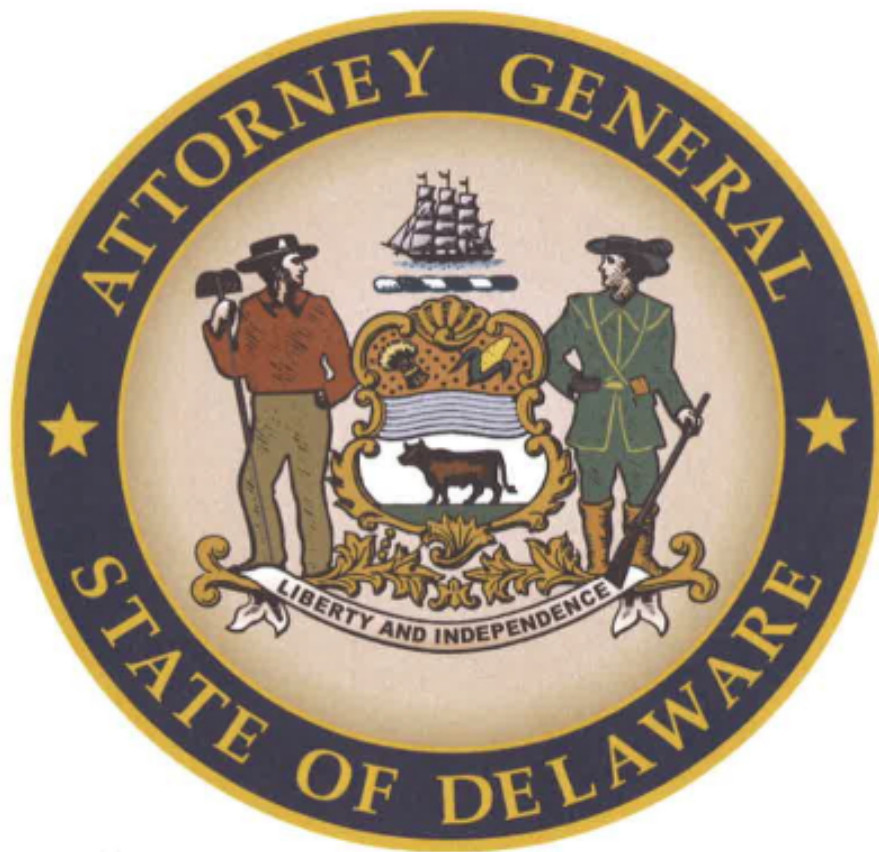


Report of the
Delaware Department of Justice
on the Monitoring of the Christina School
District Board of Education



September 26, 2025

Table of Contents

<i>Introduction and Relevant Law</i>	3
<i>Review & Findings</i>	4
<i>Board Meetings</i>	4
July 9, 2024 Board Meeting	4
August 13, 2024 Board Meeting.....	4
September 11, 2024 Board Meeting.....	5
October 8, 2024 Board Meeting.....	5
December 10, 2024 Board Meeting	5
January 14, 2025 Board Meeting	6
January 28, 2025 Workshop.....	6
January 31, 2025 Board Meeting	6
February 11, 2025 Board Meeting.....	7
March 5, 2025 Policy Review Committee Meeting	7
March 11, 2025 Board Meeting.....	7
April 1, 2025 Policy Review Committee Meeting.....	8
April 8, 2025 Board Meeting.....	8
April 17, 2025 Board Meeting	8
May 6, 2025 Board Meeting	8
June 3, 2025 Policy Review Committee Meeting.....	9
June 10, 2025 Board Meeting	9
FOIA Opinions	10
Opinion No. 24-IB25 (June 26, 2024).....	10
Opinion No. 24-IB29 (August 9, 2024)	10
Opinion No. 24-IB45 (October 23, 2024).....	10
Opinion No. 24-IB48 (November 14, 2024)	11
<i>Conclusion & Recommendations</i>	11
<i>Board Meetings</i>	11

Introduction and Relevant Law

This report details the Delaware Department of Justice’s (“DDOJ”) monitoring and evaluation of the Christina School District Board of Education (“the Board”) pursuant to the directive of the General Assembly.

