Virginia Freedom of Information Advisory Council

Records Subcommittee

Uses of the phrase "personal information" in FOIA

June, 2025

**Introduction**

The FOIA Council directed the Records Subcommittee to study the use of the phrase "personal information" in FOIA in order to make a recommendation on whether a definition of "personal information" should be added to § 2.2-3701. Currently, the phrase is not defined in FOIA, but three existing records exemptions refer to "personal information, as defined in § 2.2-3801." Three other existing records exemptions refer to "personal information" without any cross-references or further definition. One of the records exemptions that uses the phrase "personal information, as defined in § 2.2-3801" has a corresponding meetings exemption that also uses the same phrase. In studying these different usages, the Records Subcommittee at its meeting on June 16, 2025, decided to ask the full Council whether to study each use on a case-by-case basis.

Table I below summarizes the use of the phrase "personal information" in FOIA. For additional reference, Section A below sets out the full definition of "personal information" used in § 2.2-3801 (part of the Government Data Collection and Dissemination Practices Act); Section B sets out in full all of the exemptions that use the phrase "personal information" in FOIA; and Section C sets out in full all other uses of the words "personal" and "personally" in FOIA. The relevant phrases in Sections B and C are emphasized in **bold** text.

**Table I.** FOIA exemptions that use the phrase "personal information"

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| **Code section** | **Phrasing used** | **Context** |
| § 2.2-3705.4 (A)(6) | "Personal information, as defined in § 2.2-3801" then three references to "personal information" | Commonwealth Savers Plan prepaid tuition contracts or savings trust account agreements |
| § 2.2-3711 (A)(25) | "Personal information, as defined in § 2.2-3801" | Meetings exemption that corresponds to § 2.2-3705.4 (A)(6) |
| § 2.2-3705.7 (8) | "Personal information, as defined in § 2.2-3801" | VHDA loans or other housing assistance |
| § 2.2-3705.7 (13) | "Personal information" | Assistive Technology Loan Fund Authority loan applicants or recipients |
| § 2.2-3705.7 (27) | "Personal information, as defined in § 2.2-3801" | Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers |
| § 2.2-3705.7 (36) | "Personal information" | Virginia Lottery - voluntary exclusion program |
| § 2.2-3705.7 (37) | "Personal information" | Virginia Lottery - identity of any person reporting prohibited conduct  |

**A. Definition of "personal information" in § 2.2-3801**

"Personal information" means all information that (i) describes, locates or indexes anything about an individual including, but not limited to, his social security number, driver's license number, agency-issued identification number, student identification number, real or personal property holdings derived from tax returns, and his education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, or (ii) affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual; and the record of his presence, registration, or membership in an organization or activity, or admission to an institution. "Personal information" shall not include routine information maintained for the purpose of internal office administration whose use could not be such as to affect adversely any data subject nor does the term include real estate assessment information.

**B. Uses of the phrase "personal information" in FOIA exemptions (2025)**

**§ 2.2-3705.4. (Effective July 1, 2024) Exclusions to application of chapter; educational records and certain records of educational institutions.**

A. 6. **Personal information, as defined in § 2.2-3801,** provided to the Board of the Commonwealth Savers Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, including **personal information** related to (i) qualified beneficiaries as that term is defined in § 23.1-700, (ii) designated survivors, or (iii) authorized individuals. Nothing in this subdivision shall be construed to prevent disclosure or publication of information in a statistical or other form that does not identify individuals or provide **personal information**. Individuals shall be provided access to their own **personal information**.

For purposes of this subdivision:

"Authorized individual" means an individual who may be named by the account owner to receive information regarding the account but who does not have any control or authority over the account.

"Designated survivor" means the person who will assume account ownership in the event of the account owner's death.

[Note: There is a corresponding meetings exemption at § 2.2-3711 (A)(25): "Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein **personal information, as defined in § 2.2-3801**, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed."]

**§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.**

8. **Personal information, as defined in § 2.2-3801,** (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

13. Financial, medical, rehabilitative, and other **personal information** concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

27. **Personal information, as defined in § 2.2-3801,** contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

36. **Personal information** provided to or obtained by the Virginia Lottery in connection with the voluntary exclusion program administered pursuant to § 58.1-4015.1.

37. **Personal information** provided to or obtained by the Virginia Lottery concerning the identity of any person reporting prohibited conduct pursuant to § 58.1-4043.

**C. Other uses of the word "personal" in FOIA (2025)**

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

10. **Personal contact information** furnished to a public body or any of its members for the purpose of receiving electronic communications from the public body or any of its members, unless the recipient of such electronic communications indicates his approval for the public body to disclose such information. However, access shall not be denied to the person who is the subject of the record. As used in this subdivision, **"personal contact information"** means the information provided to the public body or any of its members for the purpose of receiving electronic communications from the public body or any of its members and includes home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device.

**§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety.**

4. Information concerning security plans and specific assessment components of school safety audits, as provided in § 22.1-279.8.

Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the effectiveness of security plans after (i) any school building or property has been subjected to fire, explosion, natural disaster, or other catastrophic event or (ii) any person on school property has suffered or been threatened with any **personal injury**.

