Oversight agency; and information in the possession of such agency, the release of which would jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway safety.

4. Information concerning security plans and specific assessment components of school safety audits, as provided in § 22.1-279.8.

Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the effectiveness of security plans after (i) any school building or property has been subjected to fire, explosion, natural disaster, or other catastrophic event or (ii) any person on school property has suffered or been threatened with any personal injury.

5. Information concerning the mental health assessment of an individual subject to commitment as a sexually violent predator under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 held by the Commitment Review Committee; except that in no case shall information identifying the victims of a sexually violent predator be disclosed.

6. Subscriber data provided directly or indirectly by a communications services provider to a public body that operates a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system if the data is in a form not made available by the communications services provider to the public generally. Nothing in this subdivision shall prevent the disclosure of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.

For the purposes of this subdivision:

"Communications services provider" means the same as that term is defined in § 58.1-647.

"Subscriber data" means the name, address, telephone number, and any other information identifying a subscriber of a communications services provider.

7. Subscriber data collected by a local governing body in accordance with the Enhanced Public Safety Telephone Services Act (§ 56-484.12 et seq.) and other identifying information of a personal, medical, or financial nature provided to a local governing body in connection with a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system if such records are not otherwise publicly available.

Nothing in this subdivision shall prevent the disclosure of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.

For the purposes of this subdivision:

"Communications services provider" means the same as that term is defined in § 58.1-647.

"Subscriber data" means the name, address, telephone number, and any other information identifying a subscriber of a communications services provider.

8. Information held by the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, that would (i) reveal strategies under consideration or development by the Council or such commission or organizations to prevent the closure or realignment of federal military installations located in Virginia or the relocation of national security facilities located in Virginia, to limit the adverse economic effect of such realignment, closure, or relocation, or to seek additional tenant activity growth from the Department of Defense or federal government or (ii) disclose trade secrets provided to the Council or such commission or organizations in connection with their work.

In order to invoke the trade secret protection provided by clause (ii), the submitting entity shall, in writing and at the time of submission (a) invoke this exclusion, (b) identify with specificity the information for which such protection is sought, and (c) state the reason why such protection is necessary. Nothing in this subdivision shall be construed to prevent the disclosure of all or part of any record, other than a trade secret that has been specifically identified as required by this subdivision, after the Department of Defense or federal agency has issued a final, unappealable decision, or in the event of litigation, a court of competent jurisdiction has entered a final, unappealable order concerning the closure, realignment, or expansion of the military installation or tenant activities, or the relocation of the national security facility, for which records are sought.

9. Information, as determined by the State Comptroller, that describes the design, function, operation, or implementation of internal controls over the Commonwealth's financial processes and systems, and the assessment of risks and vulnerabilities of those controls, including the annual assessment of internal controls mandated by the State Comptroller, if disclosure of such information would jeopardize the security of the Commonwealth's financial assets. Nothing in this subdivision shall be construed to authorize the withholding of (i) the name of the public employee, officer, or official as it appears on a purchase card statement or other payment record or (ii) the description of individual purchases. Additionally, records relating to the investigation of and findings concerning the soundness of any fiscal process shall be disclosed in a form that does not compromise internal controls. Nothing in this subdivision shall be construed to prohibit the Auditor of Public Accounts or the Joint Legislative Audit and Review Commission from reporting internal control deficiencies discovered during the course of an audit.

10. Information relating to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system that (i) describes the design, function, programming, operation, or access control features of the overall system, components, structures, individual networks, and subsystems of the STARS or any other similar local or regional communications system or (ii) relates to radio frequencies assigned to or utilized by STARS or any other similar local or regional communications system, code plugs, circuit routing, addressing schemes, talk groups, fleet maps, encryption, or programming maintained by or utilized by STARS or any other similar local or regional public safety communications system.

11. Information concerning a salaried or volunteer Fire/EMS company or Fire/EMS department if disclosure of such information would reveal the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties.

12. Information concerning the disaster recovery plans or the evacuation plans in the event of fire, explosion, natural disaster, or other catastrophic event for hospitals and nursing homes regulated by the Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 provided to the Department of Health. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the effectiveness of executed evacuation plans after the occurrence of fire, explosion, natural disaster, or other catastrophic event.

13. Records received by the Department of Criminal Justice Services pursuant to §§ 9.1-184, 22.1-79.4, and 22.1-279.8 or for purposes of evaluating threat assessment teams established by a public institution of higher education pursuant to § 23.1-805 or by a private nonprofit institution of higher education, to the extent such records reveal security plans, walk-through checklists, or vulnerability and threat assessment components.

14. Information contained in (i) engineering, architectural, or construction drawings; (ii) operational, procedural, tactical planning, or training manuals; (iii) staff meeting minutes; or (iv) other records that reveal any of the following, the disclosure of which would jeopardize the safety or security of any person; governmental facility, building, or structure or persons using such facility, building, or structure; or public or private commercial office, multifamily residential, or retail building or its occupants:

a. Critical infrastructure information or the location or operation of security equipment and systems of any public building, structure, or information storage facility, including ventilation systems, fire protection equipment, mandatory building emergency equipment or systems, elevators, electrical systems, telecommunications equipment and systems, or utility equipment and systems;

b. Vulnerability assessments, information not lawfully available to the public regarding specific cybersecurity threats or vulnerabilities, or security plans and measures of an entity, facility, building structure, information technology system, or software program;

c. Surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational or transportation plans or protocols; or

d. Interconnectivity, network monitoring, network operation centers, master sites, or systems related to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system.

The same categories of records of any person or entity submitted to a public body for the purpose of antiterrorism response planning or cybersecurity planning or protection may be withheld from disclosure if such person or entity in writing (a) invokes the protections of this subdivision, (b) identifies with specificity the records or portions thereof for which protection is sought, and (c) states with reasonable particularity why the protection of such records from public disclosure is necessary to meet the objective of antiterrorism, cybersecurity planning or protection, or critical infrastructure information security and resilience. Such statement shall be a public record and shall be disclosed upon request.

Any public body receiving a request for records excluded under clauses (a) and (b) of this subdivision 14 shall notify the Secretary of Public Safety and Homeland Security or his designee of such request and the response made by the public body in accordance with § 2.2-3704.

Nothing in this subdivision 14 shall prevent the disclosure of records relating to (1) the structural

or environmental soundness of any such facility, building, or structure or (2) an inquiry into the performance of such facility, building, or structure after it has been subjected to fire, explosion, natural disaster, or other catastrophic event.

As used in this subdivision, "critical infrastructure information" means the same as that term is defined in 6 U.S.C. § 671.

15. Information held by the Virginia Commercial Space Flight Authority that is categorized as classified or sensitive but unclassified, including national security, defense, and foreign policy information, provided that such information is exempt under the federal Freedom of Information Act, 5 U.S.C. § 552.

1999, cc. [485](#), [518](#), [703](#), [726](#), [793](#), [849](#), [852](#), [867](#), [868](#), [881](#), § 2.1-342.01; 2000, cc. [66](#), [237](#), [382](#), [400](#), [430](#), [583](#), [589](#), [592](#), [594](#), [618](#), [632](#), [657](#), [720](#), [932](#), [933](#), [947](#), [1006](#), [1064](#); 2001, cc. [288](#), [518](#), [844](#), § 2.2-3705; 2002, cc. [87](#), [155](#), [242](#), [393](#), [478](#), [481](#), [499](#), [522](#), [571](#), [572](#), [633](#), [655](#), [715](#), [798](#), [830](#); 2003, cc. [274](#), [307](#), [327](#), [332](#), [358](#), [704](#), [801](#), [884](#), [891](#), [893](#), [897](#), [968](#); 2004, cc. [398](#), [482](#), [690](#), [770](#); 2005, c. [410](#); 2008, c. [721](#); 2009, c. [418](#); 2010, c. [672](#); 2011, cc. [111](#), [536](#); 2012, cc. [617](#), [803](#), [835](#); 2013, c. [600](#); 2015, c. [183](#); 2016, cc. [554](#), [620](#), [716](#), [717](#); 2017, c. [778](#); 2018, cc. [52](#), [741](#); 2019, c. [358](#); 2024, c. [671](#).

§ 2.2-3705.3. (Effective until July 1, 2026) Exclusions to application of chapter; records relating to administrative investigations

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § [2.2-3704.01](#).

1. Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Cannabis Control Authority, the Virginia Lottery pursuant to Chapter 40 (§ [58.1-4000](#) et seq.) and Chapter 41 (§ [58.1-4100](#) et seq.) of Title 58.1, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ [18.2-340.15](#) et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.
2. Records of active investigations being conducted by the Virginia Cannabis Control Authority or by the Department of Health Professions or any health regulatory board in the Commonwealth pursuant to § [54.1-108](#).
3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.
4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ [32.1-323](#) et seq.) of Title 32.1.
5. Investigative notes and other correspondence and information furnished in confidence with

respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this subdivision shall prevent the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body; or (viii) the Behavioral Health Commission. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. The names and personal contact information of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body. As used in this subdivision, "personal contact information" includes the complainant's home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device.

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

10. Information furnished to or prepared by the Board of Education pursuant to subsection D of §

22.1-253.13:5 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, cc. 605, 690, 766; 2005, c. 601; 2006, cc. 25, 95; 2008, cc. 387, 668, 689, 758; 2009, cc. 237, 326, 340; 2011, cc. 798, 871; 2012, cc. 476, 507, 803, 835; 2013, cc. 571, 572, 690, 717, 723; 2014, cc. 225, 414, 609, 788; 2015, cc. 38, 730; 2016, cc. 272, 620, 716; 2017, c. 778; 2020, c. 48; 2022, cc. 589, 590; 2023, cc. 668, 669; 2024, cc. 64, 732.

§ 2.2-3705.3. (Effective July 1, 2026) Exclusions to application of chapter; records relating to administrative investigations

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Cannabis Control Authority, the Virginia Lottery pursuant to Chapter 40 (§ 58.1-4000 et seq.) and Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.
2. Records of active investigations being conducted by the Virginia Cannabis Control Authority or by the Department of Health Professions or any health regulatory board in the Commonwealth pursuant to § 54.1-108.
3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.
4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.
5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this subdivision shall prevent the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.
6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.
7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i)

the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body; or (viii) the Behavioral Health Commission. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. The names and personal contact information of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 56-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body. As used in this subdivision, "personal contact information" includes the complainant's home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device.

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

10. Information furnished to or prepared by the Board of Education pursuant to subsection F of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or

(b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, cc. 605, 690, 766; 2005, c. 601; 2006, cc. 25, 95; 2008, cc. 387, 668, 689, 758; 2009, cc. 237, 326, 340; 2011, cc. 798, 871; 2012, cc. 476, 507, 803, 835; 2013, cc. 571, 572, 690, 717, 723; 2014, cc. 225, 414, 609, 788; 2015, cc. 38, 730; 2016, cc. 272, 620, 716; 2017, c. 778; 2020, c. 48; 2022, cc. 589, 590; 2023, cc. 668, 669; 2024, cc. 64, 732; 2025, c. 675.

§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions

A. The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except as provided in subsection B or where such disclosure is otherwise prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of 18 years. For

scholastic records of students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a public institution of higher education in the Commonwealth, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such records shall be disclosed.

2. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment or promotion, or (iii) receipt of an honor or honorary recognition.

3. Information held by the Brown v. Board of Education Scholarship Committee that would reveal personally identifiable information, including scholarship applications, personal financial information, and confidential correspondence and letters of recommendation.

4. Information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such information has not been publicly released, published, copyrighted or patented.

5. Information held by the University of Virginia, the University of Virginia Medical Center, Old Dominion University, or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, that contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the University of Virginia Medical Center or Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be.

6. Personal information, as defined in § 2.2-3801, provided to the Board of the Commonwealth Savers Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, including personal information related to (i) qualified beneficiaries as that term is defined in § 23.1-700, (ii) designated survivors, or (iii) authorized individuals. Nothing in this subdivision shall be construed to prevent disclosure or publication of information in a statistical or other form that does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

For purposes of this subdivision:

"Authorized individual" means an individual who may be named by the account owner to receive information regarding the account but who does not have any control or authority over the

account.

"Designated survivor" means the person who will assume account ownership in the event of the account owner's death.

7. Information maintained in connection with fundraising activities by or for a public institution of higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or prospective donors or (ii) wealth assessments; estate, financial, or tax planning information; health-related information; employment, familial, or marital status information; electronic mail addresses, facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or prospective donors. The exclusion provided by this subdivision shall not apply to protect from disclosure (a) information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor or (b) the identities of sponsors providing grants to or contracting with the institution for the performance of research services or other work or the terms and conditions of such grants or contracts. For purposes of clause (a), the identity of the donor may be withheld if (1) the donor has requested anonymity in connection with or as a condition of making a pledge or donation and (2) the pledge or donation does not impose terms or conditions directing academic decision-making.

8. Information held by a threat assessment team established by a local school board pursuant to § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment or intervention with a specific individual. However, in the event an individual who has been under assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious bodily injury, including any felony sexual assault, to another person, such information of the threat assessment team concerning the individual under assessment shall be made available as provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The public body providing such information shall remove personally identifying information of any person who provided information to the threat assessment team under a promise of confidentiality.

9. Records provided to the Governor or the designated reviewers by a qualified institution, as those terms are defined in § 23.1-1239, related to a proposed memorandum of understanding, or proposed amendments to a memorandum of understanding, submitted pursuant to Chapter 12.1 (§ 23.1-1239 et seq.) of Title 23.1. A memorandum of understanding entered into pursuant to such chapter shall be subject to public disclosure after it is agreed to and signed by the Governor.

B. The custodian of a scholastic record shall not release the address, phone number, or email address of a student in response to a request made under this chapter without written consent. For any student who is (i) 18 years of age or older, (ii) under the age of 18 and emancipated, or (iii) attending an institution of higher education, written consent of the student shall be required. For any other student, written consent of the parent or legal guardian of such student shall be required.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, c. 690; 2006, c. 518; 2008, cc. 561, 665; 2010, cc. 456, 524; 2014, c. 313; 2016, cc. 554, 620, 716; 2017, c. 778; 2018, c. 756; 2019, cc. 638, 639; 2020, cc. 71, 78; 2023, cc. 756, 778; 2024, c. 217.

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants; information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1; information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that identifies any practitioner who may be, or who is actually, impaired to the extent that disclosure is prohibited by § 54.1-2517; and information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program (Program) pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

3. Reports, documentary evidence, and other information as specified in §§ 51.5-122 and 51.5-184 and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 and information and statistical registries required to be kept confidential pursuant to Chapter 1 (§ 63.2-100 et seq.) of Title 63.2.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information

regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Education in connection with an active investigation of an applicant or licensee pursuant to Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. However, nothing in this subdivision shall prevent the disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review Team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2;(ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3;(iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6;(iv) by a local or regional overdose fatality review team to the extent that such information is made confidential by § 32.1-283.7;(v) during a review of any death conducted by the Maternal Mortality Review Team to the extent that such information is made confidential by § 32.1-283.8;or (vi) during a review of any death conducted by the Developmental Disabilities Mortality Review Committee to the extent that such information is made confidential by § 37.2-314.1.

8. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

9. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

10. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers,

documents, and any or all computer or other recordings.

11. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

12. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 52.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to prevent the disclosure of statistical summaries, abstracts, or other information in aggregate form.

13. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

14. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

15. Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

16. Records of and information held by the Smartchart Network Program required to be kept confidential pursuant to § 32.1-372.

17. Information submitted to the acute psychiatric bed registry pursuant to § 37.2-308.1.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, cc. 65, 666, 690, 773, 1014, 1021; 2005, cc. 181, 227, 716; 2008, c. 539; 2009, cc. 472, 813, 840; 2011, cc. 110, 175, 535; 2012, cc. 476, 479, 507, 803, 835; 2015, cc. 22, 108, 127; 2016, cc. 620, 716; 2017, cc. 188, 475, 600, 719, 778; 2018, c. 600; 2019, c. 834; 2020, cc. 851, 860, 861; 2023, cc. 628, 629; 2025, cc. 149, 156.

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body,

where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or

affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Commissioner of Agriculture and Consumer Services related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c)

state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the

conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-5103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or
- b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature

and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan, or investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority (the Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory committee of the Authority, or any other entity designated by the Authority to review such applications, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant, loan, or investment application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant, loan, or investment application; and memoranda, staff evaluations, or other information prepared by the Authority or its staff, or a reviewing entity designated by the Authority, exclusively for the evaluation of grant, loan, or investment applications, including any scoring or prioritization documents prepared for and forwarded to the Authority.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services or carbon sequestration agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory

disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants

administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the appropriations act.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information, or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Department shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or confidential proprietary information of the applicant. The Department shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

33. Financial and proprietary records submitted with a loan application to a locality for the preservation or construction of affordable housing that is related to a competitive application to be submitted to either the U.S. Department of Housing and Urban Development (HUD) or the Virginia Housing Development Authority (VHDA), when the release of such records would adversely affect the bargaining or competitive position of the applicant. Such records shall not be withheld after they have been made public by HUD or VHDA.

34. Information of a proprietary or confidential nature disclosed by a health carrier or pharmacy benefits manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a manufacturer pursuant to § 54.1-3442.02.

35. Trade secrets, proprietary information, or financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, supplied by an individual or a private or nongovernmental entity to the Fort Monroe Authority for the purpose of complying with the obligations of any lease, easement, license, permit, or other agreement, whether of a commercial or residential real estate nature, pertaining to the use or occupancy of any portion of Fort Monroe.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the individual or private or nongovernmental entity shall make a written request to the Fort Monroe Authority:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information, or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

36. Information of a proprietary or confidential nature, including trade secrets, employee compensation information, balance sheets and financial statements that are not available to the

public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Department of Workforce Development and Advancement (the Department) for the purpose of sponsoring, implementing, and operating (i) an apprenticeship program approved by the Department or (ii) a similar lawful workforce development or public-private partnership approved by the Department that assists the Department in fulfilling its mission and objectives and whose workforce development initiative could not advance without such exemption, as determined by the Commissioner of the Department and the Secretary of Labor. However, nothing in this subdivision shall be construed to allow the withholding of the name and contact information of a private or nongovernmental entity sponsoring, implementing, or operating the apprenticeship program, the location of the program, the occupations offered by the program, or the terms and conditions of a contract or agreement entered into by such private or nongovernmental entity.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, cc. 593, 690; 2005, cc. 258, 411; 2006, cc. 73, 76, 467, 831, 921, 936; 2006, Sp. Sess. I, c. 1; 2007, cc. 374, 693; 2008, cc. 71, 102, 266, 387, 633, 689, 736, 743; 2009, cc. 246, 311, 325, 765, 810, 869; 2010, cc. 310, 808; 2011, cc. 541, 781, 798, 871; 2012, cc. 693, 709; 2013, cc. 54, 482, 574; 2015, cc. 696, 697; 2016, cc. 620, 716, 724, 725, 775; 2017, cc. 662, 737, 778, 796, 816; 2018, cc. 470, 532, 533; 2019, cc. 358, 629; 2020, cc. 72, 79, 1164, 1169; 2021, Sp. Sess. I, cc. 298, 304, 532; 2022, cc. 554, 609; 2023, cc. 575, 576; 2025, cc. 90, 108.

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.
2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House

of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed or accessed material or resources from a library and (b) the material or resources such patron borrowed or accessed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Commonwealth Savers Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Commonwealth Savers Plan, or provided to the retirement system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or

members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

15. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed. If the value of the prize won by the winner is \$1 million or greater, the information described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

20. Information held by the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

21. Information held by state or local park and recreation departments and local and regional park authorities or by the Department of Workforce Development and Advancement concerning identifiable individuals younger than 18 years of age. However, nothing in this subdivision shall operate to prevent the disclosure of information defined as directory information under regulations implementing the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

22. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Commonwealth Savers Plan, acting pursuant to § 23.1-704 relating to:

- a. Internal deliberations of or decisions by the retirement system or the Commonwealth Savers Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Commonwealth Savers Plan; and
- b. Trade secrets provided by a private entity to the retirement system or the Commonwealth Savers Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Commonwealth Savers Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Commonwealth Savers Plan:

- (1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The retirement system or the Commonwealth Savers Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by former § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, (iii) individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases are discussed by any human trafficking response team

established pursuant to § 15.2-1627.6. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

34. Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § 54.1-3491.

35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i) internal deliberations of or decisions by the Authority on the pursuit of particular investment strategies prior to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.

36. Personal information provided to or obtained by the Virginia Lottery in connection with the voluntary exclusion program administered pursuant to § 58.1-4015.1.

37. Personal information provided to or obtained by the Virginia Lottery concerning the identity of any person reporting prohibited conduct pursuant to § 58.1-4043.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, cc. 426, 690, 832; 2005, cc. 165, 508; 2007, cc. 406, 652, 660, 737, 739; 2008, cc. 16, 739; 2009, cc. 223, 827, 845; 2010, c. 300; 2011, cc. 827, 867; 2012, c. 726; 2013, cc. 199, 481, 554, 574; 2014, cc. 225, 808; 2015, cc. 38, 137, 549, 730; 2016, cc. 550, 620, 716, 729; 2017, cc. 587, 642, 778, 804, 824; 2018, cc. 58, 141; 2019, cc. 163, 170, 247, 300, 358, 729, 775; 2020, cc. 70, 587, 1164, 1169, 1218, 1227, 1246, 1256; 2021, Sp. Sess. I, cc. 344, 345; 2024, cc. 217, 366; 2025, cc. 76, 90, 108.

§ 2.2-3705.8. Limitation on record exclusions

Nothing in this chapter shall be construed as denying public access to the nonexempt portions of a report of a consultant hired by or at the request of a local public body or the mayor or chief executive or administrative officer of such public body if (i) the contents of such report have been distributed or disclosed to members of the local public body or (ii) the local public body has scheduled any action on a matter that is the subject of the consultant's report.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003,

cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968;2004, c. 690;2017, c. 778.

