FOIA Council <foiacouncil@dls.virginia.gov>

Public Comment — Student Records, Attorney-Client Privilege, and Working-Papers Exemptions

Sun, Nov 15, 2026 at 10:15 PM

Dear Members of the Virginia Freedom of Information Advisory Council,

I would like to raise a concern regarding the application of Virginia Code § 2.2-3705.7(2) and attorney-client privilege when a public institution seeks legal representation following an academic appeal.

Rappahannock Community College was responsible for maintaining my academic records and supporting its decisions through its established procedures. After I challenged those decisions, the matter subsequently involved the Attorney General's Office, which withheld requested information citing attorney-client privilege and the working-papers exemption.

My question is direct:

If the institution was responsible for maintaining and substantiating its academic decisions before seeking legal counsel, how can its preexisting records become subject to withholding simply because the institution subsequently involved the Attorney General's Office?

I understand that confidential legal advice may be protected. However, the underlying academic records, grading documentation, and administrative evidence existed independently of that legal representation.

What safeguards ensure that preexisting institutional records are distinguished from privileged communications and qualifying working papers?

I am currently pursuing judicial review of the withholding decision. I am not asking the Council to adjudicate my case, but I believe this raises a broader concern about transparency and accountability within publicly funded institutions.

Students should not lose meaningful access to underlying institutional evidence simply because a public college seeks legal advice.

Thank you for your consideration.

Respectfully,

Ashley Garrison