

## SCHOOL BOARD BYLAWS

**Open Meetings and Closed Meetings P 1-36**

Meetings of the school board shall be open to the public except those meetings when the school board adjourns to closed meeting by a majority vote of the board. Such meetings shall be conducted in accordance with the legal references to this bylaw.

Legal Reference:

Code of Va., § 2.1-340.1. Policy of chapter.--" By enacting this chapter, the General Assembly ensures the people of the Commonwealth ready access to records in the custody of public officials 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 public official specifically elects 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 public officials 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 which conflicts with the provisions of this chapter shall be void."

Code of Va., § 2.1-341. Definitions.--" As used in this chapter unless the context requires a different meaning:

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

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

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to §2.1-343.1, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a

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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. The gathering of employees of a public body shall not be deemed a "meeting" subject to the provisions of this chapter.

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

"Public body" means any legislative body; any authority, board, bureau, commission, district or agency of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and counties; municipal councils, governing bodies of counties, school boards and planning commissions; boards of visitors 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 any committee or subcommittee 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 or subcommittee because it has private sector or citizen members. Corporations organized by the Virginia Retirement System are "public bodies" for purposes of this chapter.

"Public records" means all writings and recordings which 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.

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

Code of Va. § 2.1-341.1 Notice of chapter "A. Any person elected, reelected, appointed or reappointed to any body not excepted from this chapter shall 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.

B. Public officials shall read and familiarize themselves with the provisions of this chapter."

Code of Va., § 2.1-342. "Public records to be open to inspection; procedure for requesting records and responding to request; charges

A. Except as otherwise specifically provided by law, all public records shall be open to

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inspection and copying by any citizens of the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied 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. 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 which is subject to this chapter and which is the custodian of the requested records shall promptly, but in all cases within five working days of receiving a request, make one of the following responses:

1. The requested records will be provided to the requester.
2. The requested records will be entirely withheld because their release is prohibited by law or the custodian has exercised his discretion to withhold the records in accordance with this chapter. Such response shall (i) be in writing, (ii) identify with reasonable particularity the volume and subject matter of withheld records, and (iii) cite, as to each category of withheld records, the specific Code section which authorizes the withholding of the records.
3. The requested records will be provided in part and withheld in part because the release of part of the records is prohibited by law or the custodian has exercised his discretion to withhold a portion of the records in accordance with this chapter. Such response shall (i) be in writing, (ii) identify with reasonable particularity the subject matter of withheld portions, and (iii) cite, as to each category of withheld records, the specific Code section which authorizes the withholding of the records. When a portion of a requested record is withheld, the public body may delete or excise only that portion of the record to which an exemption applies and shall release the remainder of the record.
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 be in writing and specify the conditions which make a response impossible. If the response is made within five working days, the public body shall have an additional seven work days in which to provide one of the three 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 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.

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D. Subject to the provisions of subsections G and H, 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. A public body may make reasonable charges for its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. 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 fifty acres. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen.

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 agree to payment of 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.

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.

H. Every public body of state government shall compile, and annually update, an index of computer databases which contains at a minimum those databases created by them on or after July 1, 1997. "Computer database" means a structured collection of data or records residing in a computer. Such index shall be a public record and shall include, at

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a minimum, the following information with respect to each database listed therein: a list of data fields, a description of the format or record layout, the date last updated, a list of any data fields to which public access is restricted, a description of each format in which the database can be copied or reproduced using the public body's computer facilities, and a schedule of fees for the production of copies in each available form. The form, context, language, and guidelines for the indices and the databases to be indexed shall be developed by the Director of the Department of Information Technology in consultation with the Librarian of Virginia and the State Archivist. The public body shall not be required to disclose its software security, including passwords.

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. "

Code of Va § 2.1-342.01 Exclusions to application of chapter "A. The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Confidential records of all investigations of applications for licenses and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, or the Charitable Gaming Commission.
2. State income, business, and estate tax returns, personal property tax returns, scholastic and confidential records held pursuant to § [58.1-3](#).
3. 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, which are in the sole possession of the maker thereof and which 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

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any individual information regarding that student until the student reaches the age of eighteen years. For scholastic records of students under the age of eighteen 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 state-supported institution of higher education, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is eighteen years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

4. Personnel records containing 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 any personnel record and who is eighteen years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying. ...

6. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the Attorney General; the members of the General Assembly or the Division of Legislative Services; 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. However, no record which is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence.

As used in this subdivision:

"Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use.

"Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet Secretaries, and the Director of the Virginia Liaison Office; and those individuals to whom the Governor has delegated his authority pursuant to § 2.1-39.1.

7. Written advice of the county, city and town attorneys to their local government clients and any other records protected by the attorney-client privilege.

8. Legal memoranda and other work product compiled specifically for use in litigation or for use in an active administrative investigation concerning a matter which is properly the subject of a closed meeting under § 2.1-344.

9. Confidential letters and statements of recommendation placed in the records of

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educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment, or (iii) receipt of an honor or honorary recognition.