§ 2.2-3706. (Effective July 1, 2026) Disclosure of law-enforcement and criminal records; limitations

A. Records required to be released. All public bodies engaged in criminal law-enforcement activities shall provide the following records when requested in accordance with the provisions of this chapter:

1. Adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation;
2. Information relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest; and
3. Records of completed unattended death investigations to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death" means a death determined to be a suicide, accidental or natural death where no criminal charges will be initiated, and "immediate family" means the decedent's personal representative or, if no personal representative has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.

B. Discretionary releases. The following records are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such disclosure is prohibited by law:

1. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence, relating to a criminal investigation or prosecution not required to be disclosed in accordance with § 2.2-3706.1;
2. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1;
3. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity;
4. All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment;
5. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public;
6. All records of adult persons under (i) investigation or supervision by a local pretrial services agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation, probation supervision, or monitoring by a local community-based probation

services agency in accordance with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state probation and parole services in accordance with Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1;

7. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties;

8. Those portions of any records containing information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective details. Nothing in this subdivision shall operate to allow the withholding of information concerning the overall costs or expenses associated with undercover operations or protective details;

9. Records of (i) background investigations of applicants for law-enforcement agency employment, (ii) administrative investigations relating to allegations of wrongdoing by employees of a law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement agencies that are made confidential by law;

10. The identity of any victim, witness, or undercover officer, or investigative techniques or procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited or restricted under § 19.2-11.2; and

11. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including information obtained from state, local, and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913.

C. Prohibited releases. The following records shall not be disclosed under the provisions of this chapter:

1. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity;

2. Any record that has been expunged pursuant to § 19.2-392.2, unless dissemination is authorized pursuant to § 19.2-392.3 or 19.2-392.3:1; and

3. Any record that has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8, 19.2-392.10, 19.2-392.11, 19.2-392.12, 19.2-392.12:1, or 19.2-392.17, unless dissemination is authorized pursuant to § 19.2-392.13 and the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

D. Noncriminal records. Public bodies (i) engaged in emergency medical services, (ii) engaged in fire protection services, (iii) engaged in criminal law-enforcement activities, or (iv) engaged in processing calls for service or other communications to an emergency 911 system or any other equivalent reporting system may withhold those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature where the release of such information would jeopardize the safety or privacy of any person. Access to personnel records of persons employed by a public body engaged in emergency medical services or fire protection services, a law-enforcement agency, or an emergency 911 system or any other equivalent reporting system shall be governed by the provisions of subdivision B 9 and subdivision 1 of § 2.2-3705.1, as applicable.

E. Records of any call for service or other communication to an emergency 911 system or communicated with any other equivalent reporting system shall be subject to the provisions of this chapter.

F. Conflict resolution. In the event of conflict between this section as it relates to requests made under this section and other provisions of law, this section shall control.

1999, cc. 703, 726, § 2.1-342.2; 2000, c. 227; 2001, c. 844; 2002, cc. 393, 715, 769, 830; 2004, cc. 685, 735; 2006, cc. 857, 914; 2007, c. 133; 2010, c. 627; 2011, cc. 798, 871; 2013, c. 695; 2016, cc. 184, 546; 2017, c. 828; 2018, c. 48; 2021, Sp. Sess. I, c. 483; 2023, c. 420; 2025, cc. 634, 671.

§ 2.2-3706. (Effective until July 1, 2026) Disclosure of law-enforcement and criminal records; limitations

A. Records required to be released. All public bodies engaged in criminal law-enforcement activities shall provide the following records when requested in accordance with the provisions of this chapter:

1. Adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation;
2. Information relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest; and
3. Records of completed unattended death investigations to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death" means a death determined to be a suicide, accidental or natural death where no criminal charges will be initiated, and "immediate family" means the decedent's personal representative or, if no personal representative has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.

B. Discretionary releases. The following records are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such disclosure is prohibited by law:

1. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence, relating to a criminal investigation or prosecution not required to be disclosed in accordance with § 2.2-3706.1;
2. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1;
3. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity;

4. All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment;
5. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public;
6. All records of adult persons under (i) investigation or supervision by a local pretrial services agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation, probation supervision, or monitoring by a local community-based probation services agency in accordance with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state probation and parole services in accordance with Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1;
7. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties;
8. Those portions of any records containing information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective details. Nothing in this subdivision shall operate to allow the withholding of information concerning the overall costs or expenses associated with undercover operations or protective details;
9. Records of (i) background investigations of applicants for law-enforcement agency employment, (ii) administrative investigations relating to allegations of wrongdoing by employees of a law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement agencies that are made confidential by law;
10. The identity of any victim, witness, or undercover officer, or investigative techniques or procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited or restricted under § 19.2-11.2; and
11. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including information obtained from state, local, and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913.

C. Prohibited releases. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

D. Noncriminal records. Public bodies (i) engaged in emergency medical services, (ii) engaged in fire protection services, (iii) engaged in criminal law-enforcement activities, or (iv) engaged in processing calls for service or other communications to an emergency 911 system or any other equivalent reporting system may withhold those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature where the release of such information would jeopardize the safety or privacy of any person. Access to personnel records of persons employed by a public body engaged in emergency medical services or fire protection services, a law-enforcement agency, or an emergency 911 system or any other equivalent reporting system shall be governed by the provisions of subdivision B 9 and subdivision 1 of § 2.2-3705.1, as applicable.

E. Records of any call for service or other communication to an emergency 911 system or communicated with any other equivalent reporting system shall be subject to the provisions of this chapter.

F. Conflict resolution. In the event of conflict between this section as it relates to requests made under this section and other provisions of law, this section shall control.

1999, cc. 703, 726, § 2.1-342.2; 2000, c. 227; 2001, c. 844; 2002, cc. 393, 715, 769, 830; 2004, cc. 685, 735; 2006, cc. 857, 914; 2007, c. 133; 2010, c. 627; 2011, cc. 798, 871; 2013, c. 695; 2016, cc. 184, 546; 2017, c. 828; 2018, c. 48; 2021, Sp. Sess. I, c. 483; 2023, c. 420.

§ 2.2-3706.1. (Effective July 1, 2026) Disclosure of law-enforcement records; criminal incident information and certain criminal investigative files; limitations

A. For purposes of this section:

"Criminal investigative files" means any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence, relating to a criminal investigation or prosecution, other than criminal incident information subject to disclosure in accordance with subsection B.

"Family representative" means the decedent's personal representative or, if no personal representative as set forth in § 64.2-100 has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.

"Immediate family members" means the decedent's family representative, spouse, child, sibling, parent, grandparent, or grandchild. "Immediate family members" include a stepparent, stepchild, stepsibling, and adoptive relationships.

"Ongoing" refers to a case in which the prosecution has not been finally adjudicated, the investigation continues to gather evidence for a possible future criminal case, and such case would be jeopardized by the premature release of evidence.

B. All public bodies engaged in criminal law-enforcement activities shall provide records and information when requested in accordance with the provisions of this chapter regarding criminal incident information relating to felony offenses contained in any report, notes, electronic communication, or other document, including filings through an incident-based reporting system, which shall include:

1. A general description of the criminal activity reported;
2. The date and time the alleged crime was committed;
3. The general location where the alleged crime was committed;
4. The identity of the investigating officer or other point of contact; and
5. A description of any injuries suffered or property damaged or stolen.

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of this subsection.

C. Criminal investigative files relating to an ongoing criminal investigation or proceeding are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the

custodian, in his discretion, except as provided in subsection E or where such disclosure is prohibited by law.

D. Criminal investigative files relating to a criminal investigation or proceeding that is not ongoing are excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian, in his discretion, except as provided in subsection E; however, such records shall be disclosed, by request, to the following persons, regardless of whether any such person is a citizen of the Commonwealth:

1. The victim;
2. The victim's immediate family members, if the victim is deceased and the immediate family member to which the records are to be disclosed is not a person of interest or a suspect in the criminal investigation or proceeding;
3. The parent or guardian of the victim, if the victim is a minor and the parent or guardian is not a person of interest or a suspect in the criminal investigation or proceeding;
4. An attorney representing a petitioner in a petition for a writ of habeas corpus or writ of actual innocence pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) of Title 19.2 or any other federal or state post-conviction proceeding or pardon; and
5. For the sole purpose of inspection at the location where such records are maintained by the public body that is the custodian of the records, (i) an attorney or his agent when such attorney is considering representing a petitioner in a post-conviction proceeding or pardon, (ii) an attorney who provides a sworn declaration that the attorney has been retained by an individual for purposes of pursuing a civil or criminal action and has a good faith basis to believe that the records being requested are material to such action, or (iii) a person who is proceeding pro se in a petition for a writ of habeas corpus or writ of actual innocence pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) of Title 19.2 or any other federal or state post-conviction proceeding or pardon, who provides a sworn affidavit that the records being requested are material to such action.

An attorney or his agent who is in receipt of criminal investigative files or has inspected criminal investigative files pursuant to subdivision 4 or 5 shall not release such criminal investigative files or any information contained therein except as necessary to provide adequate legal advice or representation to a person whom the attorney either represents or is considering representing in a post-conviction proceeding or pardon or represents in a civil or criminal action.

An attorney who is in receipt of criminal investigative files pursuant to subdivision 4 shall return the criminal investigative files to the public body that is the custodian of such records within 90 days of a final determination of any writ of habeas corpus, writ of actual innocence, or other federal or state post-conviction proceeding or pardon or, if no petition for such writ or post-conviction proceeding or pardon was filed, within six months of the attorney's receipt of the records.

No disclosure for the purpose of inspection pursuant to clause (iii) of subdivision 5 shall be made unless an appropriate circuit court has reviewed the affidavit provided and determined the records requested are material to the action being pursued. The court shall order the person not to disclose or otherwise release any information contained in a criminal investigative file except as necessary for the pending action and may include other conditions as appropriate.

E. The provisions of subsections C and D shall not apply if the release of such information:

1. Would interfere with a particular ongoing criminal investigation or proceeding in a particularly identifiable manner;
2. Would deprive a person of a right to a fair trial or an impartial adjudication;
3. Would constitute an unwarranted invasion of personal privacy;
4. Would disclose (i) the identity of a confidential source or (ii) in the case of a record compiled by a law-enforcement agency in the course of a criminal investigation, information furnished only by a confidential source;
5. Would disclose law-enforcement investigative techniques and procedures, if such disclosure could reasonably be expected to risk circumvention of the law; or
6. Would endanger the life or physical safety of any individual.

Nothing in this subsection shall be construed to authorize the withholding of those portions of such information that are unlikely to cause any effect listed herein.

F. Notwithstanding the provisions of subsection C or D, no criminal investigative file or portion thereof, except disclosure of records under subdivision D 4 or clause (i) of subdivision D 5, shall be disclosed to any requester pursuant to this section, unless the public body has made reasonable efforts to notify (i) the victim; (ii) the victim's immediate family members, if the victim is deceased and the immediate family member to be notified is not a person of interest or a suspect in the criminal investigation or proceeding; or (iii) the victim's parent or guardian, if the victim is a minor and the parent or guardian to be notified is not a person of interest or a suspect in the criminal investigation or proceeding.

