

## **Guidelines for Compliance with § 23-2.2:1. Reporting of enrollment information to Sex Offender and Crimes Against Minors Registry**

*(Reporting Requirements for Institutions of Higher Education)*

Virginia Code § 23-2.2:1 requires the Commonwealth's institutions of higher education to transmit certain data to the Virginia State Police, including (i) complete name, (ii) social security number or other identifying number, (iii) date of birth, and (iv) gender, for applicants that are offered admittance to the institution. The State Police will use this information to compare individuals against the Virginia Criminal Information Network, as well as the National Crime Information Center Convicted Sexual Offender Registry File.

As required by this section, the State Council of Higher Education for Virginia (SCHEV), the Virginia State Police, and the Virginia Community College System have worked together to promulgate guidelines for those institutions with a rolling or instantaneous admissions policy. The Commonwealth's public four-year institutions, as well as the for-profit and non-profit private four-year institutions of higher education, have also provided their input for the guidelines.

### ***Frequency of Transmission and Information to be Transmitted***

Institutions of higher education physically located in the Commonwealth have a maximum of seven working days, excluding institutional, state and/or federal holidays, from the time an individual who is seeking academic credit is granted acceptance to, or enrolled in the institution, to collect and transmit the following information about the student data elements regarding all newly admitted applicants to the Virginia State Police:

- (1) Complete name as reported to the institution on the student's application for admission (**MANDATORY**)
- (2) Social Security number or other identifying number. Other identifying number may include a randomly generated identifier used solely for the purpose of this requirement and maintained by the institution for up to 60 days. (**MANDATORY**)
- (3) Date of birth as reported on the student's application for admission (**MANDATORY**)
- (4) Gender (M, F, or U) (**MANDATORY**)
- (5) Institution's UNITID (As defined by the National Center for Education Statistics and used to report to the Integrated Postsecondary Educational Data System) (**MANDATORY**)
- (6) Reporting year
- (7) Reporting term (fall, spring, summer)
- (8) Anticipated date of attendance
- (9) Location of anticipated attendance (branch campus, etc.)

However, should an occasion occur which precludes the institution from transmitting the data within seven working days, excluding institutional, state and/or federal holidays, from the time a student is notified of their acceptance or enrolled, the institution will alert the Virginia State Police as to the circumstances precluding the transmission of the data, and will work with the State Police to determine a mutually agreeable timeframe to provide the data as expeditiously as possible.

***Data Elements and Format for Data Transmission:***

Entity	Element	Description	Mandatory	Type	Max Length	Format
Source/College	UNITID	Identifying data about data source (Assigned USDOE/NCES)	Yes	Alpha	6	
Day of Activity	Activity Date	Date of Activity	Yes	Date		MM/DD/CCYY
Person	First Name		Yes	Alpha	30	
	Last Name		Yes	Alpha	30	
	Middle Name		No	Alpha	15	
	Suffix		No	Alpha	5	
	Date of Birth		Yes	Date		MM/DD/CCYY
	Social Security Number		Yes/No*	Number	9	
	Gender		Yes	Alpha	1	M or F or U
	Other_Id		Yes/No*	Alpha	30	
	Location	Location of Attendance	No	Alpha	30	
	Attendance Date	Date of Attendance	No	Date		MM/DD/CCYY
	Reporting Year		No	Alpha	4	CCYY
	Reporting Term		No	Alpha	20	

**Data File format:**

- Comma-delimited text data
- Order of data elements as follows
  1. UNITID
  2. Activity\_Date
  3. Last Name
  4. First Name
  5. Middle Name
  6. Suffix
  7. Date of Birth
  8. SSN
  9. Gender (M, F or U)
  10. Other\_ID
  11. Location
  12. Attendance Date
  13. Reporting Year
  14. Reporting Term
  
- Each record must have social security number or other identifying number, date of birth, gender indicated as M, F or U (see FERPA discussion below), and the full name of the individual as provided on the individual's admission application.
- Institution UNIT ID
  - e.g. Institution: Federal Code: 020530 FICE Code: 010392 IPEDS:  
232557
  - Unit Id is the six digit code. 232557

**Web Site Status and Errors**

- The web site will display status for all data files submitted.
- The status can be any of the following:
  - Uploaded - data file successfully uploaded
  - Accepted - data file parsed and accepted
  - Error - data file rejected due to errors
  
- A record will be flagged as an error if any of the following are true:
  - A mandatory data element is absent
  - A data element violates the expected format
  
- If the data file is rejected, there will be a link directing the user to the error details

### ***Security of Data***

The data are secured via transmission through Secure Socket Layer technology (HTTPS), similar to the security used by banks and financial institutions. In addition, only Virginia State Police authorized personnel will have access to the data files. Institutions will be provided a username and password.

