

BACKGROUND

On April 15, 2021, Chesterfield County Public Schools (CCPS) provided an improperly redacted document revealing personally identifiable information (PII). The CCPS parent requested the document using CCPS's Freedom of Information Act (FOIA) process to obtain the number of students COVID-19 exposure required to quarantine. A CCPS letter to parents described the event as an "inadvertent software application error" that allowed a citizen to access approximately 575 students and 400 staff names.

Virginia Code §2.2-3700 Freedom of Information Act (FOIA) guarantees citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials, and public employees. FOIA's purpose is to promote an increased awareness of governmental activities and requires that the law be interpreted liberally, in favor of access. Any exemption allowing public records to be withheld must be narrowly interpreted.

A public record is any writing or recording – regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format – that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

Virginia Code §2.2-3705-1(1) Freedom of Information Act (FOIA), Exclusions states that certain personal information (PII) requires redaction when providing to a requestor. PII is personally identifiable information that could be used to identify a specific individual. Examples include an individual's name, address, social security number, telephone address, and email address. For FOIA requests that contain both information that is subject and not subject to public disclosure, Schools must redact the information not subject to public disclosure and release the redacted record to a FOIA requestor.

School Board Policy 6050-R designates the School Board Attorney as the Schools' FOIA Officer. The School Board Attorney's Office employs three full-time employees with a \$340,000 budget and provides a variety of legal representation including contract review and preparation, interpretation of custody orders, and drafting Board memoranda. Additionally, the office is responsible for all CCPS FOIA inquiries and requests, coordination for their responses, information review and redaction, and submission to the requestor. The School Board Attorney's Office has processed 224 FOIA requests (513 records) for FY21 and 349 FOIA requests (646 records) for FY20.

Proper data sharing includes redacting (censoring for legal purposes) an individual's PII when providing to another party, typically outside the organization. Protected data is any data or information subject to regulation under applicable law such as:

FERPA - Family Educational Rights and Privacy Act

- US law designed to protect students identifiable information derived from education records.

For digital redaction, software or software add-ons is needed that includes redaction tools. The School Board Attorney’s Office uses Adobe Acrobat Pro, a third-party software, that includes a redaction tool to remove or redact protected images and text that are currently visible in a PDF document (Adobe file type). Another tool is present that allows users to locate, sanitize, and remove hidden information such as the author or metadata (data about other data) ensuring the desired security is reached.

The 2012 School Board Policy 5361 suggests CCPS Human Resource Department policy oversight and describes the student, employee, or school division information protected from unauthorized access, disclosure, use or loss by state or federal law, or School Board Policy. Employees are expected to protect the information, periodically review processes for possible improvement, and report actual or suspected breaches or policy violations. When an information breach or policy violation occurs, the policy states the Assistant Superintendent for Human Resources (not listed on the CCPS organization chart) is responsible for directly notifying the affected individuals (i.e. employees, student’s family).

OBJECTIVES, SCOPE & METHODOLOGY

Objectives:

Objectives of this project were to evaluate:

- Digital FOIA processing control effectiveness to include request administration, deadline monitoring, and applicable information redaction.
- Process to identify departments who handle and redact protected information for digital documents to ensure they have necessary tools and training.

Scope:

School Board Attorney’s Office and Division operations for the FY21 school year and current operating environment. We considered the following standards and policies:

<i>Code of Virginia §2.2-3700 Virginia Freedom of Information Act</i>	<i>Code of Virginia §2.2-3705.1 Virginia Freedom of Information Act, Exclusions</i>
<i>School Board Policy 1180: School Board Attorney, Legal Actions</i>	<i>School Board Policy 4100: Student Records</i>
<i>School Board Policy 5360: Privacy Policy</i>	<i>School Board Policies 5361 & 5361-R: Proper Handling of Personal, Sensitive, and Confidential Information</i>
<i>School Board Policies 6050 & 6050-R: Request for Public Records</i>	

Methodology:

Our methodology included:

- Inquiry with School Board Attorney’s Office and School Technology Services.
- Review of School FY21 FOIA requests, including applicable FOIA and redaction processes.

We conducted this special project as a performance audit in accordance with generally accepted government auditing standards, except the risk and internal control assessment was more targeted for FOIA requests and information redaction versus a comprehensive evaluation of the

School Board Attorney’s Office and CCPS information requests and redaction. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Steve Sanderson, Assistant Director of Internal Audit, performed the audit work. Chesterfield County Internal Audit is a department within the organization of Chesterfield County/Schools.