Upon receipt of notice that a public body has received a request for criminal investigative files pursuant to this section, an individual listed in clause (i), (ii), or (iii) shall have 14 days to file in an appropriate court a petition for an injunction to prevent the disclosure of the records as set forth in § 8.01-622.2. The public body shall not respond to the request until at least 14 days has passed from the time notice was received by an individual listed in clause (i), (ii), or (iii) unless such individual has waived the 14-day period or at the request of the victim's insurance company or attorney. The period within which the public body shall respond to the underlying request pursuant to § 2.2-3704 shall be tolled pending the notification process and any subsequent disposition by the court.

G. No photographic, audio, video, or other record depicting a victim or allowing for a victim to be readily identified shall be released pursuant to subsection C or D to anyone except (i) the victim; (ii) the victim's family representative, if the victim is deceased and the family representative to which the records are to be disclosed is not a person of interest or a suspect in the criminal investigation or proceeding; (iii) the victim's parent or guardian, if the victim is a minor and the parent or guardian is not a person of interest or a suspect in the criminal investigation or proceeding; or (iv) the victim's insurance company or attorney.

H. Nothing in this section shall prohibit the disclosure of current anonymized, aggregate location and demographic data collected pursuant to § 52-30.2 or similar data documenting law-enforcement officer encounters with members of the public.

I. In the event of a conflict between this section as it relates to requests made under this section

and other provisions of law, the other provisions of law that restrict disclosure of criminal investigative files shall control.

J. The following records shall not be released under the provisions of this section:

1. Any record that has been expunged pursuant to § 19.2-392.2, unless dissemination is authorized pursuant to § 19.2-392.3 or 19.2-392.3:1; and
2. Any record that has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8, 19.2-392.10, 19.2-392.11, 19.2-392.12, 19.2-392.12:1, or 19.2-392.17, unless dissemination is authorized pursuant to § 19.2-392.13 and the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

2021, Sp. Sess. I, c. 483; 2022, c. 386; 2024, cc. 580, 582; 2025, cc. 634, 671.

§ 2.2-3706.1. (Effective until July 1, 2026) Disclosure of law-enforcement records; criminal incident information and certain criminal investigative files; limitations

A. For purposes of this section:

"Criminal investigative files" means any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence, relating to a criminal investigation or prosecution, other than criminal incident information subject to disclosure in accordance with subsection B.

"Family representative" means the decedent's personal representative or, if no personal representative as set forth in § 64.2-100 has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.

"Immediate family members" means the decedent's family representative, spouse, child, sibling, parent, grandparent, or grandchild. "Immediate family members" include a stepparent, stepchild, stepsibling, and adoptive relationships.

"Ongoing" refers to a case in which the prosecution has not been finally adjudicated, the investigation continues to gather evidence for a possible future criminal case, and such case would be jeopardized by the premature release of evidence.

B. All public bodies engaged in criminal law-enforcement activities shall provide records and information when requested in accordance with the provisions of this chapter regarding criminal incident information relating to felony offenses contained in any report, notes, electronic communication, or other document, including filings through an incident-based reporting system, which shall include:

1. A general description of the criminal activity reported;
2. The date and time the alleged crime was committed;
3. The general location where the alleged crime was committed;
4. The identity of the investigating officer or other point of contact; and
5. A description of any injuries suffered or property damaged or stolen.

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of this subsection.

C. Criminal investigative files relating to an ongoing criminal investigation or proceeding are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his discretion, except as provided in subsection E or where such disclosure is prohibited by law.

D. Criminal investigative files relating to a criminal investigation or proceeding that is not ongoing are excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian, in his discretion, except as provided in subsection E; however, such records shall be disclosed, by request, to the following persons, regardless of whether any such person is a citizen of the Commonwealth:

1. The victim;
2. The victim's immediate family members, if the victim is deceased and the immediate family member to which the records are to be disclosed is not a person of interest or a suspect in the criminal investigation or proceeding;
3. The parent or guardian of the victim, if the victim is a minor and the parent or guardian is not a person of interest or a suspect in the criminal investigation or proceeding;
4. An attorney representing a petitioner in a petition for a writ of habeas corpus or writ of actual innocence pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) of Title 19.2 or any other federal or state post-conviction proceeding or pardon; and
5. For the sole purpose of inspection at the location where such records are maintained by the public body that is the custodian of the records, (i) an attorney or his agent when such attorney is considering representing a petitioner in a post-conviction proceeding or pardon, (ii) an attorney who provides a sworn declaration that the attorney has been retained by an individual for purposes of pursuing a civil or criminal action and has a good faith basis to believe that the records being requested are material to such action, or (iii) a person who is proceeding pro se in a petition for a writ of habeas corpus or writ of actual innocence pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) of Title 19.2 or any other federal or state post-conviction proceeding or pardon, who provides a sworn affidavit that the records being requested are material to such action.

An attorney or his agent who is in receipt of criminal investigative files or has inspected criminal investigative files pursuant to subdivision 4 or 5 shall not release such criminal investigative files or any information contained therein except as necessary to provide adequate legal advice or representation to a person whom the attorney either represents or is considering representing in a post-conviction proceeding or pardon or represents in a civil or criminal action.

An attorney who is in receipt of criminal investigative files pursuant to subdivision 4 shall return the criminal investigative files to the public body that is the custodian of such records within 90 days of a final determination of any writ of habeas corpus, writ of actual innocence, or other federal or state post-conviction proceeding or pardon or, if no petition for such writ or post-conviction proceeding or pardon was filed, within six months of the attorney's receipt of the records.

No disclosure for the purpose of inspection pursuant to clause (iii) of subdivision 5 shall be made unless an appropriate circuit court has reviewed the affidavit provided and determined the records requested are material to the action being pursued. The court shall order the person not to disclose or otherwise release any information contained in a criminal investigative file except

as necessary for the pending action and may include other conditions as appropriate.

E. The provisions of subsections C and D shall not apply if the release of such information:

1. Would interfere with a particular ongoing criminal investigation or proceeding in a particularly identifiable manner;
2. Would deprive a person of a right to a fair trial or an impartial adjudication;
3. Would constitute an unwarranted invasion of personal privacy;
4. Would disclose (i) the identity of a confidential source or (ii) in the case of a record compiled by a law-enforcement agency in the course of a criminal investigation, information furnished only by a confidential source;
5. Would disclose law-enforcement investigative techniques and procedures, if such disclosure could reasonably be expected to risk circumvention of the law; or
6. Would endanger the life or physical safety of any individual.

Nothing in this subsection shall be construed to authorize the withholding of those portions of such information that are unlikely to cause any effect listed herein.

F. Notwithstanding the provisions of subsection C or D, no criminal investigative file or portion thereof, except disclosure of records under subdivision D 4 or clause (i) of subdivision D 5, shall be disclosed to any requester pursuant to this section, unless the public body has made reasonable efforts to notify (i) the victim; (ii) the victim's immediate family members, if the victim is deceased and the immediate family member to be notified is not a person of interest or a suspect in the criminal investigation or proceeding; or (iii) the victim's parent or guardian, if the victim is a minor and the parent or guardian to be notified is not a person of interest or a suspect in the criminal investigation or proceeding.

Upon receipt of notice that a public body has received a request for criminal investigative files pursuant to this section, an individual listed in clause (i), (ii), or (iii) shall have 14 days to file in an appropriate court a petition for an injunction to prevent the disclosure of the records as set forth in § 8.01-622.2. The public body shall not respond to the request until at least 14 days has passed from the time notice was received by an individual listed in clause (i), (ii), or (iii) unless such individual has waived the 14-day period or at the request of the victim's insurance company or attorney. The period within which the public body shall respond to the underlying request pursuant to § 2.2-3704 shall be tolled pending the notification process and any subsequent disposition by the court.

G. No photographic, audio, video, or other record depicting a victim or allowing for a victim to be readily identified shall be released pursuant to subsection C or D to anyone except (i) the victim; (ii) the victim's family representative, if the victim is deceased and the family representative to which the records are to be disclosed is not a person of interest or a suspect in the criminal investigation or proceeding; (iii) the victim's parent or guardian, if the victim is a minor and the parent or guardian is not a person of interest or a suspect in the criminal investigation or proceeding; or (iv) the victim's insurance company or attorney.

H. Nothing in this section shall prohibit the disclosure of current anonymized, aggregate location and demographic data collected pursuant to § 52-30.2 or similar data documenting law-

enforcement officer encounters with members of the public.

I. In the event of a conflict between this section as it relates to requests made under this section and other provisions of law, the other provisions of law, including court sealing orders, that restrict disclosure of criminal investigative files shall control.

2021, Sp. Sess. I, c. 483;2022, c. 386;2024, cc. 580, 582.

§ 2.2-3707. Meetings to be public; notice of meetings; recordings; minutes

A. All meetings of public bodies shall be open, except as provided in §§ 2.2-3707.01 and 2.2-3711.

B. All state public bodies subject to the provisions of this chapter:

1. May allow public access to their meetings through electronic communication means, including telephone or videoconferencing, if already used by the state public body;

2. May provide the public with the opportunity to comment through the use of such electronic communication means at such meetings at the point when public comment is customarily received; and

3. Shall otherwise comply with the provisions of this chapter.

No cause of action shall arise against a state public body for accidental or involuntary loss of audio or video signal or inability of the public to comment through the electronic communications means described in this subsection.

C. No meeting shall be conducted through telephonic, video, electronic, or other electronic communication means where the members are not physically assembled to discuss or transact public business, except as provided in §§ 2.2-3708.2 and 2.2-3708.3 or as may be specifically provided in Title 54.1 for the summary suspension of professional licenses.

D. Every public body shall give notice of the date, time, location, and remote location, if required, of its meetings by:

1. Posting such notice on its official public government website, if any;

2. Placing such notice in a prominent public location at which notices are regularly posted; and

3. Placing such notice at the office of the clerk of the public body or, in the case of a public body that has no clerk, at the office of the chief administrator.

All state public bodies subject to the provisions of this chapter shall also post notice of their meetings on a central, publicly available electronic calendar maintained by the Commonwealth. Publication of meeting notices by electronic means by other public bodies shall be encouraged.

The notice shall be posted at least three working days prior to the meeting.

E. Notice, reasonable under the circumstance, of special, emergency, or continued meetings shall be given contemporaneously with the notice provided to the members of the public body conducting the meeting.

F. Any person may annually file a written request for notification with a public body. The request shall include the requester's name, address, zip code, daytime telephone number, electronic mail address, if available, and organization, if any. The public body receiving such request shall

provide notice of all meetings directly to each such person. Without objection by the person, the public body may provide electronic notice of all meetings in response to such requests.

G. At least one copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body. The proposed agendas for meetings of state public bodies where at least one member has been appointed by the Governor shall state whether or not public comment will be received at the meeting and, if so, the approximate point during the meeting when public comment will be received.

H. Any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open. The public body conducting the meeting may adopt rules governing the placement and use of equipment necessary for broadcasting, photographing, filming, or recording a meeting to prevent interference with the proceedings, but shall not prohibit or otherwise prevent any person from photographing, filming, recording, or otherwise reproducing any portion of a meeting required to be open. No public body shall conduct a meeting required to be open in any building or facility where such recording devices are prohibited.