The DDOJ provides legal advice, counsel, and services for administrative offices, agencies, departments, boards, commissions and offices of the state government.¹ The DDOJ generally does not provide legal advice, counsel or services to Delaware’s public school districts, which may employ their own attorney or attorneys.² This report is an *ad hoc* work product produced pursuant to Section 39 of Senate Bill 327 (152nd General Assembly), the grants-in-aid appropriation package for Fiscal Year 2025:

Notwithstanding any provision of the Delaware Code or law to the contrary, the Department of Justice will monitor the meetings of the Christina School Board for one year, commencing July 1, 2024. The monitoring will focus on transparency, adherence to public information laws, and other issues that may arise. At the conclusion of that year, the Department will issue a report to the General Assembly of its activities, including a synopsis of any Freedom of Information Act matters observed and any recommendations for changes necessary to ensure the proper operation of that Board.

The Board is a public body subject to Delaware’s Freedom of Information Act (“FOIA”).³ FOIA requires public bodies to make meetings open to the public, except in limited circumstances, and to provide the public with a timely agenda, including a general statement of the major issues to be discussed.⁴ The Board members in this period were Donald Patton, President; Althea Smith-Tucker, Vice-President; Dr. Naveed Baqir, District F; Y. F. Lou, District E; Douglas Manley, District C; Monica Moriak, District B; and Dr. Amy Trauth, District D.

The following information and guidance are suggested best practices only and do not reflect how the DDOJ might evaluate hypothetical FOIA petitions. Any legal analysis is strictly through the lens of State law with regard only to that which we could observe; DDOJ cannot opine on whether the Board has followed its own bylaws, policies, and procedures, including Robert’s Rules of Order.

¹ 29 *Del. C.* § 2504

² 29 *Del. C.* § 2515(a)

³ 29 *Del. C.* Ch. 100

⁴ 29 *Del. C.* § 10002

Review & Findings

Board Meetings

Board meetings are held in-person at an anchor location and live-streamed for a virtual audience. Members of the Board and the public may attend by either method. DDOJ reviewed all available videos, agendas, minutes, and public documents that the Board produced from July 1, 2024 through June 30, 2025, *i.e.* FY 2025.⁵ DDOJ also reviewed its relevant FOIA determinations (“AG Opinions”) as part of this analysis. This report summarizes the Board’s meetings with a focus on observed FOIA and operational issues.

July 9, 2024 Board Meeting

Board President Donald Patton announced changes to the agenda and the format of public comment, citing compliance with 14 *Del. C.* § 1048(e), which requires that members of the public be given the opportunity to comment on agenda items before a vote is taken. Patton stated that while the standard format allowed for—and the agenda reflected—three minutes per speaker and twenty minutes per topic, he was reducing the time limit to two minutes in order to keep total comment under fifty minutes due to the high number of speakers. Patton allowed individual speakers additional time when requested.

The July 9 meeting also included discussion of the non-renewal of Superintendent Dan Shelton’s contract. Some Board members urged discussion in open session, while Patton insisted that the matter not be debated publicly due to potential litigation. The meeting was marked by cross talk, disruptions from the audience, and procedural confusion, with adjournment motions from board members Monica Moriak and Douglas Manley ignored.

August 13, 2024 Board Meeting

Patton and Moriak disputed whether certain personnel documents should be made public, with Patton insisting on their release and Moriak objecting to protect staff confidentiality. Tensions escalated when the Board considered appointing an interim superintendent. Board member Y.F. Lou nominated former Acting Superintendent Robert Andrzejewski, seconded by Vice-President Alethea Smith-Tucker. Manley and Moriak raised concerns about bypassing the Deputy Superintendent and questioned whether the process complied with FOIA, citing specific concerns that there was no interview and that Andrzejewski was not discussed in executive session. The DDOJ has previously opined that school boards may not discuss the selection process for a superintendent in executive session.⁶ Whether that finding extends to installing an interim superintendent has never been presented for opinion.

