

# Code of Virginia:

## Regarding Threat Assessment and Management in Higher Education

Updated October 2016

### **§ 23.1-805 (Effective 10/1/2016; formerly § 23-9.2:10). Violence prevention committee; threat assessment team.**

- A. Each public institution of higher education shall establish policies and procedures for the prevention of violence on campus, including assessment of and intervention with individuals whose behavior poses a threat to the safety of the campus community.
- B. The governing board of each public institution of higher education shall determine a violence prevention committee structure on campus composed of individuals charged with education on and prevention of violence on campus. Each violence prevention committee shall include representatives from student affairs, law enforcement, human resources, counseling services, residence life, and other constituencies as needed and shall consult with legal counsel as needed. Each violence prevention committee shall develop a clear statement of mission, membership, and leadership. Such statement shall be published and made available to the campus community.
- C. Each violence prevention committee shall (i) provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a physical threat to the community; (ii) identify members of the campus community to whom threatening behavior should be reported; (iii) establish policies and procedures that outline circumstances under which all faculty and staff are required to report behavior that may represent a physical threat to the community, provided that such report is consistent with state and federal law; and (iv) establish policies and procedures for (a) the assessment of individuals whose behavior may present a threat, (b) appropriate means of intervention with such individuals, and (c) sufficient means of action, including interim suspension, referrals to community services boards or health care providers for evaluation or treatment, medical separation to resolve potential physical threats, and notification of family members or guardians, or both, unless such notification would prove harmful to the individual in question, consistent with state and federal law.
- D. The governing board of each public institution of higher education shall establish a threat assessment team that includes members from law enforcement, mental health professionals, representatives of student affairs and human resources, and, if available, college or university counsel. Each threat assessment team shall implement the assessment, intervention, and action policies set forth by the violence prevention committee pursuant to subsection C.
- E. Each threat assessment team shall establish relationships or utilize existing relationships with mental health agencies and local and state law-enforcement agencies to expedite assessment of and intervention with individuals whose behavior may present a threat to safety. Upon a preliminary determination that an individual poses a threat of violence to self or others or exhibits significantly disruptive behavior or a need for assistance, the threat assessment team may obtain criminal history record information as provided in §§ 19.2-389 and 19.2-389.1 and health records as provided in § 32.1-127.1:03.
- F. No member of a threat assessment team shall redisclose any criminal history record information or health information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.

### **§ 19.2-389. Dissemination of criminal history record information.**

- A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:
  - 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

**§ 19.2-389.1. Dissemination of juvenile record information.**

Record information maintained in the Central Criminal Records Exchange pursuant to the provisions of § 16.1-299 shall be disseminated only:

- (x) to members of a threat assessment team established by a school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, to aid in the assessment or intervention with individuals whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any juvenile record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

**§ 32.1-127.1:03. Health records privacy.**

- A. There is hereby recognized an individual's right of privacy in the content of his health records. Health records are the property of the health care entity maintaining them, and, except when permitted or required by this section or by other provisions of state law, no health care entity, or other person working in a health care setting, may disclose an individual's health records.
- D. Health care entities may, and, when required by other provisions of state law, shall, disclose health records:
  - 35. To a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education;

**§ 2.2-3705.4. Virginia Freedom of Information Act: Exclusions to application of chapter; educational records and certain records of educational institutions.**

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

- 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.

**§ 8.01-47. Immunity of school personnel investigating or reporting certain incidents.**

In addition to any other immunity he may have, any person who, in good faith with reasonable cause and without malice, acts to report, investigate or cause any investigation to be made into the activities of any student or students or any other person or persons as they relate to conduct involving bomb threats, firebombs, explosive materials or other similar devices as described in clauses (vi) and (vii) of subsection A of § [22.1-279.3:1](#), alcohol or drug use or abuse in or related to the school or institution or in connection with any school or institution activity, or information that an individual poses any credible danger of serious bodily injury or death to one or more students, school personnel, or others on school property shall be immune from all civil liability that might otherwise be incurred or imposed as the result of the making of such a report, investigation or disclosure.

