



# the *Policy Page*

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This year's General Assembly passed legislation directly affecting two statutes of vital importance to school boards, the Conflict of Interests Act and the Freedom of Information Act.

## **Conflict of Interests Act**

A new section of the State and Local Government Conflict of Interests Act, Va. Code § 2.2-3100.1, requires school boards to provide a copy of the Act to any person in the division who is required to file a Statement of Economic Interests. In most divisions that means a copy of the Act must be provided to school board members and the superintendent. The copy must be provided within two weeks following the person's election, reelection, employment, appointment or reappointment. Although the statute only requires that copies of the Act be distributed upon election, reelection, employment, appointment, or reappointment, it would be a good idea to also distribute copies of the Act to anyone currently in the division who files the Statement of Economic Interests.

The statute also requires all officers and employees of the division to read and familiarize themselves with the provisions of this chapter.

A copy of the Act is posted in the Legal Assistance section of the VSBA website ([vsba.org](http://vsba.org)).

## **Freedom of Information Act**

Prior to this year's General Assembly session, the list of records exempt from mandatory disclosure under FOIA had grown to include 87 separate types of documents. More exemptions are added every year, with new exemptions being added to the end of the list. In an attempt to bring some order to this list, and to make FOIA more user friendly, the Freedom of Information Act Advisory Council recommended that the section of FOIA containing the records exemptions be reorganized to group exemptions by subject matter. This recommendation was adopted by the General Assembly. **Please note that the reorganization did not make any substantive changes to FOIA.**

The amendments create seven new statutes, Va. Code §§ 22.1-3705.1 through 22.1-3705.7. Each new statute contains a group of exemptions. The seven statutes, and the subject matter of the exemptions they contain, are as follows:

### **New Statute**

Va. Code § 2.2-3705.1  
Va. Code § 2.2-3705.2  
Va. Code § 2.2-3705.3  
Va. Code § 2.2-3705.4  
Va. Code § 2.2-3705.5  
Va. Code § 2.2-3705.6  
Va. Code § 2.2-3705.7

### **Subject Matter**

exemptions of general application  
exemptions pertaining to public safety  
exemptions relating to administrative investigations  
records of educational records and institutions  
health and social services records  
proprietary records and trade secrets  
records of specific public bodies.

**The new statute listing the exemptions for educational records, Va. Code § 2.2-3705.4, has five subsections.** Those five subsections, and the sections of the previous version of FOIA to which they correspond, are as follows:

<u>New Statute</u>	<u>Subject</u>	<u>Previous Va. Code §</u>
§ 2.2-3705.4.1	scholastic records	§ 2.2-3705.A.3
§ 2.2-3705.4.2	letters of recommendation	§ 2.2-3705.A.9
§ 2.2-3705.4.3	higher education proprietary information	§ 2.2-3705.A.20
§ 2.2-3705.4.4	proprietary, business-related information from University of Virginia Medical Center or Eastern Virginia Medical School	§ 2.2-3705.A.58
§ 2.2-3705.4.5	personal information provided to the Board of the Virginia College Savings Plan	§ 2.2-3705.A.67

**The new statute containing exemptions of general application, Va. Code § 22.1-3705.1, also contains several exemptions frequently used by school boards.** The subsections in that statute which may be particularly useful to school boards, and the sections of the previous version of FOIA to which they correspond, are as follows:

<u>New Va. Code §</u>	<u>Subject</u>	<u>Previous Va. Code §</u>
§ 2.2-3705.1.1	personnel records	§ 2.2-3705.A.4
§ 2.2-3705.1.2	advice of counsel	§ 2.2-3705.A.7
§ 2.2-3705.1.4	tests	§ 2.2-3705.A.11
§ 2.2-3705.1.5	records compiled for closed meetings	§ 2.1-3705.A.14
§ 2.2-3705.1.12	records relating to contract negotiations	§ 2.2-3705.A.82

In compiling the lists above, we have attempted to refer to the exemptions used most frequently by school boards. **Please be aware, however, that this list is not exclusive, and that there is no substitute for being familiar with all the provisions of FOIA.**

#### **Effective Dates**

Both the statutory changes noted above become effective on July 1, 2004.