

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56

An Act to amend and reenact §§ 2.2-309, 2.2-310, 2.2-311, 2.2-313, 2.2-1202.1, 2.2-3705.3, and 2.2-3802 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 2.2-309.1 through 2.2-309.4; and to repeal Articles 2 through 6 (§§ 2.2-314 through 2.2-322) of Chapter 3.2 of Title 2.2 of the Code of Virginia, relating to the State Inspector General; powers and duties.

[H 2114]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-309, 2.2-310, 2.2-311, 2.2-313, 2.2-1202.1, 2.2-3705.3, and 2.2-3802 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-309.1 through 2.2-309.4 as follows:

§ 2.2-309. Powers and duties of State Inspector General.

A. The State Inspector General shall have power and duty to:

1. Operate and manage the Office and employ such personnel as may be required to carry out the provisions of this chapter;
2. Make and enter contracts and agreements as may be necessary and incidental to carry out the provisions of this chapter and apply for and accept grants from the United States government and agencies and instrumentalities thereof, and any other source, in furtherance of the provisions of this chapter;
3. Receive complaints from whatever source that allege fraud, waste, including task or program duplication, abuse, or corruption by a state agency or nonstate agency or by any officer or employee of the foregoing and determine whether the complaints give reasonable cause to investigate;
4. Investigate the management and operations of state agencies and nonstate agencies to determine whether acts of fraud, waste, abuse, or corruption have been committed or are being committed by state officers or employees or any officers or employees of a nonstate agency, including any allegations of criminal acts affecting the operations of state agencies or nonstate agencies. However, no investigation of an elected official of the Commonwealth to determine whether a criminal violation has occurred, is occurring, or is about to occur under the provisions of § 52-8.1 shall be initiated, undertaken, or continued except upon the request of the Governor, the Attorney General, or a grand jury;
5. *Prepare a detailed report of each investigation stating whether fraud, waste, abuse, or corruption has been detected. If fraud, waste, abuse, or corruption is detected, the report shall (i) identify the person committing the wrongful act or omission, (ii) describe the wrongful act or omission, and (iii) describe any corrective measures taken by the state agency or nonstate agency in which the wrongful act or omission was committed to prevent recurrences of similar actions;*
6. *Provide timely notification to the appropriate attorney for the Commonwealth and law-enforcement agencies whenever the State Inspector General has reasonable grounds to believe there has been a violation of state criminal law;*
7. *Administer the Fraud and Abuse Whistle Blower Reward Fund created pursuant to § 2.2-3014;*
8. *Oversee the Fraud, Waste and Abuse Hotline;*
9. *Conduct performance reviews of state agencies to ascertain that sums appropriated have been or are being expended for the purposes for which the appropriation was made; evaluate the effectiveness of the programs in accomplishing such purpose; and prepare a report for each performance review detailing any findings or recommendations for improving the efficiency of state agencies, including recommending changes in the law to the Governor and the General Assembly that are necessary to address such findings;*
10. ~~Coordinate and recommend~~ *require* standards for those internal audit programs in existence as of July 1, 2012, and ~~develop and maintain~~ *for* other internal audit programs in state agencies and nonstate agencies as needed in order to ensure that the Commonwealth's assets are subject to appropriate internal management controls. ~~The State Inspector General shall;~~
11. *As deemed necessary, assess the condition of the accounting, financial, and administrative controls of state agencies and nonstate agencies and make recommendations to protect the Commonwealth's assets;*
12. *Assist agency internal auditing programs with technical auditing issues and coordinate and provide training to the Commonwealth's internal auditors;*

6. ~~Prepare a detailed report of each investigation stating whether fraud, waste, abuse, or corruption~~

57 has been detected. If fraud, waste, abuse, or corruption is detected, the report shall (i) identify the
 58 person committing the wrongful act or omission, (ii) describe the wrongful act or omission, and (iii)
 59 describe any corrective measures taken by the state agency or nonstate agency in which the wrongful act
 60 or omission was committed to prevent recurrences of similar actions;

61 7. Provide timely notification to the appropriate attorney for the Commonwealth and law-enforcement
 62 agencies whenever the State Inspector General has reasonable grounds to believe there has been a
 63 violation of state criminal law;