**§ 23.1-802. (Effective 10/1/2016; formerly § 23-9.2:8. Student mental health policies; website resource.**

- A. The governing board of each public institution of higher education shall develop and implement policies that (i) advise students, faculty, and staff, including residence hall staff, of the proper procedures for identifying and addressing the needs of students exhibiting suicidal tendencies or behavior and (ii) provide for training where appropriate. Such policies shall require procedures for notifying the institution's student health or counseling center for the purposes set forth in subdivision B 4 of § 23.1-1303 when a student exhibits suicidal tendencies or behavior.
- B. The board of visitors of each baccalaureate public institution of higher education shall establish a written memorandum of understanding with its local community services board or behavioral health authority and with local hospitals and other local mental health facilities in order to expand the scope of services available to students seeking treatment. The memorandum shall designate a contact person to be notified, to the extent allowable under state and federal privacy laws, when a student is involuntarily committed, or when a student is discharged from a facility. The memorandum shall provide

for the inclusion of the institution in the post-discharge planning of a student who has been committed and intends to return to campus, to the extent allowable under state and federal privacy laws.

- C. Each baccalaureate public institution of higher education shall create and feature on its website a page with information dedicated solely to the mental health resources available to students at the institution.

**§ 37.2-804.2. Disclosure of records.**

Any health care provider, as defined in § 32.1-127.1:03, or other provider who has provided or is currently providing services to a person who is the subject of proceedings pursuant to this chapter shall, upon request, disclose to a magistrate, the court, the person's attorney, the person's guardian ad litem, the examiner identified to perform an examination pursuant to § 37.2-815, the community services board or its designee performing any evaluation, preadmission screening, or monitoring duties pursuant to this chapter, or a law-enforcement officer any information that is necessary and appropriate for the performance of his duties pursuant to this chapter. Any health care provider, as defined in § 32.1-127.1:03, or other provider who has provided or is currently evaluating or providing services to a person who is the subject of proceedings pursuant to this chapter shall disclose information that may be necessary for the treatment of such person to any other health care provider or other provider evaluating or providing services to or monitoring the treatment of the person. Health records disclosed to a law-enforcement officer shall be limited to information necessary to protect the officer, the person, or the public from physical injury or to address the health care needs of the person. Information disclosed to a law-enforcement officer shall not be used for any other purpose, disclosed to others, or retained.

Any health care provider providing services to a person who is the subject of proceedings under this chapter shall (i) inform the person that his family member or personal representative, including any agent named in an advance directive executed in accordance with the Health Care Decisions Act (§ 54.1-2981 et seq.), will be notified of information that is directly relevant to such individual's involvement with the person's health care, which may include the person's location and general condition, in accordance with subdivision D 34 of § 32.1-127.1:03, and (ii) make a reasonable effort to so notify the person's family member or personal representative, unless the provider has actual knowledge that the family member or personal representative is currently prohibited by court order from contacting the person. No health care provider shall be required to notify a person's family member or personal representative pursuant to this section if the health care provider has actual knowledge that such notice has been provided.

Any health care provider disclosing records pursuant to this section shall be immune from civil liability for any harm resulting from the disclosure, including any liability under the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.), as amended, unless the person or provider disclosing such records intended the harm or acted in bad faith.

**§ 37.2-809. Involuntary temporary detention; issuance and execution of order.**

A. For the purposes of this section:

"Designee of the local community services board" means an examiner designated by the local community services board who (i) is skilled in the assessment and treatment of mental illness, (ii) has completed a certification program approved by the Department, (iii) is able to provide an independent examination of the person, (iv) is not related by blood or marriage to the person being evaluated, (v) has no financial interest in the admission or treatment of the person being evaluated, (vi) has no investment interest in the facility detaining or admitting the person under this article, and (vii) except for employees of state hospitals and of the U.S. Department of Veterans Affairs, is not employed by the facility.

"Employee" means an employee of the local community services board who is skilled in the assessment and treatment of mental illness and has completed a certification program approved by the Department.

"Investment interest" means the ownership or holding of an equity or debt security, including shares of stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity or debt instruments.