⁵ Public meeting agendas, meeting minutes and public documents are usually available at <https://christinak12.diligent.community/Portal/MeetingTypeList.aspx>. Board meeting videos are available at <https://www.christinak12.org/Page/459>

⁶ *Del. Op. Atty. Gen.* 13-IB01, 2013 WL 2477025 (Mar. 26, 2013)

Despite objections, the motion to install Andrzejewski passed 4–3, with dissenting members noting their votes were cast “under protest” because of unresolved questions about Board member Naveed Baqir’s eligibility to serve. Audience members and board members alleged side discussions and texting outside of public view, fueling accusations of a “serial meeting” as well as other questions about whether the process complied with FOIA.⁷ FOIA defines a public meeting as “the formal or informal gathering of a *quorum* of the members of any public body for the purpose of discussing or taking action on public business either in person or by video-conferencing.” Although there is not enough evidence on this record to confirm that the members were engaged in a serial meeting, it cannot be foreclosed either given Moriak’s assertion that Andrzejewski was not discussed in the executive session.

Finally, Patton excluded one submitted public comment, which was later read aloud by Manley, only for the video recording to cut out.

September 11, 2024 Board Meeting

Patton’s President’s Report strongly criticized colleagues and members of the public for raising ongoing challenges to Baqir’s residency, alleging that legal counsel and the Department of Justice had already found no basis for disqualification. Patton pledged to hire an outside consultant to improve board cohesion, drawing pushback from audience members who were ruled out of order. The meeting grew tense when Manley attempted to read a public comment during his report; Patton declared him out of order and his microphone was cut.

October 8, 2024 Board Meeting

The October 8 meeting was attended by only four members—Patton, Manley, Moriak, and Trauth—and was characterized by inconsistency in how motions were handled. Patton sometimes allowed discussion before a motion was properly made and other times insisted on a motion first. Patton also denied Manley’s request for a roll call vote.

December 10, 2024 Board Meeting

Chief Financial Officer Robert Vacca suggested postponing a school referendum until the following year. Patton asked if Vacca was asking the Board to terminate the previously voted-on motion to schedule the referendum and pointed out that this was not on the agenda. Smith-Tucker made a motion that the referendum be postponed for a year, with Patton seconding. While the motion was briefly considered, it was withdrawn in favor of scheduling a workshop in January. FOIA requires that public bodies include a “general statement of the major issues” which a public body expects to discuss. A sufficient agenda should be a notice “alert[ing] members of the public with an intense interest in the matter that the subject will be taken up by the [public body].”⁸ A referendum is presumably a matter of intense public interest, and in this case the Board acted appropriately by rescheduling discussion of the issue for a January 7, 2025 workshop.

⁷ A “serial meeting” is a FOIA violation whereby individual members of a Board meet in various configurations, in numbers less than a quorum, outside of the public view, reaching a consensus of a quorum without the benefit of deliberation and discussion in a public setting. *See Del. Op. Atty. Gen.* 15-IB06, 2015 WL 5014135 (Aug. 19, 2015).

⁸ *Del. Op. Atty. Gen.* 20-IB06, 2020 WL 719670 (Feb. 5, 2020)

Board conflict arose over the selection of a firm to search for a new superintendent. Smith-Tucker explained the Board's involvement with the bidding process thus far, Patton accused Moriak of unnecessary delay, and Moriak alleged that the winning bidder appeared to have pre-written elements of the request for proposals. The motion to approve the selected firm passed with a vote of 4-2.

January 14, 2025 Board Meeting

The meeting was hampered by audio difficulties throughout the evening, particularly during public comment and presentations. The most substantial debate of the evening concerned a policy protecting undocumented students' right to a public education. Moriak moved to reaffirm the Board's support for the policy and to direct District administration to disseminate clear procedures to staff. The motion ultimately failed after Patton directed a re-vote because he did not think the members understood what the motion meant, since members expressed uncertainty over whether to reaffirm the policy as written or refer it to the Policy Review Committee for revision. Patton stated that there did not need to be a motion to send the issue to the Policy Committee, but that protocol is that they take whatever language they want and send it to policy committee and to the superintendent, and then it will eventually go to legal counsel.