I. Minutes shall be taken at all open meetings. However, minutes shall not be required to be taken at deliberations of (i) standing and other committees of the General Assembly; (ii) legislative interim study commissions and committees, including the Virginia Code Commission; (iii) study committees or commissions appointed by the Governor; or (iv) study commissions or study committees, or any other committees or subcommittees appointed by the governing bodies or school boards of counties, cities, and towns, except where the membership of any such commission, committee, or subcommittee includes a majority of the governing body of the county, city, or town or school board.

Minutes, including draft minutes, and all other records of open meetings, including audio or audio/visual records shall be deemed public records and subject to the provisions of this chapter.

Minutes shall be in writing and shall include (a) the date, time, and location of the meeting; (b) the members of the public body recorded as present and absent; and (c) a summary of the discussion on matters proposed, deliberated, or decided, and a record of any votes taken. In addition, for electronic communication meetings conducted in accordance with § 2.2-3708.2 or 2.2-3708.3, minutes shall include (1) the identity of the members of the public body who participated in the meeting through electronic communication means, (2) the identity of the members of the public body who were physically assembled at one physical location, and (3) the identity of the members of the public body who were not present at the location identified in clause (2) but who monitored such meeting through electronic communication means.

1968, c. 479, § 2.1-343; 1973, c. 461; 1976, c. 467; 1977, c. 677; 1982, c. 333; 1989, c. 358; 1990, c. 538; 1993, c. 720; 1995, c. 562; 1999, cc. 696, 703, 726; 2000, c. 227; 2001, c. 844; 2004, cc. 750, 768; 2005, c. 352; 2007, c. 300; 2009, c. 628; 2010, c. 309; 2015, c. 131; 2017, c. 616; 2018, c. 55; 2022, c. 597; 2023, c. 536.

§ 2.2-3707.01. Meetings of the General Assembly

A. Except as provided in subsection B, public access to any meeting of the General Assembly or a portion thereof shall be governed by rules established by the Joint Rules Committee and approved by a majority vote of each house at the next regular session of the General Assembly. At

least 60 days before the adoption of such rules, the Joint Rules Committee shall (i) hold regional public hearings on such proposed rules and (ii) provide a copy of such proposed rules to the Virginia Freedom of Information Advisory Council.

B. Floor sessions of either house of the General Assembly; meetings, including work sessions, of any standing or interim study committee of the General Assembly; meetings, including work sessions, of any subcommittee of such standing or interim study committee; and joint committees of conference of the General Assembly; or a quorum of any such committees or subcommittees, shall be open and governed by this chapter.

C. Meetings of the respective political party caucuses of either house of the General Assembly, including meetings conducted by telephonic or other electronic communication means, without regard to (i) whether the General Assembly is in or out of regular or special session or (ii) whether such caucuses invite staff or guests to participate in their deliberations, shall not be deemed meetings for the purposes of this chapter.

D. No regular, special, or reconvened session of the General Assembly held pursuant to Article IV, § 6 of the Constitution of Virginia shall be conducted using electronic communication means pursuant to § 2.2-3708.2 or 2.2-3708.3.

2004, c. 768;2005, c. 352;2018, c. 55;2022, c. 597.

§ 2.2-3707.02. Meetings of Virginia Parole Board

Except for a public meeting convened pursuant to subdivision 10 of § 53.1-136 for conducting the final deliberation and vote regarding whether the Virginia Parole Board will grant parole to a prisoner, a meeting of the Virginia Parole Board members, regardless of whether such members invite staff or other guests to participate in such meeting, shall not be deemed a meeting subject to the provisions of this chapter.

2025, c. 716.

§ 2.2-3707.1. Posting of minutes for state boards and commissions

All boards, commissions, councils, and other public bodies created in the executive branch of state government and subject to the provisions of this chapter shall post minutes of their meetings on such body's official public government website and on a central electronic calendar maintained by the Commonwealth. Draft minutes of meetings shall be posted as soon as possible but no later than 10 working days after the conclusion of the meeting. Final approved meeting minutes shall be posted within three working days of final approval of the minutes.

2002, cc. 580, 618;2006, cc. 474, 595;2007, c. 300;2017, c. 616.

§ 2.2-3707.2. Posting of minutes for local public bodies

Except as provided in subsection I of § 2.2-3707, any local public body subject to the provisions of this chapter shall post minutes of its meetings on its official public government website, if any, within seven working days of final approval of the minutes.

If a local public body does not own or maintain an official public government website, such public body shall make copies of all meeting minutes available no later than seven working days after final approval of the minutes (i) at a prominent public location in which meeting notices are regularly posted pursuant to subdivision D 2 of § 2.2-3707;(ii) at the office of the clerk of the public body; or (iii) in the case of a public body that has no clerk, at the office of the chief

administrator.

2022, c. 396;2023, c. 536.

§§ 2.2-3708 and 2.2-3708.1. Repealed

Repealed by Acts 2018, c. 55, cl. 2.

§ 2.2-3708.1. Repealed

Repealed by Acts 2018, c. 55, cl. 2, effective July 1, 2018.

§ 2.2-3708.2. Meetings held through electronic communication means during declared states of emergency

Any public body, or any joint meetings thereof, may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17 or the locality in which the public body is located has declared a local state of emergency pursuant to § 44-146.21, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities. The public body convening a meeting in accordance with this section shall:

1. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;
2. Make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the public body;
3. Provide the public with the opportunity to comment at those meetings of the public body when public comment is customarily received; and
4. Otherwise comply with the provisions of this chapter.

The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.

The provisions of this section shall be applicable only for the duration of the emergency declared pursuant to § 44-146.17 or 44-146.21.

Nothing herein shall be deemed to invalidate any action taken at a meeting held by a public body using electronic communication means that occurred between March 20, 2020, and July 1, 2021, if such public body provided public notice, public access, and public comment commensurate with the requirements of this section and §§ 2.2-3710, 2.2-3711, and 2.2-3712.

2018, cc. 55, 56;2019, c. 359;2021, Sp. Sess. I, cc. 33, 490;2022, c. 597;2024, cc. 305, 344.

§ 2.2-3708.3. Meetings held through electronic communication means; situations other than declared states of emergency

A. Public bodies are encouraged to (i) provide public access, both in person and through electronic communication means, to public meetings and (ii) provide avenues for public

comment at public meetings when public comment is customarily received, which may include public comments made in person or by electronic communication means or other methods.

B. Individual members of a public body may use remote participation instead of attending a public meeting in person if, in advance of the public meeting, the public body has adopted a policy as described in subsection D and the member notifies the public body chair that:

1. The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance. For purposes of determining whether a quorum is physically assembled, an individual member of a public body who is a person with a disability as defined in § 51.5-40.1 and uses remote participation counts toward the quorum as if the individual was physically present;

2. A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance or the member is a caregiver who must provide care for a person with a disability at the time the public meeting is being held thereby preventing the member's physical attendance. For purposes of determining whether a quorum is physically assembled, an individual member of a public body who is a caregiver for a person with a disability and uses remote participation counts toward the quorum as if the individual was physically present;

3. The member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or

4. The member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. However, the member may not use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public and may be identified in the minutes by a general description. If participation is approved pursuant to subdivision 1 or 2, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision 3, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to the distance between the member's principal residence and the meeting location. If participation is approved pursuant to subdivision 4, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.

C. With the exception of local governing bodies, local school boards, planning commissions, architectural review boards, zoning appeals boards, and boards with the authority to deny, revoke, or suspend a professional or occupational license, any public body may hold all-virtual

public meetings, provided that the public body follows the other requirements in this chapter for meetings, the public body has adopted a policy as described in subsection D, and:

1. An indication of whether the meeting will be an in-person or all-virtual public meeting is included in the required meeting notice along with a statement notifying the public that the method by which a public body chooses to meet shall not be changed unless the public body provides a new meeting notice in accordance with the provisions of § 2.2-3707;
2. Public access to the all-virtual public meeting is provided via electronic communication means;
3. The electronic communication means used allows the public to hear all members of the public body participating in the all-virtual public meeting and, when audio-visual technology is available, to see the members of the public body as well. When audio-visual technology is available, a member of a public body shall, for purposes of a quorum, be considered absent from any portion of the meeting during which visual communication with the member is voluntarily disconnected or otherwise fails or during which audio communication involuntarily fails;
4. A phone number or other live contact information is provided to alert the public body if the audio or video transmission of the meeting provided by the public body fails, the public body monitors such designated means of communication during the meeting, and the public body takes a recess until public access is restored if the transmission fails for the public;
5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting is made available to the public in electronic format at the same time that such materials are provided to members of the public body;
6. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;
7. No more than two members of the public body are together in any one remote location unless that remote location is open to the public to physically access it;
8. If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public resumes before the public body votes to certify the closed meeting as required by subsection D of § 2.2-3712;
9. The public body does not convene an all-virtual public meeting (i) more than two times per calendar year or 50 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual public meeting; and
10. Minutes of all-virtual public meetings held by electronic communication means are taken as required by § 2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held. If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.

D. Before a public body uses all-virtual public meetings as described in subsection C or allows members to use remote participation as described in subsection B, the public body shall at least once annually adopt a policy, by recorded vote at a public meeting, that shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of

the member requesting remote participation or the matters that will be considered or voted on at the meeting. The policy shall:

1. Describe the circumstances under which an all-virtual public meeting and remote participation will be allowed and the process the public body will use for making requests to use remote participation, approving or denying such requests, and creating a record of such requests; and
2. Fix the number of times remote participation for personal matters or all-virtual public meetings can be used per calendar year, not to exceed the limitations set forth in subdivisions B 4 and C 9.

The policy shall not prohibit or restrict any individual member of a public body who is participating in an all-virtual meeting or who is using remote participation from voting on matters before the public body.

Any public body that creates a committee, subcommittee, or other entity however designated of the public body to perform delegated functions of the public body or to advise the public body may also adopt a policy on behalf of its committee, subcommittee, or other entity that shall apply to the committee, subcommittee, or other entity's use of individual remote participation and all-virtual public meetings.

2022, c. 597;2024, cc. 56, 129, 610, 617.

§ 2.2-3709. Expired

Expired.

§ 2.2-3710. Transaction of public business other than by votes at meetings prohibited

A. Unless otherwise specifically provided by law, no vote of any kind of the membership, or any part thereof, of any public body shall be taken to authorize the transaction of any public business, other than a vote taken at a meeting conducted in accordance with the provisions of this chapter. No public body shall vote by secret or written ballot, and unless expressly provided by this chapter, no public body shall vote by telephone or other electronic communication means.

B. Notwithstanding the foregoing, nothing contained herein shall be construed to prohibit (i) separately contacting the membership, or any part thereof, of any public body for the purpose of ascertaining a member's position with respect to the transaction of public business, whether such contact is done in person, by telephone or by electronic communication, provided the contact is done on a basis that does not constitute a meeting as defined in this chapter or (ii) the House of Delegates or the Senate of Virginia from adopting rules relating to the casting of votes by members of standing committees. Nothing in this subsection shall operate to exclude any public record from the provisions of this chapter.

1987, c. 71, § 2.1-343.2; 1999, cc. 703, 726;2000, c. 932;2001, cc. 710, 844;2002, c. 491.

