

Maria and Alan,

Two immediate concerns are raised as unintended consequences to school boards under 2.2-3705.2(7) and 2.2-3705.3(3).

With respect to security plans/safety audits under 2.2-3705.2(7), we are concerned about section (ii).

If the new language is that nothing shall be construed to authorize the withholding of recordings relating to the effectiveness of security plans after any person on school property has suffered or been threatened with any personal injury, we believe that this will open a huge number of files regarding personal injuries sustained by minors and staff both on or in school buildings and on school buses. This would compromise our ability to defend school bus liability cases, as all of our security plans encompass all school property. With respect to employment discrimination investigations, 2.2-3705.3(3), there will now be an argument that open HR employment discrimination investigation files can be obtained by FOIA, even though we believe that all personnel files are confidential. It would pit those two provisions of FOIA against one another. While we cannot promise complete confidentiality in such investigations to those involved/interviewed, we do maintain the investigatory file in strict confidence. The new language appears to compromise that possibility.

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