### ***Method of Transmission to the Virginia State Police***

The Virginia State Police will host a web-based application, which the institutions will log on access, and upload the data files. The data can be submitted at any time the institution chooses, and the website provides the ability for the institution to query results for data submitted. Through the query mechanism, the user can upload the data files, and/or view the status of the uploaded files.

### ***Sequence of Events Once Data Is Transmitted***

Once a file is transmitted to the State Police, the data will be matched against both the state and federal sex offender registries. All records that do not match with the registries will be destroyed immediately.

If a match occurs, the State Police will verify that the information is accurate, and ensure that the individual has registered, as required by law. If the State Police determines a match has been made, and a sex offender has enrolled, they will notify campus and/or local law enforcement as required under state and federal law. If the individual has violated the law by not registering or reregistering, the State Police normally will notify the institution's law enforcement department or the local police department that there has been a violation, and their intended course of action. In addition, institutions may register for receipt of registry information pursuant to §9.1-914.

### ***Institutions This Provision Affects***

Each public and private two and four-year institution of higher education physically located in the Commonwealth must comply with the law. Institutions offering only programs of less than two years are not covered by § 23-2.2:1, nor are institutions not physically located in the Commonwealth. Any delivery of face-to-face instruction at a location in the Commonwealth constitutes being physically located in the Commonwealth.

### ***Who This Provision Affects***

Section 23-2.2:1 affects all individuals offered acceptance or enrolled for academic credit at an institution of higher education located within the Commonwealth, which offers degrees requiring two or more years of study. This provision does not cover individuals solely admitted into non-academic credit activities.

Students currently enrolled at an institution of higher education in the Commonwealth who apply and are subsequently admitted to another program within the same institution need not be reported. Conversely, current students seeking admission to a different institution than the institution they are currently enrolled in are required to be reported to

the Virginia State Police by the institution that the student is transferring to, once they are admitted, under this provision, regardless of the level of instruction into which the student is seeking admittance. This includes transfer students, graduate students, etc.

Further, this provision applies to high school students admitted into dual enrollment programs at the Commonwealth's institutions of higher education. This provision also applies to individuals admitted into synchronous, asynchronous, on-line, or distance courses.

### ***Related Provisions***

Section 9.1-906, enrollment or employment at institution of higher learning; information required, requires all persons required to register or reregister as sex offenders under § 9.1-902, to specifically indicate their enrollment or employment at an institution of higher education in the Commonwealth, and to notify local law enforcement within three days of any change in their enrollment or employment. It further requires the State Police to notify the chief law-enforcement officer of the institution's law-enforcement agency or, if there is no institutional law-enforcement agency, the local law-enforcement agency serving that institution, of the registration, reregistration, or change in status of the individual.

### ***Impact of This Provision on Compliance with the Family Educational Rights and Privacy Act (FERPA)***

Institutions following these guidelines to transmit data on students already in attendance should consult with their legal counsel on compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; 34 C.F.R. § 99.1 et seq. (FERPA). FERPA applies to records of students "in attendance" at institutions of higher education:

*(6) For the purposes of this section, the term "student" includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution. (20 U.S.C. § 1232g (a)(6).*

If an institution plans to transmit data after students are in attendance, it should consult with its legal counsel about designating data to be reported as "directory information" under FERPA, by revising the institutional definition of directory information. The Code of Federal Regulations (34 CFR § 99.31(a)(11)) defines directory information under FERPA as follows:

*Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., undergraduate or graduate; full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams,*

*degrees, honors and awards received, and the most recent educational agency or institution attended.*

*(Authority: 20 U.S.C. 1232g (a)(5)(A))*

The DOE Family Policy Compliance Office, which is responsible for interpretation of FERPA, has interpreted the above definition to exclude gender and social security number. Thus institutions transmitting data on students already in attendance are unable to transmit gender or social security number, and should transmit "other identifying numbers, and "U" in lieu of "M" or "F". The informational items designated by the institution to be directory information would include complete name, date of birth, first date of attendance and the "identifying number" used in lieu of social security number for transmitting the data to the State Police.