§ 2.2-3711. (Effective July 1, 2026) Closed meetings authorized for certain limited purposes

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and

evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided that the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.
3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.
4. The protection of the privacy of individuals in personal matters not related to public business.
5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.
6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.
7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.
8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.
9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the

Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided that the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific

cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion University, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations

of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or

negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1 and review by the State Board of Elections of complaints related to the personal use of campaign funds pursuant to § 24.2-948.7.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.
42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.
43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.
44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.
45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.
46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.
47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.
48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.
49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established pursuant to § 15.2-1627.6.
50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.
51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic

Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

1968, c. 479, § 2.1-344; 1970, c. 456; 1973, c. 461; 1974, c. 332; 1976, cc. 467, 709; 1979, cc. 369, 684; 1980, cc. 221, 475, 476, 754; 1981, cc. 35, 471; 1982, cc. 497, 516; 1984, cc. 473, 513; 1985, c. 277; 1988, c. 891; 1989, cc. 56, 358, 478; 1990, cc. 435, 538; 1991, c. 708; 1992, c. 444; 1993, cc. 270, 499; 1995, c. 499; 1996, cc. 855, 862, 902, 905, 1046; 1997, cc. 439, 641, 785, 861; 1999, cc. 485

, 518, 703, 726, 849, 867, 868;2000, cc. 382, 400, 720, 1064;2001, cc. 231, 844;2002, cc. 87, 393, 455, 478, 499, 655, 715, 830;2003, cc. 274, 291, 332, 618, 703;2004, cc. 398, 690, 770;2005, cc. 258, 411, 568;2006, cc. 430, 499, 518, 560;2007, cc. 133, 374, 566, 739;2008, cc. 626, 633, 668, 721, 743;2009, cc. 223, 325, 472, 765, 810, 827, 845;2010, cc. 310, 630, 808;2011, cc. 89, 111, 147, 536, 541, 816, 874;2012, cc. 476, 507, 803, 835;2013, cc. 571, 580, 695;2014, c. 225;2015, cc. 27, 38, 108, 169, 182, 549, 730;2016, cc. 544, 620, 716, 724, 725, 775, 778, 779;2017, cc. 587, 616, 778, 796, 804, 816, 824;2018, cc. 48, 532, 533, 600, 829;2019, cc. 4, 170, 358, 426, 500, 729, 775, 834; 2020, cc. 759, 851, 1164, 1169, 1197, 1218, 1248, 1256;2021, Sp. Sess. I, cc. 7, 483;2023, cc. 624, 625, 756, 778;2024, cc. 217, 366, 494;2025, cc. 535, 537.

§ 2.2-3711. (Effective until July 1, 2026) Closed meetings authorized for certain limited purposes

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided that the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.
2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.
3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.
4. The protection of the privacy of individuals in personal matters not related to public business.
5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.
6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.
7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this

subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided that the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 52.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 52.1-283.2, those portions of meetings in which individual death cases

are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion University, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.
28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.
29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.
30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.
31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.
32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).
33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.
34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.
35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.
36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.
37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.
39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.
40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.
41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.
42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.
43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.
44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.
45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.
46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.
47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.
48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established pursuant to § 15.2-1627.6.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

1968, c. 479, § 2.1-344; 1970, c. 456; 1973, c. 461; 1974, c. 332; 1976, cc. 467, 709; 1979, cc. 369, 684; 1980, cc. 221, 475, 476, 754; 1981, cc. 35, 471; 1982, cc. 497, 516; 1984, cc. 473, 513; 1985, c. 277; 1988, c. 891; 1989, cc. 56, 358, 478; 1990, cc. 435, 538; 1991, c. 708; 1992, c. 444; 1993, cc. 270, 499; 1995, c. 499; 1996, cc. 855, 862, 902, 905, 1046; 1997, cc. 439, 641, 785, 861; 1999, cc. 485, 518, 703, 726, 849, 867, 868; 2000, cc. 382, 400, 720, 1064; 2001, cc. 231, 844; 2002, cc. 87, 393, 455, 478, 499, 655, 715, 830; 2003, cc. 274, 291, 332, 618, 703; 2004, cc. 398, 690, 770; 2005, cc. 258, 411, 568; 2006, cc. 430, 499, 518, 560; 2007, cc. 133, 374, 566, 739; 2008, cc. 626, 633, 668, 721, 743; 2009, cc. 223, 325, 472, 765, 810, 827, 845; 2010, cc. 310, 630, 808; 2011, cc. 89, 111, 147, 536, 541, 816, 874; 2012, cc. 476, 507, 803, 835; 2013, cc. 571, 580, 695; 2014, c. 225; 2015, cc. 27, 38, 108, 169, 182, 549, 730; 2016, cc. 544, 620, 716, 724, 725, 775, 778, 779; 2017, cc. 587, 616, 778, 796, 804, 816, 824; 2018, cc. 48, 532, 533, 600, 829; 2019, cc. 4, 170, 358, 426, 500, 729, 775, 834; 2020, cc. 759, 851, 1164, 1169, 1197, 1218, 1248, 1256; 2021, Sp. Sess. I, cc. 7, 483; 2023, cc. 624, 625, 756, 778; 2024, cc. 217, 366, 494.

§ 2.2-3712. Closed meetings procedures; certification of proceedings

A. No closed meeting shall be held unless the public body proposing to convene such meeting has taken an affirmative recorded vote in an open meeting approving a motion that (i) identifies the subject matter, (ii) states the purpose of the meeting as authorized in subsection A of § 2.2-3711 or other provision of law and (iii) cites the applicable exemption from open meeting requirements provided in subsection A of § 2.2-3711 or other provision of law. The matters contained in such motion shall be set forth in detail in the minutes of the open meeting. A general reference to the provisions of this chapter, the authorized exemptions from open meeting requirements, or the subject matter of the closed meeting shall not be sufficient to satisfy the requirements for holding a closed meeting.

B. The notice provisions of this chapter shall not apply to closed meetings of any public body held solely for the purpose of interviewing candidates for the position of chief administrative officer. Prior to any such closed meeting for the purpose of interviewing candidates, the public body shall announce in an open meeting that such closed meeting shall be held at a disclosed or undisclosed location within 15 days thereafter.

C. The public body holding a closed meeting shall restrict its discussion during the closed meeting only to those matters specifically exempted from the provisions of this chapter and identified in the motion required by subsection A.

D. At the conclusion of any closed meeting, the public body holding such meeting shall immediately reconvene in an open meeting and shall take a roll call or other recorded vote to be included in the minutes of that body, certifying that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the

closed meeting was convened were heard, discussed or considered in the meeting by the public body. Any member of the public body who believes that there was a departure from the requirements of clauses (i) and (ii), shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place. The statement shall be recorded in the minutes of the public body.

E. Failure of the certification required by subsection D to receive the affirmative vote of a majority of the members of the public body present during a meeting shall not affect the validity or confidentiality of such meeting with respect to matters considered therein in compliance with the provisions of this chapter. The recorded vote and any statement made in connection therewith, shall upon proper authentication, constitute evidence in any proceeding brought to enforce the provisions of this chapter.

F. A public body may permit nonmembers to attend a closed meeting if such persons are deemed necessary or if their presence will reasonably aid the public body in its consideration of a topic that is a subject of the meeting.

G. A member of a public body shall be permitted to attend a closed meeting held by any committee or subcommittee of that public body, or a closed meeting of any entity, however designated, created to perform the delegated functions of or to advise that public body. Such member shall in all cases be permitted to observe the closed meeting of the committee, subcommittee or entity. In addition to the requirements of § 2.2-3707, the minutes of the committee or other entity shall include the identity of the member of the parent public body who attended the closed meeting.

H. Except as specifically authorized by law, in no event may any public body take action on matters discussed in any closed meeting, except at an open meeting for which notice was given as required by § 2.2-3707.

I. Minutes may be taken during closed meetings of a public body, but shall not be required. Such minutes shall not be subject to mandatory public disclosure.

1989, c. 358, § 2.1-344.1; 1999, cc. 703, 726; 2001, c. 844; 2012, c. 428; 2017, c. 616.

§ 2.2-3713. Proceedings for enforcement of chapter

A. Any person, including the attorney for the Commonwealth acting in his official or individual capacity, denied the rights and privileges conferred by this chapter may proceed to enforce such rights and privileges by filing a petition for mandamus or injunction, supported by an affidavit showing good cause. Such petition may be brought in the name of the person notwithstanding that a request for public records was made by the person's attorney in his representative capacity. Venue for the petition shall be addressed as follows:

1. In a case involving a local public body, to the general district court or circuit court of the county or city from which the public body has been elected or appointed to serve and in which such rights and privileges were so denied;
2. In a case involving a regional public body, to the general district or circuit court of the county or city where the principal business office of such body is located; and
3. In a case involving a board, bureau, commission, authority, district, institution, or agency of the state government, including a public institution of higher education, or a standing or other

committee of the General Assembly, to the general district court or the circuit court of the residence of the aggrieved party or of the City of Richmond.

B. In any action brought before a general district court, a corporate petitioner may appear through its officer, director or managing agent without the assistance of counsel, notwithstanding any provision of law or Rule of Supreme Court of Virginia to the contrary.

C. Notwithstanding the provisions of § 8.01-644, the petition for mandamus or injunction shall be heard within seven days of the date when the same is made, provided the party against whom the petition is brought has received a copy of the petition at least three working days prior to filing. However, if the petition or the affidavit supporting the petition for mandamus or injunction alleges violations of the open meetings requirements of this chapter, the three-day notice to the party against whom the petition is brought shall not be required. The hearing on any petition made outside of the regular terms of the circuit court of a locality that is included in a judicial circuit with another locality or localities shall be given precedence on the docket of such court over all cases that are not otherwise given precedence by law.

D. The petition shall allege with reasonable specificity the circumstances of the denial of the rights and privileges conferred by this chapter. A single instance of denial of the rights and privileges conferred by this chapter shall be sufficient to invoke the remedies granted herein. If the court finds the denial to be in violation of the provisions of this chapter, the petitioner shall be entitled to recover reasonable costs, including costs and reasonable fees for expert witnesses, and attorney fees from the public body if the petitioner substantially prevails on the merits of the case, unless special circumstances would make an award unjust. In making this determination, a court may consider, among other things, the reliance of a public body on an opinion of the Attorney General or a decision of a court that substantially supports the public body's position.

E. In any action to enforce the provisions of this chapter, the public body shall bear the burden of proof to establish an exclusion by a preponderance of the evidence. No court shall be required to accord any weight to the determination of a public body as to whether an exclusion applies. Any failure by a public body to follow the procedures established by this chapter shall be presumed to be a violation of this chapter.

F. Failure by any person to request and receive notice of the time and place of meetings as provided in § 2.2-3707 shall not preclude any person from enforcing his rights and privileges conferred by this chapter.

1968, c. 479, § 2.1-346; 1976, c. 709; 1978, c. 826; 1989, c. 358; 1990, c. 217; 1996, c. 578; 1999, cc. 703, 726; 2001, c. 844; 2007, c. 560; 2009, c. 634; 2010, c. 299; 2011, cc. 133, 783; 2016, cc. 620, 716; 2019, c. 531.