- B. A magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § 37.2-804.1 by an employee or a designee of the local community services board to determine whether the person meets the criteria for temporary detention, a temporary detention order if it appears from all evidence readily available, including any recommendation from a physician or clinical psychologist treating the person, that the person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (ii) is in need of hospitalization or treatment; and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. The magistrate shall also consider, if

available, (a) information provided by the person who initiated emergency custody and (b) the recommendations of any treating or examining physician licensed in Virginia either verbally or in writing prior to rendering a decision. Any temporary detention order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

- C. When considering whether there is probable cause to issue a temporary detention order, the magistrate may, in addition to the petition, consider (i) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person, (iii) any past mental health treatment of the person, (iv) any relevant hearsay evidence, (v) any medical records available, (vi) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (vii) any other information available that the magistrate considers relevant to the determination of whether probable cause exists to issue a temporary detention order.
- D. A magistrate may issue a temporary detention order without an emergency custody order proceeding. A magistrate may issue a temporary detention order without a prior evaluation pursuant to subsection B if (i) the person has been personally examined within the previous 72 hours by an employee or a designee of the local community services board or (ii) there is a significant physical, psychological, or medical risk to the person or to others associated with conducting such evaluation.
- E. An employee or a designee of the local community services board shall determine the facility of temporary detention in accordance with the provisions of § 37.2-809.1 for all individuals detained pursuant to this section. An employee or designee of the local community services board may change the facility of temporary detention and may designate an alternative facility for temporary detention at any point during the period of temporary detention if it is determined that the alternative facility is a more appropriate facility for temporary detention of the individual given the specific security, medical, or behavioral health needs of the person. In cases in which the facility of temporary detention is changed following transfer of custody to an initial facility of temporary custody, transportation of the individual to the alternative facility of temporary detention shall be provided in accordance with the provisions of § 37.2-810. The initial facility of temporary detention shall be identified on the preadmission screening report and indicated on the temporary detention order; however, if an employee or designee of the local community services board designates an alternative facility, that employee or designee shall provide written notice forthwith, on a form developed by the Executive Secretary of the Supreme Court of Virginia, to the clerk of the issuing court of the name and address of the alternative facility. Subject to the provisions of § 37.2-809.1, if a facility of temporary detention cannot be identified by the time of the expiration of the period of emergency custody pursuant to § 37.2-808, the individual shall be detained in a state facility for the treatment of individuals with mental illness and such facility shall be indicated on the temporary detention order. Except as provided in § 37.2-811 for inmates requiring hospitalization in accordance with subdivision A 2 of § 19.2-169.6, the person shall not be detained in a jail or other place of confinement for persons charged with criminal offenses and shall remain in the custody of law enforcement until the person is either detained within a secure facility or custody has been accepted by the appropriate personnel designated by either the initial facility of temporary detention identified in the temporary detention order or by the alternative facility of temporary detention designated by the employee or designee of the local community services board pursuant to this subsection. The person detained or in custody pursuant to this section shall be given a written summary of the temporary detention procedures and the statutory protections associated with those procedures.
- F. Any facility caring for a person placed with it pursuant to a temporary detention order is authorized to provide emergency medical and psychiatric services within its capabilities when the facility determines that the services are in the best interests of the person within its care. The costs incurred as a result of the hearings and by the facility in providing services during the period of temporary detention shall be paid and recovered pursuant to § 37.2-804. The maximum costs reimbursable by the Commonwealth pursuant to this section shall be established by the State Board of Medical Assistance Services based on reasonable criteria. The State Board of Medical Assistance Services shall, by regulation, establish a reasonable rate per day of inpatient care for temporary detention.
- G. The employee or the designee of the local community services board who is conducting the evaluation pursuant to this section shall determine, prior to the issuance of the temporary detention order, the insurance status of the person. Where coverage by a third party payor exists, the facility seeking reimbursement under this section shall first seek reimbursement from the third party payor. The Commonwealth shall reimburse the facility only for the balance of costs remaining after the allowances covered by the third party payor have been received.
- H. The duration of temporary detention shall be sufficient to allow for completion of the examination required by § 37.2-815, preparation of the preadmission screening report required by § 37.2-816, and initiation of mental health treatment to stabilize the person's psychiatric condition to avoid involuntary commitment where possible, but shall not exceed 72 hours prior to a hearing. If the 72-hour period herein specified terminates on a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed, the person may be detained, as herein provided, until the close of business on the next day that

is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. The person may be released, pursuant to § 37.2-813, before the 72-hour period herein specified has run.