January 28, 2025 Workshop

This workshop focused on the State-mandated transition to the Infinite Campus student information system. The District administration indicated it might request a delay from the Department of Education or the Governor. Patton emphasized that any formal letter from the Board must first be approved by the Board's attorney, Michael Stafford, Esq., proclaiming "[w]e're not gonna sign anything unless Mike Stafford says 'sign this.'" It's important to note that, while this advice is prudent, legal counsel to the Board can only give guidance and does not make final decisions for elected officials.

January 31, 2025 Board Meeting

The Board held a special meeting devoted to the superintendent search. Consultants outlined the process and clarified that, while candidate names would remain confidential by default until finalists were selected, the Board could choose to release them publicly. Moriak urged greater transparency by sharing finalists' names, while Patton emphasized that the District administration, not the Board, should manage stakeholder engagement.

Previous AG Opinions establish that school boards may not discuss issues bearing on the superintendent selection process outside of the public view. From *Del. Op. Atty. Gen. 13-IB01*:

We previously determined, and it now should be well settled, that school boards may not discuss issues bearing on the superintendent selection process in private. *See, e.g., Atty Gen. Op. 02-IB17* (determining that school board violated FOIA by discussing in executive session the mechanics of the superintendent selection process); *Atty Gen. Op. 03-IB23* (Oct. 20, 2003) (determining that school board violated FOIA by discussing in executive

session matters relating to the search for a new superintendent). The “selection process” includes discussions, deliberations and decisions about whether (or not) to hire a professional search firm, the professional, educational and other criteria that will be used by the school board to select a new superintendent, and the selection of the final applicants to be considered for a superintendent position.

February 11, 2025 Board Meeting

This meeting highlighted both transparency and technical issues. No minutes were available online, and documents referenced in minutes were housed on a password-protected platform. Questions arose about discrepancies in vote counts recorded in the minutes. Moriak raised concerns about accessibility, ensuring that an ASL interpreter was connected before the meeting continued. Technical issues also prevented presentation slides from being shared on Zoom until midway through a student report. The Board conducted a first read of a policy on protecting undocumented students’ rights, with discussion centering on how District staff would be trained to respond to potential ICE inquiries.

March 5, 2025 Policy Review Committee Meeting

Policy deliberations continued at this meeting, which lacked a formal call to order, roll call, or minutes. The committee discussed firearm restrictions and corporate sponsorships without clearly linking documents in the agenda. Board members raised concerns about blurring administrative and policy functions and ultimately decided to remove the sponsorship policy from Board consideration.

March 11, 2025 Board Meeting

This meeting included heated public comment criticizing Board member conduct on social media. Presentations from school leaders followed, but questions about transparency arose when linked videos were not played during the meeting. The Board debated the Douglass ESC program, a behavioral health initiative. Patton pressed for a full investigation, and Manley’s motion to direct the District to investigate the arrests passed without opposition.

Most notably, the Board engaged in an extended discussion regarding the District’s Human Resources reorganization process. Several members expressed concern over the process, particularly Chief Financial Officer Bob Vacca’s role in developing the recommendations. Patton emphasized that the proposed restructuring appeared to rely primarily on Vacca’s internal analysis rather than an external professional evaluation, which he argued was necessary to provide credibility and should ultimately be reviewed by the incoming superintendent. Moriak noted that while a consulting firm, Willis Towers, had been engaged, the Board had not received the final results of that work. Vacca clarified that his recommendations combined the consultant’s process with his own analysis, but acknowledged that he had assumed oversight of HR functions temporarily while the director position remained vacant. The exchange grew tense, with Patton questioning the accuracy of Vacca’s statements and reiterating his opposition to consolidating HR under the CFO. Ultimately, members agreed that while the Board has an oversight responsibility, the details of HR reorganization are administrative matters that should be addressed by the superintendent, with any necessary approvals brought formally before the Board.

