

COUNCIL OF PRESIDENTS

Virginia's Public Colleges and Universities

July 21, 2015

Virginia Freedom of Information Advisory Council
General Assembly Building, 2nd Floor
201 North 9th Street
Richmond, VA 23219

Dear Virginia Freedom of Information Act Records Subcommittee Members:

We write to you as members of the Council of Presidents, which includes all of the presidents and chancellors of Virginia's public institutions of higher education, to express to you our collective support for the presidential working papers and correspondence exemption as it is currently written in the *Code of Virginia* §2.2-3705.7.2. The members of the Council are united in our support for the current exemption for a number of important reasons as outlined below.

We understand and support the FOIA Council's role in evaluating current exemptions and eliminating unnecessary barriers to public transparency. Much of what we do should be and is in the public sphere. However, we believe that the removal of this exemption would hinder our ability to embrace reflective decision-making. The fundamental nature of the exemption is an expression of deliberative executive privilege that allows university presidents, among others, a zone of privacy when review, deliberation, and other subjective evaluation are required. The zone of privacy created by the exemption is critical because it encourages probing, candid exploration of alternatives in a way rarely feasible if the creative formulation of ideas and their critical evaluation must be attempted in public. The productive consideration of sensitive matters such as competitive financial negotiations, enrollment growth, internal structures and economic development initiatives, among many others, would be chilled by the loss of the exemption.

The exemption allows senior executives the confidentiality to obtain honest, unvarnished, comprehensive feedback from advisors, stakeholders and colleagues as a vital part of our decision-making process. As the law currently allows, neither university presidents nor those that advise us are inhibited in communication due to fear of our preliminary discussions becoming public and thus inaccurately reported, taken out of context, viewed as final when far from it, and quite possibly politicized. The law allows us to efficiently gather information, seek feedback, and reach conclusions. Removing the exemption impinges on an important ability to conduct a deliberative approach to reaching conclusions that affect our many stakeholders, including the public at large. And, it is important to remember that once a president makes a

decision based on confidential feedback provided under the exemption, that decision becomes public.

As university presidents and chancellors, we are responsible for managing the equivalent of small cities and towns with thousands of students, employees, acres of land and facilities ranging from on campus housing to laboratories, classroom buildings and in some cases hospitals. We confront a host of sensitive issues that require well-considered, careful decision-making. Our ability to protect the deliberative process is an important tool we use to manage our institutions and work in the best interest of the Commonwealth.

We ask that you consider these points as you evaluate the working papers and correspondence exemptions. Ultimately, we believe the elimination of this exemption would seriously impede our ability to manage our institutions in a wise, fiscally-prudent and efficient manner.

Yours truly,



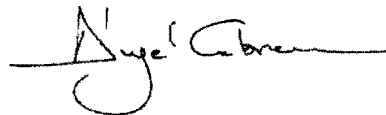
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Old Dominion University



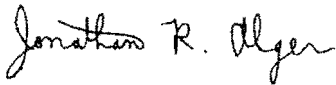
Mr. W. Taylor Reveley, III (Vice-Chair)
College of William and Mary



The Honorable Paul S. Tribble, Jr., President
Christopher Newport University



Dr. Angel Cabrera
George Mason University

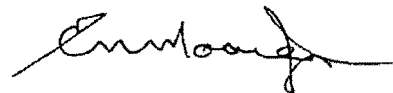


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