- I. If a temporary detention order is not executed within 24 hours of its issuance, or within a shorter period as is specified in the order, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if the office is not open, to any magistrate serving the jurisdiction of the issuing court. Subsequent orders may be issued upon the original petition within 96 hours after the petition is filed. However, a magistrate must again obtain the advice of an employee or a designee of the local community services board prior to issuing a subsequent order upon the original petition. Any petition for which no temporary detention order or other process in connection therewith is served on the subject of the petition within 96 hours after the petition is filed shall be void and shall be returned to the office of the clerk of the issuing court.
- J. The Executive Secretary of the Supreme Court of Virginia shall establish and require that a magistrate, as provided by this section, be available seven days a week, 24 hours a day, for the purpose of performing the duties established by this section. Each community services board shall provide to each general district court and magistrate's office within its service area a list of its employees and designees who are available to perform the evaluations required herein.
- K. For purposes of this section, a health care provider or designee of a local community services board or behavioral health authority shall not be required to encrypt any email containing information or medical records provided to a magistrate unless there is reason to believe that a third party will attempt to intercept the email.
- L. If the employee or designee of the community services board who is conducting the evaluation pursuant to this section recommends that the person should not be subject to a temporary detention order, such employee or designee shall (i) inform the petitioner, the person who initiated emergency custody if such person is present, and an onsite treating physician of his recommendation; (ii) promptly inform such person who initiated emergency custody that the community services board will facilitate communication between the person and the magistrate if the person disagrees with recommendations of the employee or designee of the community services board who conducted the evaluation and the person who initiated emergency custody so requests; and (iii) upon prompt request made by the person who initiated emergency custody, arrange for such person who initiated emergency custody to communicate with the magistrate as soon as is practicable and prior to the expiration of the period of emergency custody. The magistrate shall consider any information provided by the person who initiated emergency custody and any recommendations of the treating or examining physician and the employee or designee of the community services board who conducted the evaluation and consider such information and recommendations in accordance with subsection B in making his determination to issue a temporary detention order. The individual who is the subject of emergency custody shall remain in the custody of law enforcement or a designee of law enforcement and shall not be released from emergency custody until communication with the magistrate pursuant to this subsection has concluded and the magistrate has made a determination regarding issuance of a temporary detention order.
- M. For purposes of this section, "person who initiated emergency custody" means any person who initiated the issuance of an emergency custody order pursuant to § 37.2-808 or a law-enforcement officer who takes a person into custody pursuant to subsection G of § 37.2-808.

#### **§ 23-2.1:3. Student records.**

Each public and private institution of higher education may require that any student accepted to and who has committed to attend, or is attending, such institution provide, to the extent available, from the originating secondary school and, if applicable, any institution of higher education he has attended a complete student record, including any mental health records held by the school. These records shall be kept confidential as required by state and federal law, including the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

#### **§ 23.1-1303 (Effective 10/1/2016; formerly § 23-9.2:3). Governing boards; duties**

- B. The governing board of each public institution of higher education shall:
  4. Notwithstanding any other provision of state law, establish policies and procedures requiring the notification of the parent of a dependent student when such student receives mental health treatment at the institution's student health or counseling center and such treatment becomes part of the student's educational record in accordance with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and may be disclosed without prior consent as authorized by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such notification shall only be required if it is determined that there exists a substantial likelihood that, as a result of mental illness the student will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent behavior or any other relevant information or (ii) suffer serious harm due to

his lack of capacity to protect himself from harm or to provide for his basic human needs. However, notification may be withheld if any person licensed to diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board within the Department of Health Professions who is treating the student has made a part of the student's record a written statement that, in the exercise of his professional judgment, the notification would be reasonably likely to cause substantial harm to the student or another person. No public institution of higher education or employee of a public institution of higher education making a disclosure pursuant to this subsection is civilly liable for any harm resulting from such disclosure unless such disclosure constitutes gross negligence or willful misconduct by the institution or its employees;

**§ 23.1-806 (Effective 10/1/2016; formerly § 23-9.2:15). Reporting of acts of sexual violence.**

A. For purposes of this section:

"Campus" means (i) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner relating to, the institution's educational purposes, including residence halls, and (ii) any building or property that is within or reasonably contiguous to the area described in clause (i) that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes, such as a food or other retail vendor.