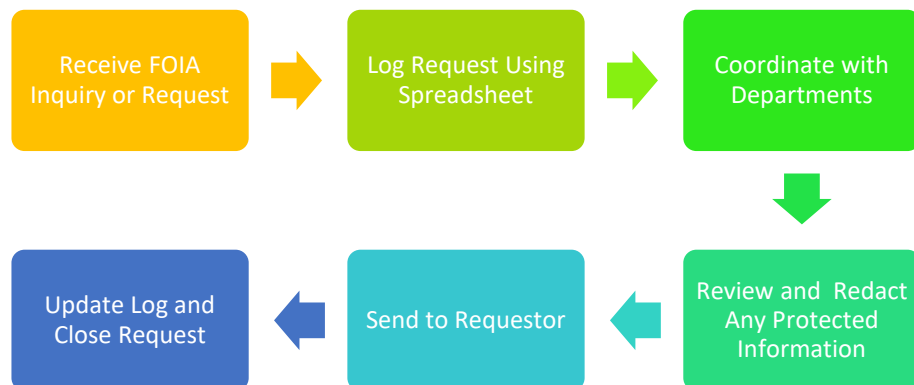
FINDINGS

FOIA Request Process

The School Board Attorney’s Office uses a phone number, mailing address, and dedicated email address, foiarequest@ccpsnet.net, to receive FOIA inquiries and requests. The dedicated email address is used to document coordination with other departments and provide results to requestor within VA Code requirements (five working days with one seven working-day extension available). Currently, a School Board Attorney’s Office employee checks the dedicated email and when a FOIA matter is received, the item is logged using a spreadsheet. The log is used to assign a request number, requestor’s name, total items requested, date received, response due date, responsible department, and response delivery date. A section is also included if a cost is involved to obtain the information requested. Once all information has been received, the School Board Attorney’s Office employee is responsible for reviewing department submission and ensuring any confidential information has been redacted before providing to the requestor. After review, the information is provided to the requestor and the request is closed.

During our assessment, we reviewed the School Board Attorney’s Office current FOIA request process (**Figure 1**) and noted that a process is present to ensure inquiry and request administration completeness and that department meets Virginia Code for timeliness requirements. However, we noted a School Board Attorney’s Office employee sometimes uses their employee’s work email to process FOIA requests rather than documenting all communications using the dedicated FOIA email.

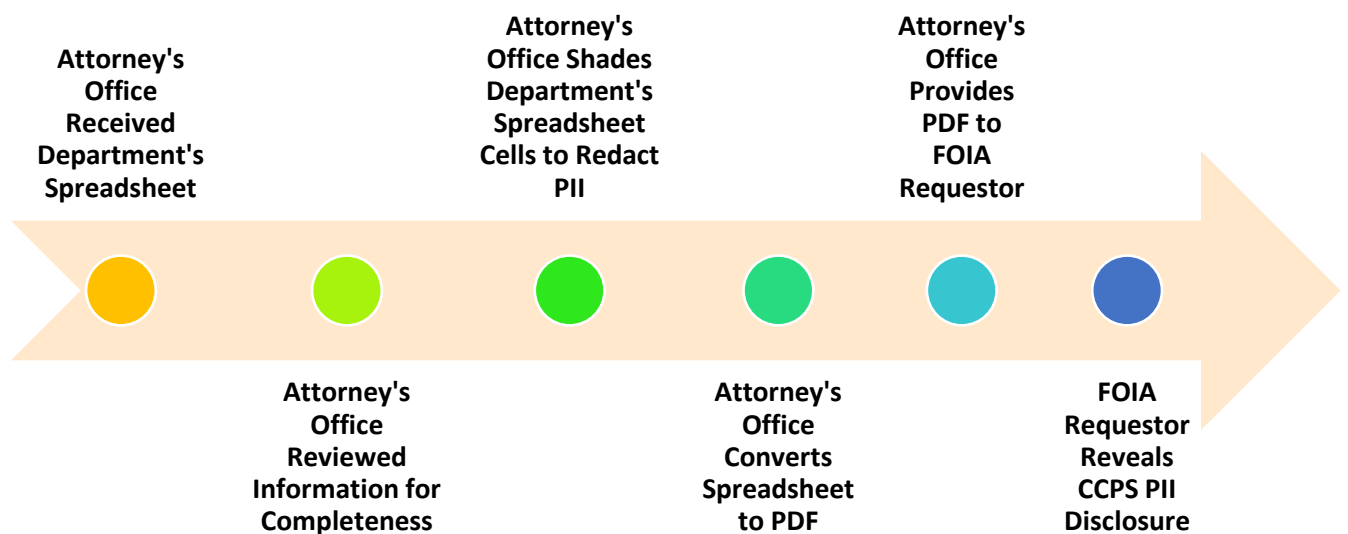
Figure 1 School Attorney’s Office FOIA Process



