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A. Definitions

Words and terms when used in this policy and its implementing regulations are established in division regulation # R 7-29.

B. Generally

All information regarding students and their families shall be collected and maintained under safeguards of privacy established by Federal and State regulations (as cited in the legal reference to this policy), school board policies and administrative regulations.

An accurate and complete individual, permanent and cumulative record shall be maintained for each student, grades K-12 enrolled in the school division. All data (cumulative and confidential) shall be considered the student's official scholastic record.

No statement in this policy or its implementing regulations shall be construed by employees as negating their responsibility for reporting child abuse or neglect cases as required by Code of Va., § 63.1-248.3 and school board policy # 5-25.

All personnel authorized access to student scholastic records shall be informed of this policy and its implementing regulations. Strict adherence shall be considered a condition of employment by the school board.

C. Custodian(s) of Student Records

The certificated employee (Director for Data Processing) responsible for the in-service education of scholastic records maintenance personnel and the collection, security, use, disclosure, periodic evaluation, transfer and destruction of student records data shall be designated as custodian of student records.

At the individual school level the custodian of student scholastic records shall be the principal or a designee. When student scholastic records are on file in a central facility the superintendent or a designee shall be the custodian.

The superintendent shall designate a custodian to maintain the scholastic records for eligible students with disabilities who are not currently enrolled as students in the division.

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Student Scholastic Records (continued)D. Notification of Records Policies and Regulations1. Generally

School board policies and division regulations pertinent to student scholastic records shall be available to interested parties at each school administrative office, media center (library) and the central office.

2. Parents/Guardians/Eligible Students

Each year the custodian of student scholastic records shall notify the parents or guardians of students in attendance and eligible students in attendance of their rights as established in school board policies and division regulations. Such notification may be by letter, patron organization bulletins or by public notice in the newspaper press. However transmitted, the notification shall include the following:

- a. The types and location of scholastic records and information maintained therein;
- b. The title and address of the certificated employee responsible for the maintenance of scholastic records, the parties to whom data may be disclosed, and the purpose for disclosure;
- c. The policy for reviewing and expunging scholastic records;
- d. The policies and regulations for disclosure of data from scholastic records;
- e. The right to challenge the content of scholastic records and to file with the Family Education Rights and Privacy Act Office a complaint concerning an alleged failure by the school division to comply with the Act;
- f. The fee for reproducing copies of scholastic records;
- g. The data designed as directory information; and
- h. The right to obtain, upon payment of the appropriate fee, a copy of school board policies and division regulations on the management of the scholastic records and location of same.

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Student Scholastic Records (continued)3. Local Agencies

Each year the custodian of student scholastic records shall inform local agencies cooperating with the school division in the student's educational development of the location of school board policies and division regulations in the management of student scholastic records.

E. Content and Collection

The content and collection of student scholastic records data are enumerated in division regulation #R 7-29.

F. Access to Student Records1. Division Employeesa. Certificated Personnel

Certificated personnel (including itinerant teachers) within the student's school shall have access to his/her records.

Other certificated personnel shall have access to these records if the custodians of the student {scholastic} records determine they have a legitimate educational interest in requesting such access. The criterion for determining "legitimate educational interest" shall be the student's welfare.

Certificated personnel who copy data from student scholastic records shall protect the confidentiality of such data.

b. Classified Personnel

Classified personnel including teacher assistants assigned to duties within the facility where student records are maintained shall have access to such records only with the prior approval of the custodian of student scholastic records.

Students shall not be assigned clerical duties where they may have access to student scholastic records.

c. Inservice Education

The custodian of student scholastic records shall supervise an inservice education program for employees having access to these records. The

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core documents for the program shall be this policy and its implementing regulations.

d. Employee Access Roster

Custodians of student records shall maintain an up-to-date roster of division employees within their facility having access to student records. These rosters shall be made available for public inspection.

2. Parent(s), Guardian(s), Eligible Student

- a. The custodian of student scholastic records shall permit parents, guardians or eligible student to inspect and review such records. Compliance with requests shall be made without unnecessary delay and in no case more than 14 calendar days after the request has been made.
- b. The custodian of student scholastic records may assume both parents have access. In the case of marital difficulty where one parent provides evidence of legal custody granted by the court and has requested that the other parent be denied access, the request is to be honored.
- c. For access by eligible student see division regulation # R 7-29

3. Student (under eighteen) Who is Subject of Record

For access by such student see division regulation #R 7-29

4. Third Parties

The custodian of student scholastic records shall keep a record of third parties authorized access to these records.

Editor's Note: For details see division regulation # R 7-29

G. Disclosure of Student Records Content

Editor's Note: See division regulation # R 7-29.

H. Amendment of Student Records Content

The parent, guardian or eligible student who believes that information in the student's scholastic records is inaccurate, misleading or violates the privacy or other rights of the student may request that the custodian who maintains the record amend it. Upon receipt of such request the custodian shall be responsible for

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administering the subsequent procedures as established in State Department of Education Regulation "Guidelines for the Management of the Student's Scholastic Record in Virginia Public Schools," September 1995, at Part IV 'Record Amendment.'

I. Content and Disclosure of Student Directory Information

Editor's Note: See school board policy # 7-60.