"Noncampus building or property" means (i) any building or property owned or controlled by a student organization officially recognized by an institution of higher education or (ii) any building or property owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

"Public property" means all public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

"Responsible employee" means a person employed by a public institution of higher education or nonprofit private institution of higher education who has the authority to take action to redress sexual violence, who has been given the duty of reporting acts of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate institution designee, or whom a student could reasonably believe has this authority or duty.

"Sexual violence" means physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent.

"Title IX coordinator" means an employee designated by a public institution of higher education or nonprofit private institution of higher education to coordinate the institution's efforts to comply with and carry out the institution's responsibilities under Title IX (20 U.S.C. § 1681 et seq.). If no such employee has been designated by the institution, the institution shall designate an employee who will be responsible for receiving information of alleged acts of sexual violence from responsible employees in accordance with subsection B.

- B. Any responsible employee who in the course of his employment obtains information that an act of sexual violence may have been committed against a student attending the institution or may have occurred on campus, in or on a noncampus building or property, or on public property shall report such information to the Title IX coordinator as soon as practicable after addressing the immediate needs of the victim.
- C. Upon receipt of information pursuant to subsection B, the Title IX coordinator or his designee shall promptly report the information, including any personally identifiable information, to a review committee established pursuant to subsection D. Nothing in this section shall prevent the Title IX coordinator or any other responsible employee from providing any information to law enforcement with the consent of the victim.
- D. Each public institution of higher education and nonprofit private institution of higher education shall establish a review committee for the purposes of reviewing information relating to acts of sexual violence, including information reported pursuant to subsection C. Such review committee shall consist of three or more persons and shall include the Title IX coordinator or his designee, a representative of law enforcement, and a student affairs representative. If the institution has established a campus police department pursuant to Article 3 (§ 23.1-809 et seq.), the representative of law enforcement shall be a member of such department; otherwise, the representative of law enforcement shall be a representative of campus security. The review committee may be the threat assessment team established under § 23.1-805 or a separate body. The review committee may obtain law-enforcement records, criminal history record information as provided in §§ 19.2-389 and 19.2-389.1, health records as provided in § 32.1-127.1:03, available institutional conduct or personnel records, and known facts and circumstances of the information reported pursuant to subsection C or information or evidence known to the institution or to law enforcement. The review committee shall be considered to be a threat

assessment team established pursuant to § 23.1-805 for purposes of (i) obtaining criminal history record information and health records and (ii) the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The review committee shall conduct its review in compliance with federal privacy law.