64 8. 13. Assist citizens in understanding their rights and the processes available to them to express
 65 concerns regarding the activities of a state agency or nonstate agency or any officer or employee of the
 66 foregoing;

67 9. 14. Maintain data on inquiries received, the types of assistance requested, any actions taken, and
 68 the disposition of each such matter;

69 ~~10.~~ 15. Upon request, assist citizens in using the procedures and processes available to express
 70 concerns regarding the activities of a state or nonstate agency or any officer or employee of the
 71 foregoing;

72 ~~11.~~ 16. Ensure that citizens have access to the services provided by the State Inspector General and
 73 that citizens receive timely responses to their inquiries from the State Inspector General or his
 74 representatives;

75 ~~12.~~ Conduct performance reviews of state agencies to ascertain that sums appropriated have been or
 76 are being expended for the purposes for which the appropriation was made, and to evaluate the
 77 effectiveness of the programs in accomplishing such purpose. Prepare a report for each performance
 78 review detailing any findings or recommendations for improving the efficiency of state agencies,
 79 including recommending changes in the law to the Governor and the General Assembly that are
 80 necessary to address such findings;

81 13. Administer the Fraud and Abuse Whistle Blower Reward Fund created pursuant to § 2.2-3014;
 82 and

83 ~~14.~~ 17. Do all acts necessary or convenient to carry out the purposes of this chapter.

84 B. If the State Inspector General receives a complaint from whatever source that alleges fraud, waste,
 85 abuse, or corruption by a public institution of higher education or any of its officers or employees, the
 86 State Inspector General shall refer the complaint to the internal audit department of the public institution
 87 of higher education for investigation, unless the complaint concerns the president of the institution or its
 88 internal audit department, in which case the investigation shall be conducted by the State Inspector
 89 General.

90 The public institution of higher education shall provide periodic updates on the status of any
 91 investigation and make the results of any such investigation available to the State Inspector General.

92 **§ 2.2-309.1. Additional powers and duties; behavioral health and developmental services.**

93 A. *The definitions found in § 37.2-100 shall apply mutatis mutandis to the terms used in this section.*

94 B. *In addition to the duties set forth in this chapter, the State Inspector General shall have the*
 95 *following powers and duties to:*

96 1. *Provide inspections of and make policy and operational recommendations for state facilities and*
 97 *for providers, including licensed mental health treatment units in state correctional facilities, in order to*
 98 *prevent problems, abuses, and deficiencies in and improve the effectiveness of their programs and*
 99 *services. The State Inspector General shall provide oversight and conduct announced and unannounced*
 100 *inspections of state facilities and of providers, including licensed mental health treatment units in state*
 101 *correctional facilities, on an ongoing basis in response to specific complaints of abuse, neglect, or*
 102 *inadequate care and as a result of monitoring serious incident reports and reports of abuse, neglect, or*
 103 *inadequate care or other information received. The State Inspector General shall conduct unannounced*
 104 *inspections at each state facility at least once annually;*

105 2. *Inspect, monitor, and review the quality of services provided in state facilities and by providers as*
 106 *defined in § 37.2-403, including licensed mental health treatment units in state correctional facilities;*

107 3. *Access any and all information, including confidential consumer information, related to the*
 108 *delivery of services to consumers in state facilities or served by providers, including licensed mental*
 109 *health treatment units in state correctional facilities. However, the State Inspector General shall not be*
 110 *given access to any proceedings, minutes, records, or reports of providers that are privileged under*
 111 *§ 8.01-581.17, except that the State Inspector General shall be given access to any privileged*
 112 *information in state facilities and licensed mental health treatment units in state correctional facilities.*
 113 *All consumer information shall be maintained by the State Inspector General as confidential in the same*
 114 *manner as is required by the agency or provider from which the information was obtained;*

115 4. *Keep the General Assembly and the Joint Commission on Health Care fully and currently*
 116 *informed by means of reports required by § 2.2-313 concerning significant problems, abuses, and*
 117 *deficiencies relating to the administration of the programs and services of state facilities and of*

118 providers, including licensed mental health treatment units in state correctional facilities, to recommend
119 corrective actions concerning the problems, abuses, and deficiencies, and report on the progress made
120 in implementing the corrective actions;