J. Periodic Evaluation of Student Records

In cooperation with guidance personnel the custodian of student scholastic records shall annually review the contents of these records for the purpose of removing data no longer educationally useful as directed in Administrative Regulation 7-29. Such data shall be destroyed as directed in Administrative Regulation 7-29.

K. Transfer of Student Records

Student scholastic records shall be transferred as directed in Administrative Regulation 7-29.

L. Implementation

The superintendent is authorized to implement this policy with appropriate division regulations.

Editor's Note: See also Administrative Regulation 7-29.

Legal Reference:

Virginia Board of Education Regulations, "Governing Management of the Student's Scholastic Record" Effective date: 1980/Amended: 1989, 1995)

Code of Va., §22.1-3.1 Birth certificates required upon admission; required notice to the local law-enforcement agency

A. No pupil shall be admitted for the first time to any public school in any school division in this Commonwealth unless the person enrolling the pupil shall present, upon admission, a certified copy of the pupil's birth record. The principal or his designee shall record the official state birth number from the pupil's birth record into the pupil's permanent school record. If a certified copy of the pupil's birth record cannot be obtained, the person so enrolling the pupil shall submit an affidavit setting forth the pupil's age and explaining the inability to present a certified copy of the birth record. If the school division cannot ascertain a child's age because of the lack of a birth

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certificate, the child shall nonetheless be admitted into the public schools if the division superintendent determines that the person submitting the affidavit presents information sufficient to estimate with reasonable certainty the age of such child.

B. Upon the failure of any person enrolling a pupil to present a certified copy of the pupil's birth record, the principal of the school in which the pupil is being enrolled or his designee shall immediately notify the local law-enforcement agency. The notice to the local law-enforcement agency shall include copies of the submitted proof of the pupil's identity and age and the affidavit explaining the inability to produce a certified copy of the birth record.

C. Within fourteen days after enrolling a transferred pupil, the principal of the school in which the pupil has been enrolled or his designee shall request that the principal or his designee of the school in which the pupil was previously enrolled submit documentation that a certified copy of the pupil's birth record was presented upon the pupil's initial enrollment.

D. Principals and their designees shall be immune from any civil or criminal liability in connection with any notice to a local law-enforcement agency of a pupil lacking a birth certificate or failure to give such notice as required by this section. (1991)

Code of Va., §22.1-3.2 Notice of student's school status required as condition of admission Prior to admission to any public school of the Commonwealth, a school board shall require the parent, guardian, or other person having control or charge of a child of school age to provide, upon registration, a sworn statement or affirmation indicating whether the student has been expelled from school attendance at a private school or in a public school division of the Commonwealth or in another state for an offense in violation of school board policies relating to weapons, alcohol or drugs, or for the willful infliction of injury to another person. Any person making a materially false statement or affirmation shall be guilty upon conviction of a Class 3 misdemeanor. The registration document shall be maintained as a part of the student's scholastic record. (1993)

Code of Va., §22.1-270 Preschool physical examinations. "A. No pupil shall be admitted for the first time to any public kindergarten or elementary school in a school division unless such pupil shall furnish, prior to admission, (i) a report from a qualified licensed physician, or a licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, of a comprehensive physical examination of a scope prescribed by the State Health Commissioner performed within the twelve months prior to the date such pupil first enters such public kindergarten or elementary school or (ii) records establishing that such pupil furnished such report upon prior admission to another school or school division and providing the information contained in such report.

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If the pupil has no fixed, regular, and adequate nighttime residence, and has a primary nighttime residence as described in subdivision 6 of § [22.1-3](#), and for that reason cannot furnish the report or records required by (i) or (ii) of this subsection, and the person seeking to enroll the pupil furnishes to the school division an affidavit so stating, the school division shall refer the student for physical examination by the county or city health department and admit the pupil to school pending receipt of the report from such physical examination.

B. The physician, or licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, making a report of a physical examination required by this section shall, at the end of such report, summarize the abnormal physical findings, if any, and shall specifically state what, if any, conditions are found that would identify the child as handicapped.

C. Such physical examination report shall be placed in the child's health record at the school and shall be made available for review by any employee or official of the State Department of Health or any local health department at the request of such employee or official.

D. Such physical examination shall not be required of any child whose parent or guardian shall object on religious grounds and who shows no visual evidence of sickness, provided that such parent or guardian shall state in writing that, to the best of his knowledge, such child is in good health and free from any communicable or contagious disease.

E. The health departments of all of the counties and cities of the Commonwealth shall conduct such physical examinations for medically indigent children without charge upon request and may provide such examinations to others on such uniform basis as such departments may establish.

F., G., H. [Repealed.]

I. Parents or guardians of entering students shall complete a health information form which shall be distributed by the local school divisions. Such forms shall be developed and provided jointly by the Department of Education and Department of Health, or developed and provided by the school division and approved by the Superintendent of Public Instruction. Such forms shall be returnable within fifteen days of receipt unless reasonable extensions have been granted by the superintendent or his designee. Upon failure of the parent or guardian to complete such form within the extended time, the superintendent may send to the parent or guardian written notice of the date he intends to exclude the child from school."

