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Date/Time of Request:	Tuesday, July 14, 2009 14:03 Central
Client Identifier:	CCL
Database:	VA-ST-ANN
Citation Text:	VA ST s 22.1-289
Lines:	158
Documents:	1
Images:	0

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West's Annotated Code of Virginia [Currentness](#)

Title 22.1. Education ([Refs & Annos](#))

▢ [Chapter 14. Pupils \(Refs & Annos\)](#)

▢ [Article 5. Pupil Records](#)

→ **§ 22.1-289. Transfer and management of scholastic records; disclosure of information in court notices; penalty**

A. As used in this section:

“Scholastic record” means those records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution. These include, but are not limited to, documentation pertinent to the educational growth and development of students as they progress through school, student disciplinary records, achievement and test data, cumulative health records, reports of assessments for eligibility for special education services, and Individualized Education Programs. Such records may be recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

A notice of adjudication or conviction received by a superintendent relating to an incident which did not occur on school property or during a school-sponsored activity shall not be a part of a student's scholastic record.

The term “scholastic record” also shall not include records of instructional, supervisory, administrative, and ancillary educational personnel that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

B. Whenever a pupil transfers from one school division to another, the scholastic record or a copy of the scholastic record shall be transferred to the school division to which the pupil transfers upon request from such school division. Permission of the parent, guardian, or other person having control or charge of the student shall not be required for transfer of such scholastic record to another school or school division within or outside the Commonwealth.

C. Any notice of disposition received pursuant to [§ 16.1-305.1](#) shall not be retained after the student has been awarded a diploma or a certificate as provided in [§ 22.1-253.13:4](#).

D. Every student's scholastic record shall be available to the student and his parent, guardian, or other person having control or charge of the student for inspection during the regular school day. Permission of the parent,

guardian, or other person having control or charge of the student, or of a student who is 18 years of age or older, shall not be required for transfer of such scholastic record to another school or school division within or without this Commonwealth.

Consistent with federal law and regulation, each school shall annually notify parents of students currently enrolled and in attendance of their rights under the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations.

A school responding to a request for the transfer of the scholastic record from another school division need not provide written notice of the transfer of the record, including the identity of the requester, to the parent, guardian, or other person having control or charge of the student, or to a student who is 18 years of age or older, if the school has previously included in the annual notice required by this subsection a statement that it forwards such records to such requesting school divisions.

E. Whenever the division superintendent is notified by the Department of Juvenile Justice, pursuant to § 16.1-287, the Department of Correctional Education, pursuant to § 22.1-344 of this title, or by a school division employee responsible for education programs in a local jail or a detention center, that a pupil who last attended a school within the school division is a pupil in a school of a juvenile correctional center of the Department of Juvenile Justice, or a pupil in an educational program in a local jail or detention center, the school division superintendent or his designee shall transfer the scholastic record of such pupil to the designated juvenile correctional center or local jail or a detention center, as the case may be, within five work days. The Department of Correctional Education shall transfer the scholastic record of a student who has been discharged from a juvenile correctional center of the Department of Juvenile Justice to the relevant school division within five work days of the student's discharge.

The Board of Education shall adopt regulations concerning the transfer and management of scholastic records from one school division to another, to the learning centers of the Department of Juvenile Justice, and to educational programs in local jails and detention centers.

Upon receiving notice of a foster care placement of a student across jurisdictional lines, the sending school division and the receiving school division, as such school divisions are defined in subsection D of § 22.1-3.4, shall expedite the transfer of the scholastic record of the student.

F. The division superintendent or his designee shall notify the local police or sheriff's department for investigation as a possible missing child of any enrolled pupil whose scholastic record he is unable to obtain within 60 days or sooner, if the division superintendent or his designee has reason to suspect that the pupil is a missing child.

G. Superintendents and their designees shall be immune from any civil or criminal liability in connection with

any notice to a police or sheriff's department of a pupil lacking a scholastic record or failure to give such notice as required by this section.

H. Except as provided in §§ 16.1-309 and 22.1-287 and this section, a superintendent or his designee, or other school personnel who unlawfully discloses information obtained pursuant to § 16.1-305.1 shall be guilty of a Class 3 misdemeanor.

CREDIT(S)

Acts 1980, c. 559; Acts 1985, c. 593; Acts 1990, c. 797; Acts 1991, c. 295; Acts 1993, c. 740; Acts 1993, c. 889; Acts 1994, c. 808; Acts 1994, c. 835; Acts 1994, c. 913; Acts 1996, c. 1000; Acts 2000, c. 86. Amended by Acts 2005, c. 343; Acts 2006, c. 47.

HISTORICAL AND STATUTORY NOTES

Acts 2005, c. 343 amended this section regarding foster care placement. The second enactment of Acts 2005, c. 343 provided:

“That the Superintendent of Public Instruction and the Commissioner of the Department of Social Services shall issue a memorandum as soon as practicable after the enactment of this act to inform local school division superintendents and local social services agencies of its provisions.”

In 2006, a reference appearing in the second paragraph in subsec. D was revised pursuant to the direction of the Virginia Code Commission by changing “20 U.S.C. § 1232 (g)” to “20 U.S.C. § 1232g”.

CROSS REFERENCES

Possession and self-administration of inhaled asthma medications by asthmatic students, see § 22.1-274.2.

Punishment for designated classes of misdemeanors, see § 18.2-11.

Reenrollment plans for certain students, see § 22.1-344.

Supervision of juvenile during commitment and on parole, see § 16.1-293.

ADMINISTRATIVE CODE REFERENCES

Management of student scholastic records, see 8 VAC 20-150-10 et seq.

LIBRARY REFERENCES

Key Numbers

[Records !\[\]\(2e897e890e69d81eae4503a8342c36b0_img.jpg\) 13.](#)

Westlaw Key Number Search: 326k13.

ALR Library

[Construction and application of Privacy Act provision requiring maintenance of agency records, 5 U.S.C.A. § 552a\(g\)\(1\)\(C\), 8 A.L.R. Fed. 2d 575.](#)

Encyclopedias

[C.J.S. Records § 32.](#)

RESEARCH REFERENCES

Forms

[Va. Prac. Family Law: Theory Practice and Forms § 5:7, Regulation of a Child's Education.](#)

UNITED STATES SUPREME COURT

Privacy rights, civil rights actions, education records, student assignments, scoring by other students, see [Owasso Indep. School Dist. No. I-011 v. Falvo, 2002, 122 S.Ct. 934.](#)

Va. Code Ann. § 22.1-289, VA ST § 22.1-289

Current through End of 2009 Reg. Sess.

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