121 5. Review, comment on, and make recommendations about, as appropriate, any reports prepared by
122 the Department and the critical incident data collected by the Department in accordance with
123 regulations adopted under § 37.2-400 to identify issues related to quality of care, seclusion and
124 restraint, medication usage, abuse and neglect, staff recruitment and training, and other systemic issues;

125 6. Monitor and participate in the adoption of regulations by the Board; and

126 7. Receive reports, information, and complaints from the Virginia Office for Protection and Advocacy
127 concerning issues related to quality of care provided in state facilities and by providers, including
128 licensed mental health treatment units in state correctional facilities, and conduct independent reviews
129 and investigations.

130 **§ 2.2-309.2. Additional powers and duties; Tobacco Indemnification and Community Revitalization**
131 **Commission.**

132 The State Inspector General shall (i) review the condition of the Tobacco Indemnification and
133 Community Revitalization Commission's accounting, financial, and administrative controls to ensure that
134 the purposes set forth in Chapter 31 (§ 3.2-3100 et seq.) of Title 3.2 are lawfully achieved; (ii)
135 investigate to resolve allegations of fraudulent, illegal, or inappropriate activities concerning (a)
136 disbursements from the Tobacco Indemnification and Community Revitalization Endowment created
137 pursuant to § 3.2-3104 and (b) distributions from the Tobacco Indemnification and Community
138 Revitalization Fund created pursuant to § 3.2-3106; and (iii) detect fraud, waste, and abuse and take
139 actions to prevent the same.

140 **§ 2.2-309.3. Additional powers and duties; adult corrections.**

141 A. The definitions found in § 53.1-1 shall apply mutatis mutandis to the terms used in this section.

142 B. In addition to the duties set forth in this chapter, the State Inspector General shall have the
143 following powers and duties to:

144 1. Review, comment on, and make recommendations about, as appropriate, any reports prepared by
145 the Department and any critical incident data collected by the Department in accordance with
146 regulations adopted to identify issues related to quality of care, seclusion and restraint, medication
147 usage, abuse and neglect, staff recruitment and training, and other systemic issues; and

148 2. Monitor and participate in the adoption of regulations by the Board.

149 C. Nothing in this section shall be construed to grant the Office any authority over the operation and
150 security of local jails that is not specified in other provisions of law.

151 **§ 2.2-309.4. Additional powers and duties; juvenile justice.**

152 A. The definitions found in § 66-12 shall apply mutatis mutandis to the terms used in this section.

153 B. In addition to the duties set forth in this chapter, the State Inspector General shall have the
154 following powers and duties to:

155 1. Review, comment on, and make recommendations about, as appropriate, any reports prepared by
156 the Department and any critical incident data collected by the Department in accordance with
157 regulations adopted to identify issues related to quality of care, seclusion and restraint, medication
158 usage, abuse and neglect, staff recruitment and training, and other systemic issues; and

159 2. Monitor and participate in the adoption of regulations by the Board.

160 C. Nothing in this section shall be construed to grant the Office any authority over the operation and
161 security of detention homes that is not specified in other provisions of law.

162 **§ 2.2-310. Cooperation of state agencies and officers.**

163 A. Each state agency and every officer and employee shall (i) promptly report any allegations of
164 criminal acts or acts of fraud, waste, abuse, or corruption, ~~or mistreatment~~ and (ii) cooperate with, and
165 provide assistance to, the State Inspector General in the performance of any investigation. *This reporting*
166 *requirement shall be deemed satisfied for officers or employees of an agency once the agency head*
167 *reports to the State Inspector General any allegations of criminal acts, fraud, waste, abuse, or*
168 *corruption within the agency.* Each state agency shall make its premises, equipment, personnel, books,
169 records, and papers readily available to the State Inspector General upon request.

170 B. When a state agency head or officer discovers any unauthorized, illegal, irregular, or unsafe
171 handling or expenditure of state funds, or if it comes to his attention that any unauthorized, illegal, or
172 unsafe handling or expenditure of state funds is contemplated but not consummated, he shall promptly
173 report the same to the State Inspector General.