Code of Va., §22.1-271.2 Immunization requirements § 22.1-271.2. Immunization requirements. "A. No student shall be admitted by a school unless at the time of admission the student or his parent or guardian submits documentary proof of immunization to the admitting official of the school or unless the student is exempted from immunization pursuant to subsection C. If a student does not have documentary proof of immunization, the school shall notify the student or his parent or guardian (i) that it has no documentary proof of immunization for the student; (ii) that it may not admit the student without proof unless the student is exempted pursuant to subsection

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C; (iii) that the student may be immunized and receive certification by a licensed physician, registered nurse or an employee of a local health department; and (iv) how to contact the local health department to learn where and when it performs these services. Neither this Commonwealth nor any school or admitting official shall be liable in damages to any person for complying with this section.

Any physician, registered nurse or local health department employee performing immunizations shall provide to any person who has been immunized or to his parent or guardian, upon request, documentary proof of immunizations conforming with the requirements of this section.

B. Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within ninety days.

The immunization record of each student admitted conditionally shall be reviewed periodically until the required immunizations have been received.

Any student admitted conditionally and who fails to comply with his schedule for completion of the required immunizations shall be excluded from school until his immunizations are resumed.

C. No certificate of immunization shall be required for the admission to school of any student if (i) the student or his parent or guardian submits an affidavit to the admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices; or (ii) the school has written certification from a licensed physician or a local health department that one or more of the required immunizations may be detrimental to the student's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

D. The admitting official of a school shall exclude from the school any student for whom he does not have documentary proof of immunization or notice of exemption pursuant to subsection C.

E. Every school shall record each student's immunizations on the school immunization record. The school immunization record shall be a standardized form provided by the State Department of Health, which shall be a part of the mandatory permanent student record. Such record shall be open to inspection by officials of the State Department of Health and the local health departments.

The school immunization record shall be transferred by the school whenever the school transfers any student's permanent academic or scholastic records.

Within thirty calendar days after the beginning of each school year or entrance of a student, each admitting official shall file a report with the local health department. The report shall be filed on forms prepared by the State Department of Health and shall state the number of students admitted to school with documentary proof of immunization, the number of students who have been admitted with a medical or religious exemption and the number of students who have been conditionally admitted.

F. The requirement for mumps immunization as provided in § [32.1-46](#) shall not apply to any child admitted for the first time to any grade level, kindergarten through grade twelve, of a school prior to August 1, 1981.

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The requirement for Haemophilus Influenzae Type b immunization as provided in § [32.1-46](#) shall not apply to any child admitted to any grade level, kindergarten through grade twelve.

G. The Board of Health shall promulgate rules and regulations for the implementation of this section in congruence with rules and regulations of the Board of Health promulgated under § [32.1-46](#) and in cooperation with the Board of Education.”

Code of Va., §22.1-287 Limitations on access to records A. No teacher, principal or employee of any public school nor any school board member shall permit access to any records concerning any particular pupil enrolled in the school in any class to any person except under judicial process unless the person is one of the following:

1. Either parent of such pupil or such pupil; provided that a school board may require that such pupil, if he be less than eighteen years of age, as a condition precedent to access to such records, furnish written consent of his or her parent for such access;
2. A person designated in writing by such pupil if the pupil is eighteen years of age or older or by either parent of such pupil if the pupil is less than eighteen years of age;
3. The principal, or someone designated by him, of a school where the pupil attends, has attended, or intends to enroll;
4. The current teachers of such pupil;
5. State or local law-enforcement or correctional personnel, including a law-enforcement officer, probation officer, parole officer or administrator, or a member of a parole board, seeking information in the course of his duties;
6. The Superintendent of Public Instruction, a member of his staff, the division superintendent of schools where the pupil attends, has attended, or intends to enroll or a member of his staff;
7. An officer or employee of a county or city agency responsible for protective services to children, as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency.

B. A parent or pupil entitled to see the records pursuant to subdivision A 1 of this section shall have access to all records relating to such pupil maintained by the school except as otherwise provided by law and need only appear in person during regular hours of the school day and request to see such records. No material concerning such pupil shall be edited or withheld except as otherwise provided by law, and the parent or pupil shall be entitled to read such material personally.

C. The restrictions imposed by this section shall not apply to the giving of information by

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school personnel concerning participation in athletics and other school activities, the winning of scholastic or other honors and awards, and other like information.

D. Notwithstanding the restrictions imposed by this section:

1. A division superintendent of schools may, in his discretion, provide information to the staff of a college, university, or educational research and development organization or laboratory if such information is necessary to a research project or study conducted, sponsored, or approved by the college, university, or educational research and development organization or laboratory and if no pupil will be identified by name in the information provided for research;

2. The name and address of a pupil, the record of a pupil's daily attendance, a pupil's scholastic record in the form of grades received in school subjects, the names of a pupil's parents, a pupil's date and place of birth, and the names and addresses of other schools a pupil has attended may be released to an officer or employee of the United States government seeking this information in the course of his duties when the pupil is a veteran of military service with the United States, an orphan or dependent of such veteran, or an alien;

3. The record of a pupil's daily attendance shall be open for inspection and reproduction to an employee of a local department of welfare or social services who needs the record to determine the eligibility of the pupil's family for public assistance. (1997)