April 1, 2025 Policy Review Committee Meeting

The Committee again experienced procedural and transparency challenges, beginning with difficulty accessing linked policies on the public agenda. Members noted that the policies had not been posted on the access portal, leaving both the Committee and the public without clear access to the documents under discussion. Committee Chair Y.F. Lou acknowledged the oversight, citing his limited experience presiding over meetings, and eventually shared the policies via e-mail and Zoom.

The committee reviewed Policy 02.31 on protecting undocumented students' right to education. Members emphasized the importance of providing both clean and tracked-change versions of the policy to ensure public clarity. Concerns were raised that the version circulated did not appear consistent with what had previously been presented at a Board meeting, underscoring the need for improved document management and transparency. The meeting concluded with suggestions to establish clearer committee procedures, including the use of a shared drive and more formalized agenda preparation.

April 8, 2025 Board Meeting

The Board convened in open session with all seven members present. Proceedings began with a dispute over the residency of Board Member Baqir, who was and had been in Pakistan for an extended period of time. Manley argued that Baqir's extended absence from Delaware disqualified him from sitting on the Board under State law. Board President Patton denied the challenge, alleging consistent legal guidance affirming Baqir's eligibility.

Public comment focused heavily on parent dissatisfaction with the Bayard School principal selection process, with repeated calls for greater transparency and parental involvement. Substantive discussion centered on the Wilmington Learning Collaborative's role in school decision-making and an update on the Douglass School Emotional Support Classrooms, where concerns were raised about program oversight, student arrest incidents, and staffing ratios. Dr. Joyner committed to providing additional data to address the issues.

April 17, 2025 Board Meeting

Sound quality problems hampered the meeting, with virtual participants unable to hear much of the discussion. Despite this, the Board conducted the critical process of selecting a new superintendent. After extended debate, the Board voted 4–3 to approve Dr. Deirdra Joyner as the next superintendent. A subsequent attempt to immediately install Dr. Joyner as interim superintendent was withdrawn after members raised liability concerns, and the Board instead voted unanimously to direct counsel to negotiate her contract.

May 6, 2025 Board Meeting

The Board reviewed elements of the superintendent's proposed contract in public session. While members discussed provisions such as termination clauses and performance incentives, disagreements arose over whether such details should be debated publicly or routed through legal counsel and the superintendent. Later in the meeting, controversy erupted during consideration of recommendations

from the Wilmington Learning Collaborative (WLC). Disputes over whether the District itself endorsed the candidates devolved into shouting and accusations of procedural impropriety.

Major discussion focused on the superintendent's contract, where members debated whether performance incentives should be tied to student outcomes and emphasized the importance of public input before finalization. A contentious exchange followed over WLC recommendations for principal appointments, with disagreements about whether District officials should weigh in alongside WLC under the governing Memorandum of Understanding ("MOU"). The motion ultimately failed on a divided vote, reflecting sharp differences among members. Additional items included approval of a tax refund request, consideration of Manley's residency-related hearing request regarding Baqir (which failed), and debate over the Board's \$90,000 contract with Willis Towers for HR evaluation work. President Patton expressed frustration, stating about Moriak and Manley:

When you talk about money and it being wasted, I could give you a number of stories. We do this big dog and pony show up here for the public, but when you start digging behind some of these folks, you'll find that it ain't what you think it is. So let's figure out who really cares about where the money goes, or do you only really care about where it goes if I recommend it or if I suggest it, because that's where we are unfortunately.

In closing remarks, Member Smith-Tucker announced her resignation from the WLC council, prompting concerns from colleagues about representation and adherence to the MOU.

June 3, 2025 Policy Review Committee Meeting

The Committee convened but again failed to formally call the meeting to order. Policies were discussed in a brainstorming format with comments from the chat feature on Zoom addressed as they went along. Policies discussed included a proposed cell phone policy and an AI policy.

June 10, 2025 Board Meeting

At the last full Board meeting of FY 2025, ongoing conflict within the Board came to the forefront. The Board also approved the appointment of a new Committee member, despite President Patton stating the matter was not listed on the published agenda. Although not in the outline format, the document attached to the agenda stated the action item for the Board was to approve the new member.