- E. Upon receipt of information of an alleged act of sexual violence reported pursuant to subsection C, the review committee shall meet within 72 hours to review the information and shall meet again as necessary as new information becomes available.
- F. If, based on consideration of all factors, the review committee, or if the committee cannot reach a consensus, the representative of law enforcement on the review committee, determines that the disclosure of the information, including personally identifiable information, is necessary to protect the health or safety of the student or other individuals as set forth in 34 C.F.R. § 99.36, the representative of law enforcement on the review committee shall immediately disclose such information to the law-enforcement agency that would be responsible for investigating the alleged act of sexual violence. Such disclosure shall be for the purposes of investigation and other actions by law enforcement. Upon such disclosure, the Title IX coordinator or his designee shall notify the victim that such disclosure is being made. The provisions of this subsection shall not apply if the law-enforcement agency responsible for investigating the alleged act of sexual violence is located outside the United States.
- G. In cases in which the alleged act of sexual violence would constitute a felony violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, the representative of law enforcement on the review committee shall inform the other members of the review committee and shall within 24 hours consult with the attorney for the Commonwealth or other prosecutor responsible for prosecuting the alleged act of sexual violence and provide to him the information received by the review committee without disclosing personally identifiable information, unless such information was disclosed pursuant to subsection F. In addition, if such consultation does not occur and any other member of the review committee individually concludes that the alleged act of sexual violence would constitute a felony violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, that member shall within 24 hours consult with the attorney for the Commonwealth or other prosecutor responsible for prosecuting the alleged act of sexual violence and provide to him the information received by the review committee without disclosing personally identifiable information, unless such information was disclosed pursuant to subsection F.
- H. At the conclusion of the review, the Title IX coordinator and the law-enforcement representative shall each retain (i) the authority to proceed with any further investigation or adjudication allowed under state or federal law and (ii) independent records of the review team's considerations, which shall be maintained under applicable state and federal law.
- I. No responsible employee shall be required to make a report pursuant to subsection B if:
  - 1. The responsible employee obtained the information through any communication considered privileged under state or federal law or the responsible employee obtained the information in the course of providing services as a licensed health care professional, an employee providing administrative support for such health care professionals, a professional counselor, an accredited rape crisis or domestic violence counselor, a campus victim support personnel, a member of clergy, or an attorney; or
  - 2. The responsible employee has actual knowledge that the same matter has already been reported to the Title IX coordinator or to the attorney for the Commonwealth or the law-enforcement agency responsible for investigating the alleged act of sexual violence.
- J. Any responsible employee who makes a report required by this section or testifies in a judicial or administrative proceeding as a result of such report is immune from any civil liability alleged to have resulted therefrom unless such person acted in bad faith or with malicious intent.
- K. The provisions of this section shall not require a person who is the victim of an alleged act of sexual violence to report such violation.
- L. The institution shall ensure that a victim of an alleged act of sexual violence is informed of (i) the available law-enforcement options for investigation and prosecution; (ii) the importance of collection and preservation of evidence; (iii) the available options for a protective order; (iv) the available campus options for investigation and adjudication under the institution's policies; (v) the victim's rights to participate or decline to participate in any investigation to the extent permitted under state or federal law; (vi) the applicable federal or state confidentiality provisions that govern information provided by a victim; (vii) the available on-campus resources and any unaffiliated community resources, including sexual assault crisis centers, domestic violence crisis centers, or other victim support services; and (viii) the importance of seeking appropriate medical attention.

**§ 23.1-900 (Effective 10/1/2016; formerly § 23-9.2:18. Academic transcripts; suspension, permanent dismissal, or withdrawal from institution.**

- A. As used in this section, "sexual violence" means physical sexual acts perpetrated against a person's will or against a person incapable of giving consent.
- B. The registrar of each (i) private institution of higher education that is eligible to participate in the Tuition Assistance Grant Program pursuant to the Tuition Assistance Grant Act (§ 23.1-628 et seq.) or to receive project financing from the Virginia College Building Authority pursuant to Article 2 (§ 23.1-1220 et seq.) of Chapter 12 and (ii) public institution of higher education, or the other employee, office, or department of the institution that is responsible for maintaining student academic records, shall include a prominent notation on the academic transcript of each student who has been suspended for, has been permanently dismissed for, or withdraws from the institution while under investigation for an offense involving sexual violence under the institution's code, rules, or set of standards governing student conduct stating that such student was suspended for, was permanently dismissed for, or withdrew from the institution while under investigation for an offense involving sexual violence under the institution's code, rules, or set of standards. Such notation shall be substantially in the following form: "[Suspended, Dismissed, or Withdrew while under investigation] for a violation of [insert name of institution's code, rules, or set of standards]." Each such institution shall (a) notify each student that any such suspension, permanent dismissal, or withdrawal will be documented on the student's academic transcript and (b) adopt a procedure for removing such notation from the academic transcript of any student who is subsequently found not to have committed an offense involving sexual violence under the institution's code, rules, or set of standards governing student conduct.
- C. The institution shall remove from a student's academic transcript any notation placed on such transcript pursuant to subsection B due to such student's suspension if the student (i) completed the term and any conditions of the suspension and (ii) has been determined by the institution to be in good standing according to the institution's code, rules, or set of standards governing such a determination.
- D. The provisions of this section shall apply only to a student who is taking or has taken a course at a public institution of higher education or private institution of higher education on a campus that is located in the Commonwealth; however, the provisions of this section shall not apply to any public institution of higher education established pursuant to Chapter 25 (§ 23.1-2500 et seq.).