Code of Va., §22.1-287.1 Directory information Notwithstanding §§ 22.1-287 and 22.1-288, directory information may be publicly released in accordance with federal law and regulations and the regulations of the Board of Education. Such directory information may include the student's name, sex, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and other similar information. (1983)

Code of Va., §22.1-288 Furnishing information to public or private school, college, or university, or private business or professional school or college or military force
 “Notwithstanding § [22.1-287](#), the principal of any public school may permit the furnishing of or may furnish the names and addresses of pupils presently enrolled or pupils who have terminated their enrollment to any officer or employee of a public or private school, college, or university or any official of a private business or professional school or college or any official recruiting representative of the military forces of the Commonwealth and the United States. This information shall be furnished for the purpose of informing pupils and former pupils of the educational and career opportunities available in the institutions or the military. No such public or private school, college, or university or private business or professional school or college or official recruiting representative or the military force he represents shall use such information

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for purposes not directly related to the academic or professional goals of the institution or the military force. If any school, college or university or any official representative or military force violates the provisions of this section, the privilege of the school, college or university or military force to receive the lists shall be suspended for a period of two years from the time of discovery of the misuse of such lists.”

Code of Va., §22.1-288.2 Receipt, dissemination and maintenance of records of certain adjudications or convictions “A. A division superintendent shall disseminate the notice or information contained in a notice received by him pursuant to § [16.1-305.1](#) to school personnel responsible for the management of student records and to other relevant school personnel, including, but not limited to, the principal of the school in which the student is enrolled. The principal shall further disseminate such information to licensed instructional personnel and other school personnel who (i) provide direct educational or support services to the student and (ii) have a legitimate educational interest in such information.

B. A parent, guardian or other person having control or charge of a student in a public school and, with consent of a parent or in compliance with a court order, the court in which the disposition was rendered, shall be notified in writing of any disciplinary action taken with regard to any incident upon which the adjudication or conviction was based and the reasons therefor. The parent or guardian shall also be notified of his or her right to review, and to request an amendment of, the student's scholastic record, in accordance with regulations of the Board of Education governing the management of scholastic records.

Every notice of adjudication or conviction received by a superintendent, and information contained in the notice, which is not a disciplinary record as defined in Board of Education regulations, shall be maintained by him and by any others to whom he disseminates it, separately from all other records concerning the student. However, if the school administrators or the school board takes disciplinary action against a student based upon an incident which formed the basis for the adjudication or conviction, the notice shall become a part of the student's disciplinary record.

C. When a superintendent receives notice of the filing of a petition from the intake officer in accordance with § [16.1-260](#), or upon request of a court services unit for information made in conjunction with the preparation of a social history report pursuant to § [16.1-273](#), the superintendent shall provide information regarding the student's educational and attendance status to the intake officer or court services unit, as the case may be. Whenever a division superintendent receives notice of a student's commitment to the Department of Juvenile Justice, the superintendent or his designee shall participate in the development of a reenrollment plan as provided in § [16.1-293](#).”

Code of Va., §22.1-289 Transfer and management of scholastic records; disclosure of information in court notices; penalty “A. As used in this section: "Scholastic record" means those records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution. These include, but are not limited to, documentation pertinent to the

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educational growth and development of students as they progress through school, student disciplinary records, achievement and test data, cumulative health records, reports of assessments for eligibility for special education services, and Individualized Education Programs. A notice of adjudication or conviction received by a superintendent relating to an incident which did not occur on school property or during a school-sponsored activity shall not be a part of a student's scholastic record.

The term "scholastic record" does not include records of instructional, supervisory, administrative, and ancillary educational personnel that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

B. Whenever a pupil transfers from one school division to another, the scholastic record or a copy of the scholastic record shall be transferred to the school division to which the pupil transfers upon request from such school division. Permission of the parent, guardian, or other person having control or charge of the student shall not be required for transfer of such scholastic record to another school or school division within or outside the Commonwealth.

C. Any notice of disposition received pursuant to § [16.1-305.1](#) shall not be retained after the student has been awarded a diploma or a certificate as provided in § [22.1-253.13:4](#).

D. Every student's scholastic record shall be available to the student and his parent, guardian, or other person having control or charge of the student for inspection during the regular school day. Permission of the parent, guardian, or other person having control or charge of the student, or of a student who is eighteen years of age or older, shall not be required for transfer of such scholastic record to another school or school division within or without this Commonwealth.

Consistent with federal law and regulation, each school shall annually notify parents of students currently enrolled and in attendance of their rights under the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232(g)) and related regulations.

A school responding to a request for the transfer of the scholastic record from another school division need not provide written notice of the transfer of the record, including the identity of the requester, to the parent, guardian, or other person having control or charge of the student, or to a student who is eighteen years of age or older, if the school has previously included in the annual notice required by this subsection a statement that it forwards such records to such requesting school divisions.

E. Whenever the division superintendent is notified by the Department of Juvenile Justice, pursuant to § [16.1-287](#), the Department of Correctional Education, pursuant to § [22.1-344](#) of this title, or by a school division employee responsible for education programs in a local jail or a detention center, that a pupil who last attended a school within the school division is a pupil in a school of a juvenile correctional center of the Department of Juvenile Justice, or a pupil in an educational program in a local jail or detention center, the school division superintendent or his designee shall transfer the scholastic record of such pupil to the designated juvenile correctional center or local jail or a detention center, as the case may be, within five work days. The Department of Correctional Education shall transfer the scholastic record of a student who has been

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discharged from a juvenile correctional center of the Department of Juvenile Justice to the relevant school division within five work days of the student's discharge.