Further discussion centered on a motion introduced by Manley to authorize exploration of commercial bank loans or lines of credit as potential financial options, subject to explicit Board direction. While the proposal was seconded and debated, members questioned whether such action required a formal vote, with Patton and others noting that financial inquiries of this type typically fall within standard administrative practice. Chief Financial Officer Vacca advised that the item was elevated to the Board because it represented a departure from prior practice, though he confirmed such investigations could proceed without formal approval. Ultimately, Manley withdrew the motion following clarification that staff could pursue preliminary inquiries independently, with Board engagement reserved for any future recommendations requiring action.

During his President's Report, Patton launched into an extended defense of Baqir, criticizing other board members for alleged personal attacks and describing the atmosphere of board meetings as hostile and racially charged. He announced Baqir's forthcoming resignation effective July 15, 2025, framing it as the result of prolonged unfair treatment.

FOIA Opinions

During the reporting period, the DDOJ issued several AG Opinions in response to petitions alleging FOIA violations by the Board. These opinions addressed concerns raised by members of the General Assembly, local residents, and the press, and provide insight into both compliance challenges and the limits of FOIA's scope.

Opinion No. 24-IB25 (June 26, 2024)

State Representatives Madinah Wilson-Anton, Paul Baumbach, Cyndie Romer, Sophie Phillips, and Eric Morrison petitioned DDOJ alleging that the Board held an improper executive session, failed to provide public notice of a vote of no confidence in the superintendent, and took several actions at its March and May meetings without appropriate notice on the meeting agendas. The Attorney General concluded that the Board violated FOIA by entering an executive session to discuss parliamentary procedure, by failing to provide notice of the May 2024 vote of no confidence, and by inadequately noticing the March 2024 contract rescission.

However, the Attorney General found no violation in the suspension of the superintendent, as the meeting agenda provided sufficient notice, and determined that allegations regarding the Board's compliance with its own policies and Robert's Rules of Order were outside the scope of FOIA. The opinion recommended that the Board reconsider and ratify the noncompliant actions at a future public meeting held in strict compliance with FOIA.

Opinion No. 24-IB29 (August 9, 2024)

Petitioner Connie Merlet alleged that the Board used computers to review information and record votes without disclosing the results publicly, and that the Board President improperly refused to hear a point of order. Because the Board did not respond to the petition, and the burden of proof rests with the public body to prove compliance, the Attorney General was compelled to find a FOIA violation on the first claim, concluding that the Board failed to adequately inform the public of the results of several votes and of how each member voted. The Opinion recommended that the Board ratify those votes at a properly noticed meeting using a public roll call.

The second allegation, concerning refusal to hear a point of order, was found not to implicate FOIA, as compliance with Robert's Rules of Order is not required by statute.

Opinion No. 24-IB45 (October 23, 2024)

Petitioner Sarah Mueller, a reporter with WHYI, alleged that the District failed to produce all records responsive to her request for materials related to the hiring of Superintendent Robert Andrzejewski, and that the District improperly redacted the records it did produce. The District provided sworn

affidavits attesting that its search was thorough and that withheld records were protected by attorney-client privilege. DDOJ determined that the District had met its obligations and concluded there was no FOIA violation.

Opinion No. 24-IB48 (November 14, 2024)

Petitioner and Board member Monica Moriak alleged that four Board members engaged in improper private discussions before and after an executive session, and that these members routinely decided matters in advance of public meetings. The DDOJ found no FOIA violation, determining that the allegations were too vague and based solely on suspicion, and that the limited discussion that could be proven did not concern public business. Nevertheless, the Opinion cautioned the Board against discussing District matters outside of public meetings and reminded members that robust deliberation before voting serves the public interest better than silent, coordinated voting.

Conclusion & Recommendations

At Board meetings throughout FY25, Board members referenced the need for transparency, adherence to FOIA, and adherence to Robert's Rules of Order. To that end, the Board discussed at least one training they underwent. Looking ahead, the Board should be cautious of misleading, inaccurate, or incomplete minutes; vague agendas, irregularities in voting procedures; and lack of clear identification of speakers. Collectively, these issues illustrate the need for strengthened adherence to FOIA mandates to ensure the public's right to observe and understand the actions of the Board. Training for FOIA coordinators is provided by the Department of Justice every year, and past training presentations may be found on the Department's website. We recommend the Board use these training options to ensure compliance with all of FOIA's open meeting requirements going forward.