10. Library records which can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

11. 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 (i) any scoring key for any such test or examination and (ii) any other document which 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. ...

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

31. 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 (§ 2.1-714 et seq.). However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information. ...

53. Confidential information designated as provided in subsection D of § 11-52 as trade secrets or proprietary information 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 § 11-46. ...

B. Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this title shall be construed as denying public access to (i) contracts between a public official and a public body, other than contracts settling public employee employment disputes held confidential as personnel records under subdivision 4 of subsection A; (ii) records of the 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

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corporation organized by the Virginia Retirement System or its officers or employees. The provisions of this subsection, 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. ..."

Code of Va., § 2.1-343. "Meetings to be public; notice of meetings; recordings; minutes

- A. All meetings of public bodies shall be open, except as provided in §2.1-344.
- B. No meeting shall be conducted through telephonic, video, electronic or other communication means where the members are not physically assembled to discuss or transact public business, except as provided in §§2.1-343.1, 2.1-343.1:1 or as may be specifically provided in Title 54.1 for the summary suspension of professional licenses.
- C. Every public body shall give notice of the date, time, and location of its meetings by placing the notice in a prominent public location at which notices are regularly posted; in the office of the clerk of the public body, or in the case of a public body which has no clerk, in the office of the chief administrator. Publication of meeting notices by electronic means shall be encouraged. The notice shall be posted at least three working days prior to the meeting. Notices for meetings of state public bodies on which there is at least one member 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.
- D. Notice, reasonable under the circumstance, of special or emergency meetings shall be given contemporaneously with the notice provided members of the public body conducting the meeting.
- E. 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.
- F. At least one copy of 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.
- G. Nothing in this chapter shall be construed to prohibit the gathering or attendance of two or more members of a public body (i) 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, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body or (ii) at a public

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forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting. The notice provisions of this chapter shall not apply to informal meetings or gatherings of the members of the General Assembly.

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.

I. Minutes shall be recorded 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. Audio or audio/visual records of open meetings shall be public records which shall be produced in accordance with §2.1-342. "

Code of Va., § 2.1-343.1. "Electronic communication meetings

A. It shall be a violation of this chapter for any political subdivision or any governing body, authority, board, bureau, commission, district or agency of local government or any committee thereof to conduct a meeting wherein the public business is discussed or transacted through telephonic, video, electronic or other communication means where the members are not physically assembled. Nothing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation.

B. For purposes of this section, "public body" means any public body of the Commonwealth, but excludes any political subdivision or any governing body, authority, board, bureau, commission, district or agency of local government.

State public bodies may conduct any meeting, except closed meetings held pursuant to §2.1-344, wherein the public business is discussed or transacted through telephonic or video means. Where a quorum of a public body of the Commonwealth is physically assembled at one location for the purpose of conducting a meeting authorized under this section, additional members of such public body may participate in the meeting

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through telephonic means provided such participation is available to the public.

C. Notice of any meetings held pursuant to this section shall be provided at least thirty days in advance of the date scheduled for the meeting. The notice shall include the date, time, place and purpose for the meeting and shall identify the locations for the meeting. All locations for the meeting shall be made accessible to the public. All persons attending the meeting at any of the meeting locations shall be afforded the same opportunity to address the public body as persons attending the primary or central location. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access restored.

Thirty-day notice shall not be required for telephonic or video meetings continued to address an emergency as provided in subsection F or to conclude the agenda of a telephonic or video meeting of the public body for which the proper notice has been given, when the date, time, place and purpose of the continued meeting are set during the meeting prior to adjournment.

The public body shall provide the Director of the Department of Information Technology with notice of all public meetings held through telephonic or video means pursuant to this section.

D. An agenda and materials which will be distributed to members of the public body and which have been made available to the staff of the public body in sufficient time for duplication and forwarding to all locations where public access will be provided shall be made available to the public at the time of the meeting. Minutes of all meetings held by telephonic or video means shall be recorded as required by § 2.1-343. Votes taken during any meeting conducted through telephonic or video means shall be recorded by name in roll-call fashion and included in the minutes. In addition, the public body shall make an audio recording of the meeting, if a telephonic medium is used, or an audio/visual recording, if the meeting is held by video means. The recording shall be preserved by the public body for a period of three years following the date of the meeting and shall be available to the public.

E. No more than twenty-five percent of all meetings held annually by a public body, including meetings of any ad hoc or standing committees, may be held by telephonic or video means. Any public body which meets by telephonic or video means shall file with the Director of the Department of Information Technology by July 1 of each year a statement identifying the total number of meetings held during the preceding fiscal year, the dates on which the meetings were held and the number and purpose of those conducted through telephonic or video means.

F. Notwithstanding the limitations imposed by subsection E, a public body may meet by telephonic or video means as often as needed if an emergency exists and the public

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body is unable to meet in regular session. Public bodies conducting emergency meetings through telephonic or video means shall comply with the provisions of subsection D requiring minutes, recordation and preservation of the audio or audio/visual recording of the meeting. The nature of the emergency shall be stated in the minutes."