174 C. The State Inspector General may enter upon the premises of any state agency at any time, without
175 prior announcement, if necessary to the successful completion of an investigation. In the course of an
176 investigation, the State Inspector General may question any officer or employee serving in, and any
177 person transacting business with, the state agency and may inspect and copy any books, records, or
178 papers in the possession of the state agency. The State Inspector General shall preserve the

179 confidentiality of any information obtained from a state agency during the course of an investigation in
180 accordance with applicable state and federal law.

181 **§ 2.2-311. Enforcement of laws by the State Inspector General or investigators; police power of**
182 **the Office of State Inspector General; training.**

183 A. Except as provided in §§ 2.2-318 and 2.2-320, the State Inspector General or investigators
184 appointed by him shall be sworn to enforce the statutes and regulations pertaining to the Office. The
185 investigators appointed by the State Inspector General shall have the same investigative authority of the
186 State Inspector General as described in § 2.2-309. *The State Inspector General may designate himself*
187 *and no more than 30 members of the investigations unit of the Office to have the same powers as a*
188 *sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior affecting the*
189 *operations of a state agency or nonstate agency pursuant to his duties as set forth in this chapter. Such*
190 *employees shall be subject to any minimum training standards established by the Department of*
191 *Criminal Justice Services under § 9.1-102 for law-enforcement officers prior to exercising any*
192 *law-enforcement power under this subsection.*

193 *The State Inspector General and the Superintendent of the Virginia State Police shall enter into a*
194 *Memorandum of Understanding setting forth the respective roles and responsibilities of their agencies,*
195 *including but not limited to the categories of investigations that will be overseen by each agency and*
196 *how to avoid redundancy or operation conflicts. The Memorandum of Understanding will be approved*
197 *by the Governor's chief of staff and will be reviewed periodically at the request of either agency, but not*
198 *less than every four years, and revised as agreed to by the agencies and endorsed by the Governor's*
199 *chief of staff.*

200 B. The State Inspector General or investigators appointed as may be designated by him also shall
201 have the authority to issue summonses for violations of the statutes that the State Inspector General is
202 required to enforce. In the event a person issued such a summons fails or refuses to discontinue the
203 unlawful acts or refuses to give a written promise to appear at the time and place specified in the
204 summons, the investigator may appear before a magistrate or other issuing authority having jurisdiction
205 to obtain a criminal warrant pursuant to § 19.2-72.

206 B- C. All investigators appointed by the State Inspector General are vested with the authority to
207 administer oaths or affirmations for the purpose of receiving complaints and conducting investigations of
208 violations of the statutes and regulations that the State Inspector General is required to enforce. Such
209 investigators are vested with the authority to obtain, serve, and execute any warrant, paper, or process
210 issued by any court or magistrate or under the authority of the State Inspector General, and request and
211 receive criminal history information under the provisions of § 19.2-389.

212 **§ 2.2-313. Reports.**

213 A. The State Inspector General shall prepare an annual report to the Governor and the General
214 Assembly summarizing the activities of the Office. Such report shall include, but need not be limited to:
215 (i) a description of any significant problems, abuses, and deficiencies related to the management or
216 operation of state agencies or nonstate agencies during the reporting period; (ii) a description of the
217 recommendations for any corrective actions made by the Office during the reporting period with respect
218 to significant problems, abuses, or deficiencies identified; (iii) a summary of matters referred to the
219 attorneys for the Commonwealth and law-enforcement agencies and actions taken on them during the
220 reporting period; (iv) information concerning the numbers of complaints received and types of
221 investigations completed by the Office during the reporting period; (v) the development and maintenance
222 of internal audit programs in state agencies and nonstate agencies; and (vi) the results of any state
223 agency performance reviews, including a summary of any findings or recommendations for improving
224 the efficiency of state agencies. *The annual report shall cover the period July 1 until June 30 of the*
225 *immediately preceding fiscal year. Notwithstanding any other provision of law, annual reports shall be*
226 *transmitted directly to the Governor and the General Assembly.*

227 B. The State Inspector General shall notify the Governor's chief of staff, the Speaker, Majority
228 Leader, and Minority Leader of the House of Delegates, and the President pro tempore, Majority Leader,
229 and Minority Leader of the Senate of problems, abuses, or deficiencies relating to the management or
230 operation of a state agency or nonstate agency.