The Board of Education shall adopt regulations concerning the transfer and management of scholastic records from one school division to another, to the learning centers of the Department of Juvenile Justice, and to educational programs in local jails and detention centers.

F. The division superintendent or his designee shall notify the local police or sheriff's department for investigation as a possible missing child of any enrolled pupil whose scholastic record he is unable to obtain within sixty days or sooner, if the division superintendent or his designee has reason to suspect that the pupil is a missing child.

G. Superintendents and their designees shall be immune from any civil or criminal liability in connection with any notice to a police or sheriff's department of a pupil lacking a scholastic record or failure to give such notice as required by this section.

H. Except as provided in §§ [16.1-309](#) and [22.1-287](#) and this section, a superintendent or his designee, or other school personnel who unlawfully discloses information obtained pursuant to § [16.1-305.1](#) shall be guilty of a Class 3 misdemeanor.”

Code of Va., §16.1-260 intake; petition; investigation “A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H of this section and in § [16.1-259](#). The form and content of the petition shall be as provided in § [16.1-262](#). No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk, (ii) the Department of Social Services may file support petitions on its own motion with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of public welfare or social services in accordance with the provisions of Chapter 12.1 (§ [63.1-248.1](#) et seq.) of Title 63.1. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any

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documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § [16.1-241](#), the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision or delinquent only if the juvenile (i) is not alleged to have committed a violent juvenile felony; (ii) has not previously been proceeded against informally or adjudicated in need of supervision or delinquent; or (iii) is not the subject of a complaint filed pursuant to § [22.1-258](#) and the attendance officer has provided documentation to the intake officer or magistrate that the relevant school division has complied with the provisions of § [22.1-258](#). A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is in need of supervision or delinquent shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated in need of supervision or delinquent.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision or delinquent, the intake officer shall (i) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (ii) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (iii) advise the juvenile and the juvenile's parent, guardian or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § [16.1-241](#) will result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian or other person standing in loco parentis is entitled to treatment, rehabilitation or other services which are required by law, or (iv) family abuse has occurred and a protective order is being sought pursuant to §§ [16.1-253.1](#), [16.1-253.4](#) or § [16.1-279.1](#). If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision or delinquent, if the intake officer believes that probable cause does not exist, or that the

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authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § [16.1-248.1](#) have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § [16.1-256](#), the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. After a petition is filed alleging that a juvenile committed an act which would be a crime if committed by an adult, the intake officer shall, as soon as practicable, provide notice by telephone of the filing of the petition and the nature of the offense to the superintendent of the school division in which the petitioner alleges the juvenile is or should be enrolled, provided the violation involves:

1. A firearm offense pursuant to Article 4 (§ [18.2-279](#) et seq.), 5 (§ [18.2-288](#) et seq.), 6 (§ [18.2-299](#) et seq.), or 7 (§ [18.2-308](#) et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ [18.2-30](#) et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ [18.2-51](#) et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ [18.2-61](#) et seq.) of Chapter 4 of Title 18.2;

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5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2;
7. Arson and related crimes, pursuant to Article 1 (§ [18.2-77](#) et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ [18.2-89](#) through [18.2-93](#); or
9. Robbery pursuant to § [18.2-58](#).

Promptly after filing a petition the intake officer shall also mail notice, by first-class mail, to the superintendent. The failure to provide information regarding the school in which the juvenile who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § [16.1-305.2](#).

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations or animal control violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.
2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subdivision H of § [16.1-241](#).
3. In the case of a violation of § [18.2-266](#) or § [29.1-738](#), or the commission of any other alcohol-related offense, provided the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § [16.1-278.8](#) or § [16.1-278.9](#). If the juvenile so charged with a violation of § [18.2-266](#) or § [29.1-738](#) refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ [18.2-268.1](#) through [18.2-268.12](#) or § [29.1-738.2](#), the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation of § 18.2-266 or § 29.1-738 is to be tried.
4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § [16.1-237](#) on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

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I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § [16.1-241](#).”