Board Meetings

Board meetings were characterized by recurring conflict between members, along with frequent procedural, technical, and clerical problems. While these issues may not constitute specific FOIA violations, they interfere with the exercise of public business and, when allowed to persist and fester, undermine public trust in the community's most important public bodies. We recommend that the Board take all steps and undergo all training necessary to correct these issues.

Executive Session Agendas

Agendas for the Board’s executive sessions consistently reuse three generic bullet points: (1) Student Matters; (2) Personnel Matters; and (3) Legal Matters. FOIA requires public bodies to include a specific reason for entering executive session.⁹ Each of these three reasons is allowable¹⁰ and may sufficiently descriptive for a public body to enter an executive session.¹¹ However, the Board’s published agendas and notices reveal that this agenda is a template that reuses the same categories every month, regardless of whether it accurately reflected the matters the Board actually needed to discuss. For example, the Board’s Executive Session minutes for September 11, 2024 use the same three categories, but state that there were no student matters or legal matters to discuss and that the Board only discussed personnel matters.

In 2013, the DDOJ evaluated Sussex County Councils’ similar and longstanding practice of including on its public meeting agendas a generic statement of intent to convene into executive session, along with generic references to issues commonly addressed in executive session.¹² At the time, the DDOJ did not find that the Council violated FOIA. However, the Opinion noted that this practice was problematic and potentially misleading to the public, and urged the Council to only include on its agenda those items that the Council specifically intended to discuss or act upon. Similarly, while the Christina School Board may frequently need to meet in executive session for any of these three reasons, the Board should ensure that its agendas accurately characterize the impetus for executive session specific to that meeting.

Meeting Minutes

There are issues with the formatting, accuracy, and transparency of meeting minutes. The Board’s General Session minutes use the phrase “it is recommended” as a precursor to almost all board motions. For example, in the minutes for the October 8, 2024 General Business Session the motion for approval of the agenda for the evening reads, “[i]t is recommended that this evening’s agenda be approved with the following exception: removal of action item 11.02-Policy Review: 2.34 Syllabi Policy – SECOND READ.” Board member Althea Smith-Tucker actually stated that she was “making a motion to approve agenda with removal of agenda item 11.02¹³” The addition of the phrase “it is recommended” is confusing in this context. In the March 11, 2025 General Business Session, Board Member Douglas Manley moved “to instruct the District to investigate the 28 arrest incidents outlined here, and any others at any other schools and provide a report to the Board at the April meeting.” However, the meeting minutes state “[i]t is recommended that the Christina Board of Education instruct the District to investigate the 28 arrest instances outlined here and any others at any other schools and provide a report to the board at the April 8 BOE meeting as submitted” (emphasis added). FOIA mandates that public bodies’ meeting minutes accurately include “a record, by individual members ...

⁹ 29 Del. C. § 10002(a)

¹⁰ 29 Del. C. § 10004(b)

¹¹ “[FOIA] requires public bodies to provide the reason for entering into an executive session, but [] does not require public bodies to elaborate in great detail on agendas what legal, personnel, or other subjects are to be discussed.” *O’Neill v. Town of Middletown*, 2007 WL 2752981, at *7 (Del. Ch. Mar. 29, 2007)

¹² *Del. Op. Att’y Gen.* 13-IB02, 2013 WL 2477026 (May 1, 2013)

¹³ The motion originally made was to remove the stated action item. This was clarified as a motion to approve the agenda with the removal of the stated action item.

of each vote taken and action agreed upon.”¹⁴ The requirements for minutes are minimal, but they must be accurate. The Court of Chancery of Delaware in *Reeder v. Delaware Dept. of Ins.* reviewed the statute’s use of the word “action” to determine what a public body needed to record in its minutes before concluding that it need not decide the breadth of the term action but instead, “once a public body undertakes to cover a particular topic in minutes, it cannot describe the topic in a manner that is *materially* misleading.”¹⁵ Depending on the factual content of the motion, inclusion of the phrase, “it is recommended” could be considered materially misleading because it implies that the action they’re taking is not final but instead is merely a recommendation made to an unidentified entity to whom the Board answers.

