

DHRM Draft Suggestions

§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to public bodies

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Personnel information concerning identifiable individuals, ~~except that access shall not be denied to the person who is the subject thereof.~~ that (i) is used or has been used to determine that individual's qualification for employment, promotion, assignment, or additional compensation except as otherwise provided in this subdivision; (ii) otherwise documents the employment relationship, including records related to attendance, payroll, medical, tax, employee benefits, evaluations, retirement, grievance, termination, or other disciplinary action; or (iii) is personal information as defined in 2.2-3801.

Access to such personnel information shall not be denied to the person who is the subject thereof. Any person who is the subject of such information and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such information shall be disclosed.

Nothing in this subdivision shall be construed to authorize the withholding of:

- a. Any contracts between a public body and its officers or employees, other than contracts settling public employee employment dispute excluded under subdivision 1.
- b. Records of the name, position, job classification, official salary, or rate of pay of, and records of the allowances or reimbursements for expenses paid to, any officer, official, or employee of a public body. The provisions of this subdivision b, however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less;
- c. Certificates of training or other evidence of training required as a condition of employment or continued employment;
- d. Any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107;
- e. Records of the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees
- f. The final report of an administrative investigation where disclosure is required in accordance with § 2.2-3705.3.

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Investigator notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for an administrative investigation concerning conduct by an employee in the course of employment related to a member of the public. Information contained in the final reports of completed investigations shall be disclosed unless the disclosure would constitute an unwarranted invasion of personal privacy balanced against the public interest in disclosure. The disclosure of a final report must be in a form that does not reveal the identity of the complainants or persons supplying information. The information disclosed shall include the agency involved, the nature of the complaint, the actions taken to resolve the complaint, and the identity of the person who is the subject of the complaint. If, however, any investigation does not lead to corrective action or if the corrective action is rescinded, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person.