



Home Educators Association of Virginia

Teaching Our Children Today. Building Hope for Tomorrow.

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Dear Superintendent,

Home Educators Association of Virginia (HEAV) values the positive relationships we share with public school personnel and all 131 school districts in supporting Virginia's homeschool community. We appreciate the cooperative partnership we have as we work together to clarify laws, address concerns, and find solutions. In that spirit, we address the following:

Homeschool Privacy Law: Implementation Concerns

We write to address the statutory privacy protections afforded to homeschool families under Virginia's home instruction law [§ 22.1-254.1\(G\)](#). The Virginia School Board Association (VSBA) recently proposed language in its sample policy LBD Home Instruction that conflicts with this law. Additionally, as you may be aware, a significant data breach in the K–12 student information system PowerSchool has negatively impacted several homeschool minors and their families across the state. Lastly, we bring to your attention the passage of [HB2598](#), a bill explaining each division superintendent's obligation to protect certain confidential homeschool student information.

With increased homeschool privacy violations and cybersecurity risks, HEAV urges school boards to consult legal counsel before adopting policy samples to ensure they are in compliance with Virginia law. HEAV also strongly discourages storing homeschoolers' information in student information systems to avoid protected information from being provided to outside entities.

Homeschool Privacy Law vs VSBA Sample Policy LBD Home Instruction

A majority of Virginia's public school districts are VSBA members and are subscribed to the VSBA's policy services. In February, the VSBA released its recent policy services updates, which included problematic proposed language to VSBA sample policy LBD Home instruction:

"Neither the superintendent nor the School Board shall disclose to the Department of Education or any other person or entity outside of the local school division information that is provided by a parent or student to satisfy the **requirements of this policy** or subdivision B 1 of Va. Code § 22.1-254 without **express consent** from the parent or legal guardian of the child receiving home instruction" (emphasis added).

HEAV would like to share the following concerns:

- The use of the phrase "**requirements of this policy**" is inconsistent with the law.
 - Virginia Code [§ 22.1-78](#) limits local school boards to adopting regulations for the supervision of public schools only.
 - With regard to non-public school compliance options, school boards and superintendents are limited to administering the requirements prescribed by the state legislature. It is, therefore, inappropriate to indicate non-public school parents and students must satisfy "requirements" of a local public school policy.
 - To be consistent with the law, the policy sample text "**requirements of this policy**" can be replaced with "requirements of § 22.1-254.1 or subdivision B 1 of Va. Code § 22.1-254."

- The term “**express consent**” is inconsistent with law. Virginia Code [§ 22.1-254.1\(G.\)](#) prohibits releasing any information provided to satisfy the requirements of the home instruction or religious exemption laws without “**written consent**.” The VSBA’s sample policy allows for verbal consent, exceeding the statutory limitation.
- The VSBA’s policy sample omits the essential statutory limits for disclosure of information “**to the extent provided**” by the parent. Virginia’s homeschool privacy law states: “...a division superintendent or local school board may disclose, with the written consent of a student’s parent, such information **to the extent provided by the parent’s consent**” (emphasis added).
- In relation to the aforementioned concerns, in [Sosebee v. Franklin County School Board](#), the Supreme Court of Virginia ruled that public school districts cannot add requirements to the law; only the state legislature may do so.

PowerSchool Homeschool Privacy Law Breach

Many families across the Commonwealth have received a notice from PowerSchool regarding the [recent nationwide data breach](#). When the news broke, HEAV contacted PowerSchool directly. Since then, HEAV has also been in communication with several Virginia school districts, parents, and Home School Legal Defense Association (HSLDA). Additionally, we have notified Delegate Phillip Scott, who sponsored legislation HEAV promulgated to ensure awareness and compliance with Virginia’s homeschool privacy law.

We would like to share the following information:

- Approximately [65% of Virginia public school districts use PowerSchool](#).
- Not all PowerSchool member districts were affected by the breach. Although the company has not made each member’s status public, some districts have posted a press release or sent notices to parents.
- Some member districts house homeschoolers’ private information in the PowerSchool system. However, the extent of such use is currently unclear.
- Districts that were affected by the PowerSchool data breach and house homeschoolers’ information in their system have provided the company with homeschoolers’ private contact information so that PowerSchool can (1) advise parents of the breach and (2) offer two years of credit monitoring service through Experian IdentityWorks.

Due to this PowerSchool incident and another recent [SchoolStatus](#) privacy breach, HEAV has become increasingly concerned about the use of K12 student information systems to house homeschoolers’ information—usually without parents’ knowledge or written consent.

In both the PowerSchool and SchoolStatus incidents, homeschoolers’ protected information was given to **outside entities**. Worse, in the PowerSchool incident, a cybersecurity hack occurred that has resulted in the potential for serious problems for homeschool minors and their family members. Further, in an effort to resolve the privacy breach, PowerSchool was empowered to contact homeschoolers directly using private and protected information that should be inaccessible outside the district without written consent.

Information provided through the Notice of Intent, evidence of progress, religious exemption, and through other written and verbal correspondence must, according to statute, be kept with the highest degree of confidentiality and care and remain inside the public school division.

HEAV’s Legislative Work

Recognizing that serious privacy violations are becoming more common across the state, during this year’s legislative session, HEAV initiated [HB2598](#) with the patronage of Delegate Phillip Scott. The bill requires the superintendent of public instruction to include in the annual superintendent’s memo an explanation of a public school division’s legal obligation as indicated in § 22.1-254.1(G) in the annual

superintendent's memo. The bill was signed by Governor Youngkin on March 21, and the memo is directed to go out before the start of the 2025-2026 school year.

Homeschool Privacy Law

The home instruction privacy law states:

"No division superintendent or local school board **shall disclose to the Department or any other person or entity outside of the local school division information** that is provided by a parent or student to satisfy the requirements of this section or subdivision B 1 of § 22.1-254 [religious exemption]. However, a division superintendent or local school board may disclose, with the written consent of a student's parent, such information to the extent provided by the parent's consent" (emphasis added).

As prescribed in the law and expressed in our [2024 letter to superintendents](#):

- Public school districts are prohibited from disclosing **any** information provided by a parent or student to any person or entity outside of the local school division.
- This prohibition includes, but is not limited to, sharing any information with the Virginia Department of Education (VDOE), other public school districts, student information systems and companies, private schools, colleges, trade schools, military recruiters, police academies, and employers without the written consent of an adult student or their parent.

Responsibility of Ensuring Privacy Protections

[According to the U.S. Department of Education](#), the Family Educational Rights and Privacy Act (FERPA) applies to schools that receive funding, primarily public schools, under any program administered by the U.S. Department of Education. As such, homeschool minors and their families rely on state privacy protections to help keep their private information protected. Since Virginia's home instruction and religious exemption laws are administered through local superintendents and school boards, it is the sole responsibility of public school districts to know the privacy law and protect homeschool children and their families by adhering strictly to the law.

Thank you for your consideration of this important concern and for all that you do for homeschool families in your district. I am available to address any questions or concerns you may have. I may be reached directly at 804-800-7468 and patricia.beahr@heav.org.

Respectfully,



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Cc: Emily Anne Gullickson, M.Ed. J.D., Virginia Superintendent of Public Instruction
The Honorable Phillip A. Scott, Virginia House of Delegates, 63rd District
Chairman of the School Board
Home School Legal Defense Association (HSLDA)