We also note that at the beginning of FY 2025, minutes for the Board’s meetings could be found online at <https://christinak12.diligent.community/Portal/MeetingTypeList.aspx>. Finalized minutes are no longer available beginning with the December 10, 2024 meeting, although draft minutes can still be found attached to the agenda of the meeting where the Board voted on approval. FOIA does not required the Board to post its minutes online, but posting inconsistently may lead to public frustration.

Electronic Voting

Voting procedures should focus on ensuring that the public clearly understands what is being voted on and how each member of the Board is voting. At the beginning of FY25, the Board relied on electronic voting that was projected onto a screen, which was visible both online and in person. Technical difficulties plagued the electronic voting system in July, August, and September 2024, with some votes appearing and some not. On July 9, 2024, for instance, the Board voted on a preliminary budget, but the recording did not capture the vote, and the President did not announce whether the motion carried. FOIA recognizes the possibility of technological problems when a board is conducting a virtual or hybrid meeting, and states that technical difficulties that limit or prevent public access will not invalidate a virtual meeting or an action taken at a virtual meeting.¹⁶

The Board acknowledged its struggles with the electronic voting system and during the October 8, 2024 Board meeting, the President announced that the Board would add voice voting to the electronic voting system based on a FOIA decision from the summer. Although moving to voice voting was a step towards clarity, the electronic voting system continued to experience issues, including periodically showing votes from previous agenda items. For example, in the January 14, 2025 Board meeting the vote count for a motion to approve the executive session minutes remained on the screen through several subsequent votes.

The Board should take steps to increase transparency regarding how Board members are voting, and whether motions made are passing. For example, President Patton frequently announced the result of a vote by announcing that absent members were being counted as “no” votes. Minutes of the same meetings accurately reflect members as absent rather than “no” votes, but the President’s inarticulate

¹⁴ 29 Del. C. § 10004(f)

¹⁵ *Reeder v. Delaware Dep’t of Ins.*, 2006 WL 510067, at *15 (Del. Ch. Feb. 24, 2006) *aff’d sub nom.*, *Reeder v. Delaware Dep’t of Ins.*, *Defensive Driving Credential Comm.*, 931 A.2d 1007 (Del. 2006)

¹⁶ 29 Del. C. § 10006(d)(4)

tally announcements could introduce confusion for the public as to what members of the Board are present for any particular vote, especially given the difficulty in finding minutes.

Streaming

Finally, Board meetings that are conducted simultaneously in person and virtually present a challenge and opportunity for boards. To ensure transparency for the public watching online, Board members need to ensure that they are, at minimum, heard, their identity verified, and their actions authenticated.¹⁷ Although stating one's name before speaking is not required by FOIA, it is an easy way for the public to follow along with how each Board member is participating in the meeting. At almost every meeting during FY25, at least one board member or staff spoke or made a motion without identifying themselves. This practice made it difficult for observers to determine who was responsible for particular statements, further undermining transparency.

Trainings

Over the past year, Board discussions have alluded to board trainings and discussions geared towards increasing the Board's cohesion as well as engagement with legal counsel to improve the Board's procedures and focus on Robert's Rules. The DDOJ notes recent legislation requiring additional board trainings and implementing a physical residency requirement for Board members.¹⁸

FOIA Petitions

The FY 2025 FOIA petitions and corresponding AG Opinions highlight recurring transparency issues in the Board's meeting agendas and public disclosure of its actions. While some allegations were found to be beyond FOIA's scope or insufficiently substantiated, the DDOJ found clear violations where the Board failed to provide adequate notice or disclose voting outcomes, underscoring the need for greater compliance with both the letter and the spirit of Delaware's open government requirements.

¹⁷ 29 Del. C. § 10006(c)

¹⁸ 85 Del. Laws, c. 50, § 1