

Molly Joseph Ward
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Deputy Director of Operations

COMMONWEALTH of VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION

July 29, 2016

Maria J. K. Everett, Executive Director
Virginia Freedom of Information Advisory Council
General Assembly Building
201 North 9th Street
Richmond, Virginia 23219

Dear Ms. Everett: *Maria*

We are in receipt of your memorandum dated July 8, 2016 regarding HB 817 (2016) and the potential impact to the Department of Conservation and Recreation (DCR) as it relates to the Freedom of Information Act exemptions. The exemption utilized by DCR is under § 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.

~~22. Records of Information held by state or local park and recreation departments and local and regional park authorities to the extent such records contain information identifying a person concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to prohibit the disclosure~~ **authorize the withholding of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations.** Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For ~~records~~ **such information** of ~~such~~ persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the ~~record~~ **information** may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such ~~records~~ **information** for inspection and copying.

Based on our review, changing the language from "*prohibit the disclosure*" to "*authorize the withholding*" within the content of the entire sentence does not result in any change in the exemption. Ultimately, DCR was required to disclose information defined as directory information pursuant to the requirements of the Family Educational Rights and Privacy Act prior to the passage of HB817 and as of July 1, 2016, still must abide by those regulations.

We appreciate the opportunity to provide our review and comment for this specific request and the opportunity for continued inclusion regarding HJR No. 96 (2014).

Sincerely,

Lisa D. McGee
Lisa D. McGee
Director of Policy and Planning

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*State Parks • Soil and Water Conservation • Outdoor Recreation Planning
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