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# The Sunshine Report: *Online*

## Transparency news from the Virginia Coalition for Open Government

### July 2012

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#### Coalition News

#### Recently on VCOG Blog

- [FOIA changes for 7/1/12](#)
- [FOIA from UVa to the Town of Podunk](#)
- [Of course email isn't a meeting. Right?](#)
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*The VCOG Blog is a weekly post on [VCOG's website](#). The columns are also a regular feature on the [McLean Patch](#) and 15 other Patch outlets in Northern Virginia*

#### VCOG Board of Directors

The VCOG Board of Directors will

Greetings, Friend of VCOG!

#### UVa spectacle put a brief, bright spotlight on transparency in government

Many Virginians received a crash course in the requirements of FOIA's open-meeting provisions when news hit that UVa President Teresa Sullivan was being asked to step down.

Questions swirled about how many people met, how they met, whether notice was given and more. Many eventually learned that FOIA did not prohibit what happened -- notice reasonable under the circumstance, properly closed meetings, allowable one-on-one conversations -- and many learned that sometimes it's not enough to follow the exact letter of the law at the expense of the spirit of the law of keeping the public informed.

As Chip Mason of Legg Mason told me in an interview, you don't just want to avoid going out of bounds, you want to avoid even getting chalk on your shoes.

#### 4th Circuit: Voting records are public

The 4th U.S. Circuit Court of Appeals in Richmond ruled June 15 that the voter registrar in Norfolk violated the federal Voter Registration Act when by refusing to release rejected voter application records to the non-profit organization Project Vote/Voting for America Inc.

The ruling affirmed a lower court holding that the process of reviewing the applications was both a "program" and "activity" under the public disclosure provision of the act, and was one that was "plainly" conducted to ensure "the accuracy and currency" of eligible voter lists, according to the [Reporters Committee for Freedom of the Press website](#).

meet Friday, July 27, 2012, at the Bruton Heights Education Complex in Colonial Williamsburg.

## The Coalition Partners Advisory Panel

VCOG is pleased to announce the formation of an informal group of friends, stakeholders and activists to provide feedback and generate ideas about VCOG's programs, services and sustainability. Thanks to the following people for volunteering their time and ideas.

- Peter Broadbent - Christian & Barton
- Clyde Christofferson - Whitham, Curtis, Christofferson & Cook
- Butch Davies - Davies, Barrell, Will, Lewellyn & Edwards
- Phyllis Errico - Virginia Association of Counties
- Chaz Evans-Haywood - Rockingham County Clerk of Court
- Paul Fletcher - Virginia Lawyers Weekly
- Ernie Gates - *Stars & Stripes*
- Chris Gatewood - Threshold Counsel
- Gary Grant - Jefferson-Madison Regional Library
- Larry Hincker - Virginia Tech
- Quentin Kidd - Wason Center for Public Policy at CNU
- Kandise Lucas - advocate
- Ryan Nobles - NBC12
- Rebecca Quinn - activist
- Christian Trejbal - *The Roanoke Times*
- Anita Vannucci - Library of Virginia
- Chris Whyte - The Vectre Corporation

*Affiliations are noted for identification purposes only*

## Stay up to date on access

Sign up for VCOG's [daily listserv on access and First Amendment](#)

VCOG joined RCFP and several media outlets in filing a friend of the court brief in support of the lower court ruling. Read the court's [full opinion on the RCFP website](#).

## FOIA Council meets, elects leadership

Senator Richard Stuart (R-Montross) was both newly appointed to the FOIA Council this spring and then elected its chair at an early July meeting. Del. Sal laquinto (R-Virginia Beach) will serve as the council's vice chair.

## Virginia Supreme Court reaffirms: the exchange of email is not a meeting

The Virginia Supreme Court ruled on June 7 that the exchange of hundreds of email messages by members of the Fairfax County Public School Board in the run-up to their decision to close a local elementary school did not violate FOIA's open-meeting requirements.

The plaintiffs -- a group of concerned parents and residents -- wanted the school-closing decision overturned and so sought to prove that the exchange of email within a short period of time and within hours of the decisional meeting was more like a meeting -- held without notice -- than it was the exchange of letters.



The Supreme Court unanimously rejected that suggestion and instead reaffirmed its 2004 ruling in [Beck v. Shelton](#) that the use of email doesn't become a meeting unless three or more members of the board are involved in a simultaneous exchange.

The court noted the advances of technology since the *Beck* case, but also cited with approval the lower court's reading of the exchange in this case: "the Board [member]'s e-mails that involved some sort of back-and-forth exchange were between only two members at a time, rather than the three required," and that "e-mails sent to more than two Board members" whether directly, by carbon copy, or by forwarding, "conveyed information unilaterally, in the manner of an office memorandum."

Read the [full text of the opinion](#) on the Supreme Court's website.

## Open government news

The firing of its president wasn't the only heat UVa took this June. On June 5, roughly 300 student transcripts,

[news](#) from Virginia and across the country. It's free!

For a steady stream of access-related stories and additional commentary and information, join the more than 400 people who are following [VCOG on Twitter](#). The latest six posts are also carried on [our website](#).

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*Our IRS W9 form [can be found here](#), and feel free to ask for a copy of our IRS 990 and our FY10-11 financial audit*

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Virginia Coalition for Open Government  
P.O. Box 2576  
Williamsburg, Virginia 23187  
US

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