231 C. The State Inspector General shall keep the appropriate Secretaries advised of the Office's activities
232 as they relate to each respective Secretary on at least a quarterly basis, and of any significant problems,
233 abuses, or deficiencies relating to the management or operation of a state agency within each such
234 Secretary's area of responsibility. However, when the State Inspector General becomes aware of
235 significant problems, abuses, or deficiencies relating to the management or operation of a Secretary's
236 office, the State Inspector General shall report the same immediately to the Governor's chief of staff.

237 D. The State Inspector General may conduct such additional investigations and make such reports
238 relating to the management and operation of state agencies as are, in the judgment of the State Inspector
239 General, necessary or desirable.

240 E. Notwithstanding any other provision of law, the reports, information, or documents required by or
241 under this section shall be transmitted directly to the Governor's chief of staff and the General Assembly
242 by the State Inspector General.

243 F. Records that are confidential under federal or state law shall be maintained as confidential by the
244 State Inspector General and shall not be further disclosed, except as required by law.

245 **§ 2.2-1202.1. Additional powers and duties of Director; employment dispute resolution.**

246 The Director shall:

247 1. Establish a comprehensive program of employee relations management that includes alternative
248 processes for resolving employment disputes;

249 2. Establish the grievance procedure and a statewide mediation program;

250 3. Adopt rules and set hearing officer fees for grievance hearings;

251 4. For employees who are covered by the grievance procedure, (i) provide forms necessary for the
252 proper use of the grievance procedure; (ii) direct full compliance with the grievance procedure process;
253 and (iii) investigate allegations of retaliation as the result of use of or participation in the grievance
254 procedure or of reporting, in good faith, an allegation of fraud, waste, or abuse to the State Employee
255 Fraud, Waste and Abuse Hotline and advise the agency head of the findings;

256 5. Render final decisions, containing the reasons for such decision, on all matters related to access to
257 the grievance procedure, procedural compliance with the grievance procedure, and qualification for
258 hearing;

259 6. Establish a process to select, on a rotating basis, hearing officers for grievance hearings from (i)
260 the list maintained by the Executive Secretary of the Supreme Court or (ii) attorneys hired as classified
261 employees by the Department through a competitive selection process; train and assign such hearing
262 officers to conduct grievance hearings; evaluate the quality of their services to determine eligibility for
263 continued selection; and, if deemed ineligible for continued selection, establish policies for removing
264 such hearing officers from consideration for future selection;

265 7. Publish hearing officer decisions and Department rulings;

266 8. Establish a training program for human resources personnel on employee relations management
267 and employment rights and responsibilities;

268 9. Implement a comprehensive training and instructional program for all supervisory personnel that
269 includes the role of the grievance procedure in harmonious employee relations management. The training
270 program shall also include methods for supervisors to instruct nonsupervisory personnel in the use of the
271 grievance procedure. Use of the grievance procedure to resolve disputes shall be encouraged. In-house
272 resources shall be developed to allow the Department and its personnel to conduct onsite training of this
273 nature for units and agencies of state government throughout Virginia. The Department shall assist
274 agencies in establishing performance criteria for such supervisory personnel;

275 10. Provide information upon the request of any employee concerning personnel policies, regulations,
276 and law applicable to the grievance procedure and counsel employees in the resolution of conflict in the
277 workplace;

278 11. Establish and maintain a toll-free telephone number to facilitate access by employees to the
279 services of the Department;

280 12. Collect information and statistical data regarding the use of the grievance procedure and the
281 effectiveness of employee relations management in the various state agencies;

282 13. Make recommendations to the Governor and the General Assembly to improve the grievance
283 procedure and employee relations management;

284 14. Conduct such training seminars and educational programs for the members and staff of agencies
285 and public bodies and other interested persons on the use of dispute resolution proceedings as the
286 Director determines appropriate;

287 15. Exercise such other powers and perform such other duties as may be requested by the Governor;
288 and

289 16. Perform all acts and employ such personnel as may be required, necessary, or convenient to carry
290 out the provisions of this section.

