

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Article 4 of Chapter 40 of Title 2.2 a section*
3 *numbered 2.2-4024.2, relating to the Administrative Process Act; ex parte communications.*

4 [S 206]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding in Article 4 of Chapter 40 of Title 2.2 a**
8 **section numbered 2.2-4024.2 as follows:**9 **§ 2.2-4024.2. *Ex parte communications.***10 *A. Except as otherwise provided in this section, while a formal hearing conducted in accordance*
11 *with § 2.2-4020 is pending, the hearing officer shall not communicate with any person concerning the*
12 *hearing without notice and opportunity for all parties to participate in the communication.*13 *B. A hearing officer may communicate about a pending formal hearing conducted in accordance with*
14 *§ 2.2-4020 with any person if the communication is authorized by law or concerns an uncontested*
15 *procedural issue. A hearing officer may communicate with any person on ministerial matters about a*
16 *pending formal hearing conducted in accordance with § 2.2-4020 if the communication does not*
17 *augment, diminish, or modify the evidence in the record.*18 *C. If a hearing officer makes or receives a communication prohibited by this section, the hearing*
19 *officer shall make a part of the hearing record: (i) a copy of the communication or, if it is not written,*
20 *a memorandum containing the substance of the communication; (ii) the response thereto; and (iii) the*
21 *identity of the person who made the communication.*22 *D. If a communication prohibited by this section is made, the hearing officer shall notify all parties*
23 *of the prohibited communication and permit the parties to respond not later than 15 days after the*
24 *notice is given. For good cause, the hearing officer may permit additional evidence in response to the*
25 *prohibited communication.*26 *E. If necessary to eliminate any prejudicial effect of a communication made that is prohibited by this*
27 *section, a hearing officer may (i) be disqualified under § 2.2-4024.1; (ii) seal the parts of the record*
28 *pertaining to the communication by protective order; or (iii) grant other appropriate relief, including an*
29 *adverse ruling on the merits of the case.*30 **2. That nothing in this act shall be construed to contravene the express provisions of § 32.1-325.1**
31 **of the Code of Virginia.**

ENROLLED

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