Code of Va., § 16.1-305.1 Disclosure of disposition in certain delinquency cases

“Upon disposition of a proceeding in a court of competent jurisdiction in which a juvenile is adjudicated delinquent or convicted of a crime based upon a violation of the law involving (i) a firearm offense pursuant to Article 4 (§ [18.2-279](#) et seq.), 5 (§ [18.2-288](#) et seq.), 6 (§ [18.2-299](#) et seq.), or 7 (§ [18.2-308](#) et seq.) of Chapter 7 of Title 18.2, (ii) homicide, pursuant to Article 1 (§ [18.2-31](#) et seq.) of Chapter 4 of Title 18.2, (iii) felonious assault and bodily wounding, pursuant to Article 4 (§ [18.2-51](#) et seq.) of Chapter 4 of Title 18.2, (iv) criminal sexual assault, pursuant to Article 7 (§ [18.2-61](#) et seq.) of Chapter 4 of Title 18.2, (v) manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2, (vi) manufacture, sale, gift, distribution, or possession of marijuana pursuant to Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2, (vii) arson and related crimes, pursuant to Article 1 (§ [18.2-77](#) et seq.) of Chapter 5 of Title 18.2, (viii) burglary and related offenses, pursuant to §§ [18.2-89](#) through [18.2-93](#), or (ix) robbery pursuant to § [18.2-58](#), the clerk of the court in which the disposition is entered shall, within fifteen days if there has been no notice of an appeal, provide written notice of the disposition ordered by the court, including the nature of the offense upon which the adjudication or conviction was based, to the superintendent of the school division in which the child is enrolled at the time of the disposition or, if he is not then enrolled in school, the division in which he was enrolled at the time of the offense. Further disclosure of this information by the superintendent to school personnel is authorized only as provided in § [22.1-288.2](#).”

Code of Va., §16.1-305.2 Disclosure of notice of the filing of a petition by division superintendent

“Except as otherwise provided in this section, a division superintendent shall not disclose information contained in or derived from a notice of petition received pursuant to § [16.1-260](#). If the juvenile is not enrolled as a student in a public school in the division to which the notice was given, the superintendent shall promptly so notify the intake officer of the juvenile court in which the petition was filed.

If the division superintendent believes that disclosure to school personnel is necessary to ensure the physical safety of the juvenile, other students or school personnel within the division, he may at any time prior to receipt of the notice of disposition in accordance with § [16.1-305.1](#), disclose the fact of the filing of the petition and the nature of the offense to the principal of the school in which the juvenile who is the subject of the petition is enrolled. The principal may further disseminate the information, after the juvenile has been taken into custody, whether or not the child has been released, only to those students and school personnel having direct contact with the juvenile and need of the information to ensure physical safety or the appropriate educational placement or other educational services.”

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Code of Va., §-32.1-36.1 Confidentiality of test for human immunodeficiency virus; civil penalty; individual action for damages or penalty “A. The results of every test to determine infection with human immunodeficiency virus shall be confidential. Such information may only be released to the following persons:

1. The subject of the test or his legally authorized representative.
 2. Any person designated in a release signed by the subject of the test or his legally authorized representative.
 3. The Department of Health.
 4. Health care providers for purposes of consultation or providing care and treatment to the person who was the subject of the test or providing care and treatment to a child of a woman who, at the time of such child's birth, was known to be infected with human immunodeficiency virus.
 5. Health care facility staff committees which monitor, evaluate, or review programs or services.
 6. Medical or epidemiological researchers for use as statistical data only.
 7. Any person allowed access to such information by a court order.
 8. Any facility which procures, processes, distributes or uses blood, other body fluids, tissues or organs.
 9. Any person authorized by law to receive such information.
 10. The parents or other legal custodian of the subject of the test if the subject is a minor.
 11. The spouse of the subject of the test.
 12. Departments of health located outside the Commonwealth by the Virginia Department of Health for the purposes of disease surveillance and investigation.
- B. In any action brought under this section, if the court finds that a person has willfully or through gross negligence made an unauthorized disclosure in violation of this section, the Attorney General, any attorney for the Commonwealth, or any attorney for the county, city or town in which the violation occurred may recover for the Literary Fund, upon petition to the court, a civil penalty of not more than \$5,000 per violation.
- C. Any person who is the subject of an unauthorized disclosure pursuant to this section shall be entitled to initiate an action to recover actual damages, if any, or \$100, whichever is greater. In addition, such person may also be awarded reasonable attorney's fees and court costs.
- D. This section shall not be deemed to create any duty on the part of any person who receives such test results, where none exists otherwise, to release the results to a person listed herein as authorized to receive them.”

Code of Va., § -42.1-76-91 Virginia public Records Act and the Records Retention and Disposition Schedule, General Schedule No. 21 “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.

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This chapter may be cited as the Virginia Public Records Act.

"As used in this chapter:

"Agency" means all boards, commissions, departments, divisions, institutions, authorities, or parts thereof, of the Commonwealth or its political subdivisions and includes the offices of constitutional officers.

"Archival quality" means a quality of reproduction consistent with established standards specified by state and national agencies and organizations responsible for establishing such standards, such as the Association for Information and Image Management, the American Standards Association, and the National Bureau of Standards.

"Board" means the State Library Board.

"Council" means the State Public Records Advisory Council.

"Custodian" means the public official in charge of an office having public records.

"Data" means symbols, or representations, of facts or ideas that can be communicated, interpreted, or processed by manual or automated means.

"Database" means a set of data, consisting of one file or a group of integrated files, maintained as an information system managed by a database management system.

"Database management system" means a set of software programs that controls the organization, storage and retrieval of data in a database. It also controls the security and integrity of the database.

"Electronic record" means any information that is recorded in machine readable form.

"Electronic records system" means any information system that produces, processes, or stores records by using a computer, and is also called an automated information system.

"Information system" means the organized collection, processing, transmission, and dissemination of information in accordance with defined procedures, whether automated or manual.

"Librarian of Virginia" means the State Librarian of Virginia or his designated representative.