291 **§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative**
292 **investigations.**

293 The following records are excluded from the provisions of this chapter but may be disclosed by the
294 custodian in his discretion, except where such disclosure is prohibited by law:

295 1. Confidential records of all investigations of applications for licenses and permits, and of all
296 licensees and permittees, made by or submitted to the Alcoholic Beverage Control Board, the State
297 Lottery Department, the Virginia Racing Commission, the Department of Agriculture and Consumer
298 Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of
299 Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice
300 Services.

301 2. Records of active investigations being conducted by the Department of Health Professions or by
302 any health regulatory board in the Commonwealth.

303 3. Investigator notes, and other correspondence and information, furnished in confidence with respect
304 to an active investigation of individual employment discrimination complaints made to the Department
305 of Human Resource Management or to such personnel of any local public body, including local school
306 boards as are responsible for conducting such investigations in confidence. However, nothing in this
307 section shall prohibit the disclosure of information taken from inactive reports in a form that does not
308 reveal the identity of charging parties, persons supplying the information or other individuals involved in
309 the investigation.

310 4. Records of active investigations being conducted by the Department of Medical Assistance
311 Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

312 5. Investigative notes and other correspondence and information furnished in confidence with respect
313 to an investigation or conciliation process involving an alleged unlawful discriminatory practice under
314 the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance
315 with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1,
316 1987, in accordance with applicable law, relating to local human rights or human relations commissions.
317 However, nothing in this section shall prohibit the distribution of information taken from inactive reports
318 in a form that does not reveal the identity of the parties involved or other persons supplying
319 information.

320 6. Records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii)
321 lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or
322 regulations that cause abuses in the administration and operation of the lottery and any evasions of such
323 provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where
324 such official records have not been publicly released, published or copyrighted. All studies and
325 investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon
326 completion of the study or investigation.

327 7. Investigative notes, correspondence and information furnished in confidence, and records otherwise
328 exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of
329 Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority
330 as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and
331 Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General
332 with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline or
333 an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) the committee or the auditor
334 with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vi) the auditors, appointed
335 by the local governing body of any county, city or town or a school board, who by charter, ordinance,
336 or statute have responsibility for conducting an investigation of any officer, department or program of
337 such body. Records of completed investigations shall be disclosed in a form that does not reveal the
338 identity of the complainants or persons supplying information to investigators. Unless disclosure is
339 prohibited by this section, the records disclosed shall include, but not be limited to, the agency involved,
340 the identity of the person who is the subject of the complaint, the nature of the complaint, and the
341 actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity
342 of the person who is the subject of the complaint may be released only with the consent of the subject
343 person. Local governing bodies shall adopt guidelines to govern the disclosure required by this
344 subdivision.

345 8. Records of the Virginia Office for Protection and Advocacy consisting of documentary evidence
346 received or maintained by the Office or its agents in connection with specific complaints or
347 investigations, and records of communications between employees and agents of the Office and its
348 clients or prospective clients concerning specific complaints, investigations or cases. Upon the
349 conclusion of an investigation of a complaint, this exclusion shall no longer apply, but the Office may
350 not at any time release the identity of any complainant or person with mental illness, intellectual
351 disability, developmental disabilities or other disability, unless (i) such complainant or person or his
352 legal representative consents in writing to such identification or (ii) such identification is required by
353 court order.

354 9. Information furnished in confidence to the Department of Human Resource Management with
355 respect to an investigation, consultation, or mediation under § 2.2-1202.1, and memoranda,
356 correspondence and other records resulting from any such investigation, consultation or mediation.
357 However, nothing in this section shall prohibit the distribution of information taken from inactive reports
358 in a form that does not reveal the identity of the parties involved or other persons supplying
359 information.

360 10. The names, addresses and telephone numbers of complainants furnished in confidence with
361 respect to an investigation of individual zoning enforcement complaints or complaints relating to the

362 Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et
363 seq.) made to a local governing body.

364 11. Records of active investigations being conducted by the Department of Criminal Justice Services
365 pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.),
366 and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

367 12. Records furnished to or prepared by the Board of Education pursuant to subsection D of
368 § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,
369 unauthorized alteration, or improper administration of tests by local school board employees responsible
370 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure
371 of records to (i) a local school board or division superintendent for the purpose of permitting such board
372 or superintendent to consider or to take personnel action with regard to an employee or (ii) any
373 requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity
374 of any person making a complaint or supplying information to the Board on a confidential basis and (b)
375 does not compromise the security of any test mandated by the Board.