Information Redaction Process

School Board Policy 6050-R also describes the process for providing a FOIA requestor information when the records may include information that law (i.e. FERPA) prohibits Schools from sharing. When certain portions are withheld, the School Board Attorney’s Office is responsible for deleting or excising only that portion to which an exemption applies (i.e. FERPA) and releasing the remainder of the document. Before sending FOIA information to the requestor, the School Board Attorney’s Office is responsible for reviewing for completeness and ensuring no confidential information is present. During our redaction process assessment, we determined the information was not properly redacted before its submission to a requestor (**Figure 2**). The spreadsheet’s protected records were highlighted using cell shading and converted to a PDF. However, the Adobe Acrobat Pro redaction tool was not used to redact all protected information resulting in the FOIA requestor revealing the information CCPS used cell shading to hide they copy and pasted into a separate spreadsheet. As a result, CCPS inadvertently disclosed PII for 551 CCPS students and approximately 400 staff members.

Figure 2 April 2020 FOIA Incident Summary



Inquiry with CCPS management determined that a district-wide department list is not present for those that process and distribute redacted documents. Based on our FY22 enterprise risk assessment completed May 2021, 21 of 25 CCPS departments (88%) surveyed handle protected data. We understand there is no standard School Division process for redacting protected information before sharing with other parties.

ACTION(S) TAKEN:

On April 26, 2021 the School Board Attorney directly notified all families whose children's PII was disclosed due to redaction process error. On May 3, 2021, the School Board Attorney self-reported the student and staff PII disclosure to the US Department of Education which documented the redaction process used and the planned efforts, presented to CCPS Management May 19, 2021, to address data sharing weaknesses such as discontinuing spreadsheet cell shading and providing School staff the proper redaction techniques to ensure student PII and other protected information is not accidentally disclosed. Additionally, the School Board Attorney's Office reviewed remaining FY21 FOIA requests and reported the cell shading technique was used for 8 other requests. For each FOIA request, The School Board Attorney's Office contacted the individual requesting file destruction.

RECOMMENDATION(S):

We recommend CCPS Human Resource Management and School Technology Services:

1. Coordinate with School Board Attorney's Office to create Schools data redaction methodology and implement periodic training for departments who share protected data.
2. Coordinate with division chiefs to create an inventory of departments who process and share protected information for their departments to document protected data types processed, if information is shared with third parties, and the department has appropriate tools (i.e. Adobe Acrobat Software) to redact data, if applicable.
3. Coordinate with Chief Communications and Community Engagement Officer to review and update Policy 5361 for current processes including the individual responsible for reporting policy violations (currently listed as Assistant Superintendent for Human Resources).

We recommend School Board Attorney:

4. Directly notify the approximately 400 CCPS employees whose PII was disclosed due to redaction process error.

MANAGEMENT'S RESPONSE(S):

1. *Concur. The new Chief Technology Officer (to be hired July 2021) and Anne Beasley, HRIS Analyst, will implement by October 31, 2021. Most data that needs redaction is student data, and this is not an HR function. We need a point person for student data as well as human resources data for collaborative training. Perhaps HR and the new Chief Technology Officer's designee given that the student data system resides there.*
2. *Concur. The new Chief Technology Officer (to be hired July 2021) and Anne Beasley, HRIS Analyst, will implement by October 31, 2021.*
3. *Concur. Shawn Smith, Chief Communications and Community Engagement Officer will implement by October 31, 2021. Coordination needs to be with Chief Communications Officer given that all policy revisions are spearheaded there through utilization of a policy committee.*
4. *Concur. Wendell Roberts, School Board Attorney, will implement by June 11, 2021.*

CLOSING

We appreciate the cooperation and assistance received from School management and staff across multiple departments throughout this special project.

Copy: Dr. Thomas Taylor, Deputy Superintendent
 Shawn Smith, Chief Communications and Community Engagement Officer
 Dr. Kimberly Hough, Executive Director of Human Resources
 Wendell Roberts, School Board Attorney
 Brian Jones, Executive Director of Technology Services