"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" means recorded information that documents a transaction or activity by or with any public officer, agency or employee of the state government or its political subdivisions. 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 on which such information is recorded may be, but is not limited to paper, film, magnetic, optical or solid state devices which can store electronic signals, tapes, mylar, linen, silk or vellum. The general types of records may be, but are not limited to books, papers, letters, documents, printouts, photographs, films, tapes, microfiche,

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microfilm, photostats, sound recordings, maps, drawings, and any representations held in computer memory.

Nonrecord materials, meaning reference books and exhibit materials made or acquired and preserved solely for reference use or exhibition purposes, extra copies of documents preserved only for convenience or reference, and stocks of publications, shall not be included within the definition of public records as used in this chapter.

"Archival records" means all noncurrent records 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. In appraisal of public records deemed archival, the terms "administrative," "legal," "fiscal," and "historical" 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. "Legal value": Records shall be deemed of legal value when they document actions taken in the protection and proving of legal or civil rights and obligations of individuals and agencies.
3. "Fiscal value": Records shall be deemed of fiscal value so long as they are needed to document and verify financial authorizations, obligations and transactions.
4. "Historical value": Records shall be deemed of historical value when they contain unique information, regardless of age, which provides understanding of some aspect of the government and promotes the development of an informed and enlightened citizenry.

"Medical records" means the documentation of health care services, whether physical or mental, rendered by direct or indirect patient-provider interaction which is used as a mechanism for tracking the patient's health care status. Medical records may be technologically stored by computerized or other electronic process, or through microfilm or other similar photographic form or chemical process. Notwithstanding the authority provided by this definition to store medical records on microfilm or other similar photographic form or chemical process, prescription dispensing records maintained in or on behalf of any pharmacy registered or permitted in Virginia shall only be stored in compliance with §§ 54.1-3410, 54.1-3411 and 54.1-3412.

"Official records" means public records.

"Persons under a disability" means persons so defined under subsection A of § [8.01-229](#).

"Preservation" means maintaining archival records in their original physical form by stabilizing them chemically or strengthening them physically to ensure their survival as long as possible in their original form. It also means the reformatting of written, printed, electronic or visual archival information to extend the life of the information.

"Retention and disposition schedule" means an approved timetable stating the retention time period and disposition action of records series.

"Software programs" means the written specifications used to operate an electronic records system as well as the documentation describing implementation strategies.

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“Any records made confidential by law shall be so treated. Records which 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 which are required to be closed to the public shall be open for public access 100 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. All records deposited in the archives that are not made confidential by law shall be open to public access.

“The archival and records management function shall be vested in the State Library Board. The State Library Board shall be the official custodian and trustee for the Commonwealth of all public records of whatever kind which are transferred to it from any public office of the Commonwealth or any political subdivision thereof. As the Commonwealth's official repository of public records, The Library of Virginia shall assume administrative control of such records on behalf of the Commonwealth. The Librarian of Virginia shall name a State Archivist who shall perform such functions as the Librarian of Virginia assigns

“The medical records of all persons not under a disability shall be retained by all public agencies acting as custodians of medical records for ten years following the last date of treatment or contact. Such agencies shall retain the medical records of minors and persons under a disability for a minimum of five years following the age of majority or the removal of the disability, or ten years following the last date of treatment or contact, whichever comes later. Such agencies shall retain the medical records of deceased persons for a minimum of five years following the date of death.

Agencies of the Commonwealth which generate medical records shall notify patients at time of discharge the specific retention period that applies to their records. Such agencies shall be encouraged to destroy such medical records upon expiration of the required retention period. Such agencies may, at their discretion, retain summaries of destroyed medical records.

Medical records submitted to The Library of Virginia for retention and disposition in accordance with the terms of this section are presumed to be inactive. It shall be the duty of the originating agency to (i) designate medical records of minors, persons under a disability, or deceased persons prior to submission to The Library of Virginia for retention and disposition, and (ii) to make a verifiable attempt to notify patients that their records will be destroyed after the appropriate retention period. Unless notified otherwise by the originating agency, the Librarian of Virginia shall begin to count the required retention period from the first date of submission. Prior to destroying any medical records, the Librarian of Virginia or his designee shall notify the originating agency that the retention period has run out and that, unless the agency reclaims the medical records, the records will be destroyed.

No employee of The Library of Virginia or any agency acting in accordance with the terms of this section shall be liable, civilly or criminally, for the destruction of medical records.

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The provisions of this section shall not supersede the provisions of § [16.1-306](#) or any other laws of this Commonwealth pertaining to the retention and disposition of records generated by agencies other than those agencies originating medical records.

“The State Public Records Advisory Council is continued. The Council shall consist of twelve members. The Council membership shall include the Secretary of the Commonwealth, the Librarian of Virginia, the Attorney General, the State Health Commissioner, the Commonwealth Transportation Commissioner, the Director of the Department of Information Technology, the Auditor of Public Accounts, the Executive Secretary of the Supreme Court, the Director of the Department of Technology Planning, or their designated representatives and three members to be appointed by the Governor from the Commonwealth at large. The gubernatorial appointments shall include two clerks of courts of record and a member of a local governing body. Those members appointed by the Governor shall remain members of the Council for a term coincident with that of the Governor making the appointment, or until their successors are appointed and qualified. The Council shall elect annually from its membership a chairman and vice-chairman. Members of the Council shall receive no compensation for their services but shall be paid their reasonable and necessary expenses incurred in the performance of their duties.