§ 2.2-3714. Violations and penalties

A. In a proceeding commenced against any officer, employee, or member of a public body under § 2.2-3713 for a violation of § 2.2-3704, 2.2-3705.1 through 2.2-3705.7, 2.2-3706, 2.2-3706.1, 2.2-3707, 2.2-3708.2, 2.2-3708.3, 2.2-3710, 2.2-3711, or 2.2-3712, the court, if it finds that a violation was willfully and knowingly made, shall impose upon such officer, employee, or member in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500 nor more than \$2,000, which amount shall be paid into the Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than \$2,000 nor more than \$5,000.

B. In addition to any penalties imposed pursuant to subsection A, if the court finds that any officer, employee, or member of a public body failed to provide public records to a requester in accordance with the provisions of this chapter because such officer, employee, or member altered or destroyed the requested public records with the intent to avoid the provisions of this chapter with respect to such request prior to the expiration of the applicable record retention period set by the retention regulations promulgated pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.) by the State Library Board, the court may impose upon such officer, employee, or member in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$100 per record altered or destroyed, which amount shall be paid into the Literary Fund.

C. In addition to any penalties imposed pursuant to subsections A and B, if the court finds that a public body voted to certify a closed meeting in accordance with subsection D of § 2.2-3712 and such certification was not in accordance with the requirements of clause (i) or (ii) of subsection D of § 2.2-5712, the court may impose on the public body, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$1,000, which amount shall be paid into the Literary Fund. In determining whether a civil penalty is appropriate, the court shall consider mitigating factors, including reliance of members of the public body on (i) opinions of the Attorney General, (ii) court cases substantially supporting the rationale of the public body, and (iii) published opinions of the Virginia Freedom of Information Advisory Council.

1976, c. 467, § 2.1-346.1; 1978, c. 826; 1984, c. 252; 1989, c. 358; 1996, c. 578; 1999, cc. 703, 726; 2001, c. 844; 2003, c. 319; 2004, c. 690; 2008, cc. 233, 789; 2011, c. 327; 2017, c. 778; 2018, c. 55; 2019, c. 843; 2021, Sp. Sess. I, c. 483; 2022, c. 597.

Virginia Public Records Act

§ 42.1-76. Legislative intent; title of chapter

The General Assembly intends by this chapter to establish a single body of law applicable to all public officers and employees on the subject of public records management and preservation and to ensure that the procedures used to manage and preserve public records will be uniform throughout the Commonwealth.

This chapter may be cited as the Virginia Public Records Act.

1976, c. 746.

§ 42.1-76.1. Notice of Chapter

Any person elected, reelected, appointed, or reappointed to the governing body of any agency subject to this chapter shall (i) be furnished by the agency or public body's administrator or legal counsel with a copy of this chapter within two weeks following election, reelection, appointment, or reappointment and (ii) read and become familiar with the provisions of this chapter.

2006, c. 60.

§ 42.1-77. Definitions

As used in this chapter, unless the context requires a different meaning:

"Agency" means all boards, commissions, departments, divisions, institutions, and authorities, and parts thereof, of the Commonwealth or its political subdivisions and includes the offices of constitutional officers.

"Archival record" means a public record of continuing and enduring value useful to the citizens of the Commonwealth and necessary to the administrative functions of public agencies in the conduct of services and activities mandated by law that is identified on a Library of Virginia approved records retention and disposition schedule as having sufficient informational value to be permanently maintained by the Commonwealth.

"Archives" means the program administered by The Library of Virginia for the preservation of archival records.

"Board" means the State Library Board.

"Conversion" means the act of moving electronic records to a different format, especially data from an obsolete format to a current format.

"Custodian" means the public official in charge of an office having public records.

"Disaster plan" means the information maintained by an agency that outlines recovery techniques and methods to be followed in case of an emergency that impacts the agency's records.

"Electronic record" means a public record whose creation, storage, and access require the use of an automated system or device. Ownership of the hardware, software, or media used to create, store, or access the electronic record has no bearing on a determination of whether such record is

a public record.

"Essential public record" means records that are required for recovery and reconstruction of any agency to enable it to resume its core operations and functions and to protect the rights and interests of persons.

"Librarian of Virginia" means the State Librarian of Virginia or his designated representative.

"Lifecycle" means the creation, use, maintenance, and disposition of a public record.

"Migration" means the act of moving electronic records from one information system or medium to another to ensure continued access to the records while maintaining the records' authenticity, integrity, reliability, and usability.

"Original record" means the first generation of the information and is the preferred version of a record. Archival records should to the maximum extent possible be original records.

"Preservation" means the processes and operations involved in ensuring the technical and intellectual survival of authentic records through time.

"Public official" means all persons holding any office created by the Constitution of Virginia or by any act of the General Assembly, the Governor and all other officers of the executive branch of the state government, and all other officers, heads, presidents, or chairmen of boards, commissions, departments, and agencies of the state government or its political subdivisions.

"Public record" or "record" means recorded information that documents a transaction or activity by or with any public officer, agency, or employee of an agency. Regardless of physical form or characteristic, the recorded information is a "public record" if it is produced, collected, received, or retained in pursuance of law or in connection with the transaction of public business. The medium upon which such information is recorded has no bearing on the determination of whether the recording is a "public record."

For purposes of this chapter, "public record" does not include (i) nonrecord materials, meaning materials made or acquired and preserved solely for reference use or exhibition purposes, extra copies of documents preserved only for convenience or reference, or stocks of publications or (ii) records that are not related to or affect the carrying out of the constitutional, statutory, or other official ceremonial duties of a public official, including the correspondence, diaries, journals, or notes that are not prepared for, utilized for, circulated, or communicated in the course of the transaction of public business.

"Records retention and disposition schedule" means a Library of Virginia-approved timetable stating the required retention period and disposition action of a records series. The administrative, fiscal, historical, and legal value of a public record shall be considered in appraising its appropriate retention schedule. The terms "administrative," "fiscal," "historical," and "legal" value shall be defined as:

1. "Administrative value": Records shall be deemed of administrative value if they have continuing utility in the operation of an agency.
2. "Fiscal value": Records shall be deemed of fiscal value if they are needed to document and verify financial authorizations, obligations, and transactions.
3. "Historical value": Records shall be deemed of historical value if they contain unique

information, regardless of age, that provides understanding of some aspect of the government and promotes the development of an informed and enlightened citizenry.

4. "Legal value": Records shall be deemed of legal value if they document actions taken in the protection and proving of legal or civil rights and obligations of individuals and agencies.

1976, c. 746; 1977, c. 501; 1981, c. 637; 1987, c. 217; 1990, c. 778; 1994, cc. 390, 955; 1998, cc. 427, 470; 2005, c. 787; 2006, c. 60; 2022, c. 355.

§ 42.1-78. Confidentiality safeguarded

Any records made confidential by law shall be so treated. Records that by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of this chapter. Records in the custody of The Library of Virginia that are required to be closed to the public shall be open for public access 75 years after the date of creation of the record. No provision of this chapter shall be construed to authorize or require the opening of any records ordered to be sealed by a court; however, upon a petition filed with the clerk, a judge may enter an order releasing any record sealed prior to January 1, 1901. Medical and educational records made confidential by law shall remain so after being deposited in the archives. All records deposited in the archives that are not made confidential by law shall be open to public access.

1976, c. 746; 1979, c. 110; 1990, c. 778; 1994, c. 64; 2006, c. 60; 2020, c. 775; 2023, cc. 126, 127.

§ 42.1-79. Records management function vested in The Library of Virginia

A. The archival and records management function shall be vested in The Library of Virginia. The Library of Virginia shall be the official custodian and trustee for the Commonwealth of all public records of whatever kind, and regardless of physical form or characteristics, that are transferred to it from any agency. As the Commonwealth's official repository of public records, The Library of Virginia shall assume ownership and administrative control of such records on behalf of the Commonwealth. The Library of Virginia shall own and operate any equipment necessary to manage and retain control of electronic archival records in its custody, but may, at its discretion, contract with third-party entities to provide any or all services related to managing archival records on equipment owned by the contractor, by other third parties, or by The Library of Virginia.

B. The Librarian of Virginia shall name a State Archivist who shall perform such functions as the Librarian of Virginia assigns.

C. Whenever legislation affecting public records management and preservation is under consideration, The Library of Virginia shall review the proposal and advise the General Assembly on the effects of its proposed implementation.

1976, c. 746; 1986, c. 565; 1990, c. 778; 1994, c. 64; 1998, c. 427; 2005, c. 787; 2006, c. 60.

§ 42.1-79.1. Repealed

Repealed by Acts 2005, c. 787, cl. 2.

§§ 42.1-80, 42.1-81. Repealed

Repealed by Acts 2003, c. 177.

§ 42.1-82. Duties and powers of Library Board

A. The State Library Board shall:

1. Issue regulations concerning procedures for the disposal, physical destruction or other disposition of public records containing social security numbers. The procedures shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or undecipherable by any means.

2. Issue regulations and guidelines designed to facilitate the creation, preservation, storage, filing, reformatting, management, and destruction of public records by agencies. Such regulations shall mandate procedures for records management and include recommendations for the creation, retention, disposal, or other disposition of public records.

B. The State Library Board may establish advisory committees composed of persons with expertise in the matters under consideration to assist the Library Board in developing regulations and guidelines.

1976, c. 746; 1977, c. 501; 1981, c. 637; 1990, c. 778; 1994, cc. 64, 955; 2003, cc. 914, 918; 2005, c. 787; 2006, c. 60.

§ 42.1-83. Repealed

Repealed by Acts 2006, c. 60, cl. 2.

§ 42.1-84. Repealed

Repealed by Acts 2005, c. 787, cl. 2.

§ 42.1-85. Records Management Program; agencies to cooperate; agencies to designate records officer

A. The Library of Virginia shall administer a records management program for the application of efficient and economical methods for managing the lifecycle of public records consistent with regulations and guidelines promulgated by the State Library Board, including operation of a records center or centers. The Library of Virginia shall establish procedures and techniques for the effective management of public records, make continuing surveys of records and records keeping practices, and recommend improvements in current records management practices, including the use of space, equipment, software, and supplies employed in creating, maintaining, and servicing records.

B. Any agency with public records shall cooperate with The Library of Virginia in conducting surveys. Each agency shall establish and maintain an active, continuing program for the economical and efficient management of the records of such agency. The agency shall be responsible for ensuring that its public records are preserved, maintained, and accessible throughout their lifecycle, including converting and migrating electronic records as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration. Any public official who converts or migrates an electronic record shall ensure that it is an accurate copy of the original record. The converted or migrated record shall have the force of the original.

C. Each state agency and political subdivision of this Commonwealth shall designate as many as appropriate, but at least one, records officer to serve as a liaison to The Library of Virginia for the purposes of implementing and overseeing a records management program, and coordinating legal disposition, including destruction, of obsolete records. Designation of state agency records officers shall be by the respective agency head. Designation of a records officer for political

subdivisions shall be by the governing body or chief administrative official of the political subdivision. Each entity responsible for designating a records officer shall provide The Library of Virginia with the name and contact information of the designated records officer, and shall ensure that such information is updated in a timely manner in the event of any changes.