Code of Va. § 2.1-343.2 Transaction of public business other than by votes at meetings prohibited "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.

Notwithstanding the foregoing, nothing contained herein shall be construed to prohibit 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."

Code of Va., §2.1-344 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 which 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.
2. Discussion or consideration of admission or disciplinary matters concerning any student of any public institution of higher education 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

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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. The investing 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; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation which 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. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and 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 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 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 any legal entity 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.

9. In the case of the boards of trustees of the Virginia Museum of Fine Arts and The Science Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and grants.

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10. Discussion or consideration of honorary degrees or special awards.
11. Discussion or consideration of tests, examinations or other records excluded from this chapter pursuant to §2.1-342.01 A 11.
12. 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.
13. Discussion of strategy with respect to the negotiation of a siting agreement or to consider the terms, conditions, and provisions of a 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.
14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.
15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to §2.1-342.01 A 5, and those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation or Department of Health Professions conducted pursuant to §9-6.14:11 or §9-6.14:12 during which the board deliberates to reach a decision.
16. Discussion, consideration or review of State Lottery Department matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivisions 37 and 38 of subsection A of §2.1-342.01.
17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.
18. Discussion, consideration, review and deliberations by local community corrections resources boards regarding the placement in community diversion programs of individuals previously sentenced to state correctional facilities.
19. Those portions of meetings in which the Board of Corrections 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.

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20. Discussion of plans to protect public safety as it relates to terrorist activity.

21. In the case of corporations organized by the Virginia Retirement System, discussion or consideration of (i) proprietary information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or investors and (ii) the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

22. 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, and 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, and those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to §32.1-283.3.

23. Those portions of meetings of the University of Virginia Board of Visitors and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center, including its business development or marketing strategies and its activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center 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.

24. In the case of the Medical College of Virginia Hospitals Authority, discussion or consideration of any of the following: the acquisition or disposition of real or personal property where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; operational plans that could affect the value of such property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies where disclosure of such strategies would adversely affect the competitive position of the Authority; members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications or evaluations of other employees.

25. Those portions of the meetings of the Intervention 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.

26. Meetings or portions of meetings of the Board of the Virginia Higher Education

## SCHOOL BOARD BYLAWS

Open Meetings and Closed Meetings (continued)

Tuition Trust Fund wherein personal information, as defined in §2.1-379, 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 4.9 (§23-38.75 et seq.) of Title 23 is discussed.

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 which 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 Intervention Program Committee within 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 thirty days prior to the actual date of the board's authorization of the sale or issuance of such bonds."

Code of Va., § 2.1-344.1. Call of closed or executive meetings; 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 which (i) identifies the subject matter, (ii) states the purpose of the meeting and (iii) makes specific reference to the applicable exemption from open meeting requirements provided in §2.1-343 or subsection A of § 2.1-344. 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

## SCHOOL BOARD BYLAWS

Open Meetings and Closed Meetings (continued)

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 fifteen 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 subdivisions (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 which is a subject of the meeting.

G. 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 §2.1-343.

H. 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."

Code of Va., §2.1-346 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

## SCHOOL BOARD BYLAWS

Open Meetings and Closed Meetings (continued)

affidavit showing good cause, addressed to the general district court or the court of record 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. Failure by any person to request and receive notice of the time and place of meetings as provided in §2.1-343 shall not preclude any person from enforcing his or her rights and privileges conferred by this chapter.

B. Any petition alleging denial of rights and privileges conferred by this chapter by a board, bureau, commission, authority, district or agency of the state government or by a standing or other committee of the General Assembly, shall be addressed to the general district court or the circuit court of the residence of the aggrieved party or of the City of Richmond. 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 the Supreme Court of Virginia to the contrary.

C. The petition for mandamus or injunction shall be heard within seven days of the date when the same is made. However, any petition made outside of the regular terms of the circuit court of a county which is included in a judicial circuit with another county or counties, the hearing on the petition shall be given precedence on the docket of such court over all cases which 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 and attorney's 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 exemption by a preponderance of the evidence. Any failure by a public body to follow the procedures established by this chapter shall be presumed to be a violation of this chapter."

Code of Va., § 2.1-346.1. Violations and penalties.--"In a proceeding commenced against members of public bodies under § 2.1-346 for a violation of §§2.1-342, 2.1-342.01, 2.1-342.2, 2.1-343, 2.1-343.1, 2.1-343.2, 2.1-344 or §2.1-344.1, the court, if it finds that a violation was willfully and knowingly made, shall impose upon such member in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$100 nor more than \$1,000, which amount shall be

## SCHOOL BOARD BYLAWS

### Open Meetings and Closed Meetings (continued)

paid into the State Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than \$500 nor more than \$2,500."

Adopted by School Board: June 5, 1973

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