“The Council shall propose to the State Library Board rules, regulations, and standards, not inconsistent with law, for the purpose of establishing uniform guidelines for the management and preservation of public records throughout the Commonwealth. The Council shall have the power to appoint such subcommittees and advisory bodies as it deems advisable. The Council shall be assisted in the execution of its responsibilities by the Librarian of Virginia.

“The State Library Board shall with the advice of the Council:

1. Issue regulations to facilitate the creation, preservation, storage, filing, reformatting, management, and destruction of public records by all agencies. Such regulations shall establish procedures for records management containing recommendations for the retention, disposal or other disposition of public records; procedures for the physical destruction or other disposition of public records proposed for disposal; and standards for the reproduction of records by photocopy or microphotography processes with the view to the disposal of the original records. Such standards shall relate to the quality of film used, preparation of the records for filming, proper identification of the records so that any individual document or series of documents can be located on the film with reasonable facility, and that the copies contain all significant record detail, to the end that the photographic or microphotographic copies shall be of archival quality.
2. Issue regulations specifying permissible qualities of paper, ink, and other materials to be used by agencies for public record purposes. The Board shall determine the specifications for and shall select and make available to all agencies lists of approved papers, photographic materials, ink, or other writing materials for archival public records, and only those approved may be purchased for use in the making of such

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records. These regulations and specifications shall also apply to clerks of courts of record.

3. Provide assistance to agencies in determining what records no longer have administrative, legal, fiscal, or historical value and should be destroyed or disposed of in another manner. Each public official having in his custody official records shall assist the Board in the preparation of an inventory of all public records in his custody and in preparing a suggested schedule for retention and disposition of such records. No land or personal property book shall be destroyed without being first offered to The Library of Virginia for preservation.

All records created prior to the Constitution of 1902 that are declared archival may be transferred to the archives.

“The State Library Board shall formulate and execute a program to inventory, schedule, and microfilm official records of counties, cities and towns which it determines have permanent value and to provide safe storage for microfilm copies of such records, and to give advice and assistance to local officials in their programs for creating, preserving, filing and making available public records in their custody.

Original archival public records shall be either stored in The Library of Virginia or in the locality at the decision of the local officials responsible for maintaining public records.

Original 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.

“The State Library Board may formulate and execute a program of inventorying, repairing, and microfilming for security purposes the public records of the agencies and subdivisions not covered under the program established under § [42.1-83](#) which it determines have permanent value, and of providing safe storage of microfilm copies of such records.

“The Librarian of Virginia shall administer a records management program for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposal of public records consistent with rules, regulations, or standards promulgated by the State Library Board, including operations of a records center or centers. It shall be the duty of the Librarian of Virginia to establish procedures and techniques for the effective management of public records, to make continuing surveys of paper work operations, and to recommend improvements in current records management practices, including the use of space, equipment, and supplies employed in creating, maintaining, and servicing records.

It shall be the duty of any agency with public records to cooperate with the Librarian of Virginia in conducting surveys and to establish and maintain an active, continuing program for the economical and efficient management of the records of such agency. 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

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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.

“In cooperation with the head of each agency, the Librarian of Virginia shall establish and maintain a program for the selection and preservation of public records considered essential to the operation of government and for the protection of the rights and interests of persons. He shall provide for preserving, classifying, arranging, and indexing so that such records are made available to the public and shall make security copies or designate as security copies existing copies of such essential public records. Security copies shall be of archival quality and shall be made by photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces and forms a durable medium. Security 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. Security copies shall be preserved in the place and manner prescribed by the State Library Board and the Governor. Public records deemed unnecessary for the transaction of the business of any agency, yet deemed to be of administrative, legal, fiscal, or historical value, may be transferred with the consent of the Librarian of Virginia to the custody of The Library of Virginia.

“No agency shall destroy or discard public records without a retention and disposition schedule approved by the Librarian of Virginia as provided in § [42.1-82](#). No agency shall sell or give away public records.

“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 cooperate with The Library of Virginia in complying with rules and regulations promulgated by the Board. Each agency shall establish and maintain an active and continuing program for the economic and efficient management of records. Each agency shall develop and implement a program for the management of records created, received, maintained, used, or stored on electronic media. Each agency shall schedule the retention and disposition of all electronic records, as well as related access documentation and indexes and shall ensure the implementation of their provisions in accordance with procedures established under § [42.1-82](#). Procedures governing access to electronic records shall be in accordance with the Virginia Freedom of Information Act, the Virginia Privacy Protection Act, the Intellectual Property Act and any other provision of law as may be applicable and shall be enumerated in the retention and disposition schedule.

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Record books 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.

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. 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.

“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.

“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.

“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

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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.

“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 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. “

Federal Regulations

34 CFR Part 99 Family Educational Rights and Privacy Act

34 CFR Part 300 Individuals with Disabilities Education Act

Adopted by School Board: June 19, 1973

Revised by School Board: January 6, 1981

Revised by School Board: February 20, 1990

Revised by School Board: September 3, 1996