7. Subscriber data collected by a local governing body in accordance with the Enhanced Public Safety Telephone Services Act (§ 56-484.12 et seq.) and other **identifying information of a personal, medical, or financial nature** provided to a local governing body in connection with a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system if such records are not otherwise publicly available.

Nothing in this subdivision shall prevent the disclosure of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.

For the purposes of this subdivision:

"Communications services provider" means the same as that term is defined in § 58.1-647.

"Subscriber data" means the name, address, telephone number, and any other information identifying a subscriber of a communications services provider.

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

8. The names and **personal contact information** of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body. As used in this subdivision, **"personal contact information"** includes the complainant's home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device.

**§ 2.2-3705.4. (Effective July 1, 2024) Exclusions to application of chapter; educational records and certain records of educational institutions.**

3. Information held by the Brown v. Board of Education Scholarship Committee that would reveal **personally identifiable information**, including scholarship applications, **personal financial information**, and confidential correspondence and letters of recommendation.

7. Information maintained in connection with fundraising activities by or for a public institution of higher education that would reveal (i) **personal fundraising strategies relating to identifiable donors or prospective donors** or (ii) wealth assessments; estate, financial, or tax planning information; health-related information; employment, familial, or marital status information; electronic mail addresses, facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or prospective donors. The exclusion provided by this subdivision shall not apply to protect from disclosure (a) information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor or (b) the identities of sponsors providing grants to or contracting with the institution for the performance of research services or other work or the terms and conditions of such grants or contracts. For purposes of clause (a), the identity of the donor may be withheld if (1) the donor has requested anonymity in connection with or as a condition of making a pledge or donation and (2) the pledge or donation does not impose terms or conditions directing academic decision-making.

8. Information held by a threat assessment team established by a local school board pursuant to § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment or intervention with a specific individual. However, in the event an individual who has been under assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious bodily injury, including any felony sexual assault, to another person, such information of the threat assessment team concerning the individual under assessment shall be made available as provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The public body providing such information shall remove **personally identifying information** of any person who provided information to the threat assessment team under a promise of confidentiality.

**§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.**

1. Health records, except that such records may be **personally reviewed** by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; **personally identifiable information regarding residents, clients or other recipients of services**; other correspondence and information furnished in confidence to the Department of Education in connection with an active investigation of an applicant or licensee pursuant to Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. However, nothing in this subdivision shall prevent the disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

**§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.**

1. State income, business, and estate tax returns, **personal property tax returns**, and confidential records held pursuant to § 58.1-3.

13. Financial, medical, rehabilitative, and **other personal information** concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, **personal and lottery banking account and transit numbers of a retailer**, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed. If the value of the prize won by the winner exceeds $10 million, the information described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

**§ 2.2-3706. Disclosure of law-enforcement and criminal records; limitations.**

A. 3. Records of completed unattended death investigations to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death" means a death determined to be a suicide, accidental or natural death where no criminal charges will be initiated, and "immediate family" means the decedent's **personal representative** or, if no **personal representative** has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.

[Note: This subdivision requires mandatory disclosure of certain records as described therein.]

D. Noncriminal records. Public bodies (i) engaged in emergency medical services, (ii) engaged in fire protection services, (iii) engaged in criminal law-enforcement activities, or (iv) engaged in processing calls for service or other communications to an emergency 911 system or any other equivalent reporting system may withhold those portions of noncriminal incident or other noncriminal investigative reports or materials that contain **identifying information of a personal, medical, or financial nature** where the release of such information would jeopardize the safety or privacy of any person. Access to personnel records of persons employed by a public body engaged in emergency medical services or fire protection services, a law-enforcement agency, or an emergency 911 system or any other equivalent reporting system shall be governed by the provisions of subdivision B 9 and subdivision 1 of § 2.2-3705.1, as applicable.

**§ 2.2-3706.1. Disclosure of law-enforcement records; criminal incident information and certain criminal investigative files; limitations.**

A. "Family representative" means the decedent's **personal representative** or, if no **personal representative as set forth in § 64.2-100** has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.

[Note: § 64.2-100 defines "personal representative" in the context of wills and estates.]

E. 3. Would constitute an unwarranted invasion of **personal privacy**; [Note: This provision is an exception to mandatory disclosure of criminal investigative files to certain requesters when the matter is no longer ongoing.]

**§ 2.2-3708.3. Meetings held through electronic communication means; situations other than declared states of emergency.**

B. 4. The member is unable to attend the meeting due to a **personal matter** and identifies with specificity the nature of the **personal matter**. However, the member may not use remote participation due to **personal matters** more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

... If participation is approved pursuant to subdivision 4, the public body shall also include in its minutes the specific nature of the **personal matter** cited by the member.

D. 2. Fix the number of times remote participation for **personal matters** or all-virtual public meetings can be used per calendar year, not to exceed the limitations set forth in subdivisions B 4 and C 9.

**§ 2.2-3711. (Effective July 1, 2024) Closed meetings authorized for certain limited purposes.**

4. The protection of the privacy of individuals in **personal matters not related to public business**.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to **personally identifiable information of donors**.

45. Discussion or consideration of **personal and proprietary information** related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.