D. The Library of Virginia shall develop and make available training and education opportunities concerning the requirements of and compliance with this chapter for records officers in the Commonwealth.

1976, c. 746; 1990, c. 778; 1994, c. 64; 1998, c. 427; 2006, c. 60.

§ 42.1-86. Essential public records; security recovery copies; disaster plans

A. In cooperation with the head of each agency, The Library of Virginia shall establish and maintain a program for the selection and preservation of essential public records. The program shall provide for preserving, classifying, arranging, and indexing essential public records so that such records are made available to the public. The program shall provide for making recovery copies or designate as recovery copies existing copies of such essential public records.

B. Recovery copies shall meet quality standards established by The Library of Virginia and shall be made by a process that accurately reproduces the record and forms a durable medium. A recovery copy may also be made by creating a paper or electronic copy of an original electronic record. Recovery copies shall have the same force and effect for all purposes as the original record and shall be as admissible in evidence as the original record whether the original record is in existence or not. Recovery copies shall be preserved in the place and manner prescribed by the State Library Board and the Governor.

C. The Library of Virginia shall develop a plan to ensure preservation of public records in the event of disaster or emergency as defined in § 44-146.16. This plan shall be coordinated with the Department of Emergency Management and copies shall be distributed to all agency heads. The plan shall be reviewed and updated at least once every five years. The personnel of the Library shall be responsible for coordinating emergency recovery operations when public records are affected. Each agency shall ensure that a plan for the protection and recovery of public records is included in its comprehensive disaster plan.

1976, c. 746; 1980, c. 365; 1990, c. 778; 1994, c. 64; 1998, c. 427; 2005, c. 787; 2006, c. 60.

§ 42.1-86.01. Records may be retained in electronic medium

Notwithstanding any provision of law requiring a public record to be retained in a tangible medium, an agency may retain any public record in an electronic medium, provided that the record remains accessible for the duration of its retention schedule and meets all other requirements of this chapter. Nothing herein shall affect any law governing the retention of exhibits received into evidence in a criminal case in any court.

2018, c. 252.

§ 42.1-86.1. Disposition of public records

A. No agency shall sell or give away public records. No agency shall destroy or discard a public record unless (i) the record appears on a records retention and disposition schedule approved pursuant to § 42.1-82 and the record's retention period has expired; (ii) a certificate of records destruction, as designated by the Librarian of Virginia, has been properly completed and approved by the agency's designated records officer; and (iii) there is no litigation, audit,

investigation, request for records pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), or renegotiation of the relevant records retention and disposition schedule pending at the expiration of the retention period for the applicable records series. After a record is destroyed or discarded, the agency shall forward the original certificate of records destruction to The Library of Virginia.

B. No agency shall destroy any public record created before 1912 without first offering it to The Library of Virginia.

C. Each agency shall ensure that records created after July 1, 2006 and authorized to be destroyed or discarded in accordance with subsection A, are destroyed or discarded in a timely manner in accordance with the provisions of this chapter; provided, however, such records that contain identifying information as defined in clauses (iii) through (ix), or clause (xii) of subsection C of § 18.2-186.3, shall be destroyed within six months of the expiration of the records retention period.

1990, c. 778; 1998, c. 427; 2005, c. 787; 2006, cc. 60, 909.

§ 42.1-87. Archival public records

A. Custodians of archival public records shall keep them in fire-resistant, environmentally controlled, physically secure rooms designed to ensure proper preservation and in such arrangement as to be easily accessible. Current public records should be kept in the buildings in which they are ordinarily used. It shall be the duty of each agency to consult with The Library of Virginia to determine the best manner in which to store long-term or archival electronic records. In entering into a contract with a third-party storage provider for the storage of public records, an agency shall require the third-party to cooperate with The Library of Virginia in complying with rules and regulations promulgated by the Board.

B. Public records deemed unnecessary for the transaction of the business of any state agency, yet deemed to be of archival value, may be transferred with the consent of the Librarian of Virginia to the custody of the Library of Virginia.

C. Public records deemed unnecessary for the transaction of the business of any county, city, or town, yet deemed to be of archival value, shall be stored either in The Library of Virginia or in the locality, at the decision of the local officials responsible for maintaining public records. Archival public records shall be returned to the locality upon the written request of the local officials responsible for maintaining local public records. Microfilm shall be stored in The Library of Virginia but the use thereof shall be subject to the control of the local officials responsible for maintaining local public records.

D. Record books deemed archival should be copied or repaired, renovated or rebound if worn, mutilated, damaged or difficult to read. Whenever the public records of any public official are in need of repair, restoration or rebinding, a judge of the court of record or the head of such agency or political subdivision of the Commonwealth may authorize that the records in need of repair be removed from the building or office in which such records are ordinarily kept, for the length of time necessary to repair, restore or rebind them, provided such restoration and rebinding preserves the records without loss or damage to them. Before any restoration or repair work is initiated, a treatment proposal from the contractor shall be submitted and reviewed in consultation with The Library of Virginia. Any public official who causes a record book to be copied shall attest it and shall certify an oath that it is an accurate copy of the original book. The

copy shall then have the force of the original.

E. Nothing in this chapter shall be construed to divest agency heads of the authority to determine the nature and form of the records required in the administration of their several departments or to compel the removal of records deemed necessary by them in the performance of their statutory duty.

1976, c. 746; 1994, cc. 64, 955; 2005, c. 787; 2006, c. 60.

§ 42.1-88. Custodians to deliver all records at expiration of term; penalty for noncompliance

Any custodian of any public records shall, at the expiration of his term of office, appointment or employment, deliver to his successor, or, if there be none, to The Library of Virginia, all books, writings, letters, documents, public records, or other information, recorded on any medium kept or received by him in the transaction of his official business; and any such person who shall refuse or neglect for a period of ten days after a request is made in writing by the successor or Librarian of Virginia to deliver the public records as herein required shall be guilty of a Class 3 misdemeanor.

1976, c. 746; 1994, c. 64; 1998, c. 427.

§ 42.1-89. Petition and court order for return of public records not in authorized possession

The Librarian of Virginia or his designated representative such as the State Archivist or any public official who is the custodian of public records in the possession of a person or agency not authorized by the custodian or by law to possess such public records shall petition the circuit court in the city or county in which the person holding such records resides or in which the materials in issue, or any part thereof, are located for the return of such records. The court shall order such public records be delivered to the petitioner upon finding that the materials in issue are public records and that such public records are in the possession of a person not authorized by the custodian of the public records or by law to possess such public records. If the order of delivery does not receive compliance, the plaintiff shall request that the court enforce such order through its contempt power and procedures.

1975, c. 180; 1976, c. 746; 1998, c. 427.

§ 42.1-90. Seizure of public records not in authorized possession

A. At any time after the filing of the petition set out in § 42.1-89 or contemporaneous with such filing, the person seeking the return of the public records may by ex parte petition request the judge or the court in which the action was filed to issue an order directed at the sheriff or other proper officer, as the case may be, commanding him to seize the materials which are the subject of the action and deliver the same to the court under the circumstances hereinafter set forth.

B. The judge aforesaid shall issue an order of seizure upon receipt of an affidavit from the petitioner which alleges that the material at issue may be sold, secreted, removed out of this Commonwealth or otherwise disposed of so as not to be forthcoming to answer the final judgment of the court respecting the same; or that such property may be destroyed or materially damaged or injured if permitted to remain out of the petitioner's possession.

C. The aforementioned order of seizure shall issue without notice to the respondent and without the posting of any bond or other security by the petitioner.

1975, c. 180; 1976, c. 746.

§ 42.1-90.1. Auditing

The Librarian may, in his discretion, conduct an audit of the records management practices of any agency. Any agency subject to the audit shall cooperate and provide the Library with any records or assistance that it requests. The Librarian shall compile a written summary of the findings of the audit and any actions necessary to bring the agency into compliance with this chapter. The summary shall be a public record, and shall be made available to the agency subject to the audit, the Governor, and the chairmen of the House and Senate Committees on General Laws, the House Committee on Appropriations, and the Senate Committee on Finance and Appropriations of the General Assembly.

2006, c. 60.

§ 42.1-91. Repealed

Repealed by Acts 2006, c. 60, cl. 2.

§ 42.1-90.1. Auditing

The Librarian may, in his discretion, conduct an audit of the records management practices of any agency. Any agency subject to the audit shall cooperate and provide the Library with any records or assistance that it requests. The Librarian shall compile a written summary of the findings of the audit and any actions necessary to bring the agency into compliance with this chapter. The summary shall be a public record, and shall be made available to the agency subject to the audit, the Governor, and the chairmen of the House and Senate Committees on General Laws, the House Committee on Appropriations, and the Senate Committee on Finance and Appropriations of the General Assembly.

2006, c. [60](#).

§ 42.1-91. Repealed

Repealed by Acts 2006, c. [60](#), cl. 2.

§ 42.1-91.1. Availability of public records created prior to January 1, 1901

Notwithstanding any provisions of a previously executed contract with any department, agency, or institution of the Commonwealth or political subdivision, any individual or private entity lawfully in possession of public records created prior to January 1, 1901, or images of such records may display or publish such records in any format, including in an electronic database or on the Internet, without paying a fee to or requesting permission from the original custodian of such records.

2020, c. [773](#).

Article 1.1. Virginia Governmental Frauds Act

§ 18.2-498.1. Short title

This article shall be known and cited as the Virginia Governmental Frauds Act.

1980, c. 472.

§ 18.2-498.2. Definitions

When used in this article, the term:

1. "Person" includes any natural person, any trust or association of persons, formal or otherwise, or any corporation, partnership, company or other legal or commercial entity.
2. "Commercial dealing" shall mean any offer, acceptance, agreement, or solicitation to sell or offer to sell or distribute goods, services or construction, to the Commonwealth of Virginia, or any local government within the Commonwealth or any department or agency thereof.

1980, c. 472.

§ 18.2-498.3. Misrepresentations prohibited

Any person, in any commercial dealing in any matter within the jurisdiction of any department or agency of the Commonwealth of Virginia, or any local government within the Commonwealth or any department or agency thereof, who knowingly falsifies, conceals, misleads, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be guilty of a Class 6 felony.

1980, c. 472.

§ 18.2-498.4. Duty to provide certified statement

A. The Commonwealth, or any department or agency thereof, and any local government or any department or agency thereof, may require that any person seeking, offering or agreeing to transact business or commerce with it, or seeking, offering or agreeing to receive any portion of the public funds or moneys, submit a certification that the offer or agreement or any claim resulting therefrom is not the result of, or affected by, any act of collusion with another person engaged in the same line of business or commerce; or any act of fraud punishable under this article.

B. Any person required to submit a certified statement as provided in subsection A above who knowingly makes a false statement shall be guilty of a Class 6 felony.

1980, c. 472.

§ 18.2-498.5. Actions on behalf of Commonwealth or localities

The Attorney General on behalf of the Commonwealth, or the attorney for the Commonwealth, on behalf of the county or city as the case may be may institute actions and proceedings for any and all violations occurring within their jurisdictions.

1980, c. 472.