



# COMMONWEALTH of VIRGINIA

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COMMISSIONER

DEPARTMENT OF  
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Office of Human Rights

## MEMORANDUM

To: DBHDS-Operated Hospitals and Centers  
From: Taneika Goldman, State Human Rights Director  
Subject: Variances and Exemptions under the Human Rights Regulations  
Date: 6/23/2026

The purpose of this Memo is to define and explain the difference between a **variance** and an **exemption** to the Human Rights Regulations.

A **variance** is a formal, structured process that allows any provider licensed, funded, or operated by DBHDS to **modify or not follow a specific human rights regulation** when data demonstrates that an alternative approach better meets individuals' needs or provides enhanced rights protections *and* that previous attempts at compliance have failed or that future attempts are likely to fail. Variances require input from affected stakeholders and are **approved by the State Human Rights Committee**.

An **exemption** is a *temporary, time limited* decision made **solely by the DBHDS Commissioner** that allows the facility to suspend the application of a specific human rights requirement for **individuals who are under forensic status or committed as sexually violent predators (SVPs)**. Exemptions are used to address immediate safety needs and do not require input from the affected stakeholders.

Variances and exemptions may apply to a single individual, a specific population or all individuals in the services setting, dependent on the need.

| Feature           | Exemption   | Variance   |
|-------------------|---|--|
| Who initiates it? | Commissioner after making a determination that the regulation is not applicable | Provider after permission from Governing Body: Commissioner                                |
| Who approves it?  | Commissioner – notify SHRC via the SHRD   | SHRC   |
| Who is it for?    | Forensic-status & SVP individuals only  | Any individual or individuals receiving a service from a licensed/funded/operated provider |

|   |                             |  |
|---|-----------------------------|--|
| <b>Reason allowed</b>                           | Safety                      | Data supports enhanced rights protection or the need to do something different to prevent or stop demonstrated safety concerns |
| <b>Time-limited?</b>                            | Yes                         | Yes (with annual review)   |
| <b>Input from impacted Individuals/ARs. . .</b> | Not Required                | Required – public comment  |
| <b>Purpose</b>                                  | Immediate safety protection | Planned, structured alternative to a regulation  |

The bottom line is that an exemption is a Commissioner-issued safety exception for forensic/SVP populations, and a variance is a provider-requested, SHRC-approved modification to a regulation for operational or clinical reasons.

Applicable regulatory language can be found here: [12VAC35-115-10. Authority and applicability.](#) and [12VAC35-115-220. Variances.](#)

When you are considering applying for a variance, please consult with your assigned Human Rights Advocate as early as possible.

If you have questions regarding the information in this Memo, please contact Brandon Charles, Senior Human Rights Manager for Facility Operations at [brandon.charles@dbhds.virginia.gov](mailto:brandon.charles@dbhds.virginia.gov).