376 13. Investigator notes, and other correspondence and information, furnished in confidence with
377 respect to an active investigation conducted by or for the Board of Education related to the denial,
378 suspension, or revocation of teacher licenses. However, this subdivision shall not prohibit the disclosure
379 of records to a local school board or division superintendent for the purpose of permitting such board or
380 superintendent to consider or to take personnel action with regard to an employee. Records of completed
381 investigations shall be disclosed in a form that does not reveal the identity of any complainant or person
382 supplying information to investigators. The records disclosed shall include information regarding the
383 school or facility involved, the identity of the person who was the subject of the complaint, the nature
384 of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a
385 complaint or does not lead to corrective action, the identity of the person who was the subject of the
386 complaint may be released only with the consent of the subject person. No personally identifiable
387 information in the records regarding a current or former student shall be released except as permitted by
388 state or federal law.

389 14. Records, notes and information provided in confidence and related to an investigation by the
390 Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of
391 Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2,
392 or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, records related to an investigation that
393 has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is
394 not otherwise prohibited by law and does not reveal the identity of charging parties, complainants,
395 persons supplying information, witnesses or other individuals involved in the investigation.

396 **§ 2.2-3802. Systems to which chapter inapplicable.**

397 The provisions of this chapter shall not apply to personal information systems:

398 1. Maintained by any court of the Commonwealth;
399 2. Which may exist in publications of general circulation;
400 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or
401 in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police
402 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to
403 be posted on the Internet pursuant to § 9.1-913;

404 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through
405 16.1-225;

406 5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth
407 to engage in the practice of any profession, in which case the names and addresses of persons applying
408 for or possessing the license may be disseminated upon written request to a person engaged in the
409 profession or business of offering professional educational materials or courses for the sole purpose of
410 providing the licensees or applicants for licenses with informational materials relating solely to available
411 professional educational materials or courses, provided the disseminating agency is reasonably assured
412 that the use of the information will be so limited;

413 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review
414 Commission, the Virginia Racing Commission, and the Department of Alcoholic Beverage Control;

415 7. Maintained by the Department of State Police; the police department of the Chesapeake Bay
416 Bridge and Tunnel Commission; police departments of cities, counties, and towns; and the campus
417 police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et
418 seq.) of Title 23, and that deal with investigations and intelligence gathering relating to criminal activity;
419 and maintained by local departments of social services regarding alleged cases of child abuse or neglect
420 while such cases are also subject to an ongoing criminal prosecution;

421 8. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

422 9. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion

423 of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting
424 information on those subjects may be disseminated upon written request to a person engaged in the
425 business of providing travel services or distributing travel information, provided the Virginia Tourism
426 Authority is reasonably assured that the use of the information will be so limited;

427 10. Maintained by the Division of Consolidated Laboratory Services of the Department of General
428 Services and the Department of Forensic Science, which deal with scientific investigations relating to
429 criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

430 11. Maintained by the Department of Corrections or the Office of the State Inspector General that
431 deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2
432 (§ 2.2-307 et seq.);

433 12. Maintained by (i) the Office of the State Inspector General or internal audit departments of state
434 agencies or institutions that deal with communications and investigations relating to the State Employee
435 Fraud, Waste, and Abuse Hotline or (ii) an auditor appointed by the local governing body of any
436 county, city, or town or a school board that deals with local investigations required by § 15.2-2511.2;

437 13. Maintained by the Department of Social Services or any local department of social services
438 relating to public assistance fraud investigations; and

439 14. Maintained by the Department of Social Services related to child welfare, adult services or adult
440 protective services, or public assistance programs when requests for personal information are made to
441 the Department of Social Services. Requests for information from these systems shall be made to the
442 appropriate local department of social services, which is the custodian of that record. Notwithstanding
443 the language in this section, an individual shall not be prohibited from obtaining information from the
444 central registry in accordance with the provisions of § 63.2-1515.

445 **2. That Articles 2 through 6 (§§ 2.2-314 through 2.2-322) of Chapter 3.2 of Title 2.2 of the Code**
446 **of Virginia are repealed.**