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OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE

Attorney General Opinion No. 25-IB66

December 22, 2025

VIA EMAIL

Brandy Topolski
bttopolski25@gmail.com

RE: FOIA Petition Regarding the Redding Consortium for Educational Equity

Dear Ms. Topolski:

We write regarding your correspondence alleging that the Redding Consortium for Educational Equity violated the Delaware Freedom of Information Act, 29 *Del. C.* §§ 10001-10008 (“FOIA”). We treat your correspondence as a Petition for a determination pursuant to 29 *Del. C.* § 10005 regarding whether a violation of FOIA has occurred or is about to occur. For the reasons set forth below, we find that the Consortium did not violate FOIA at the November 18, 2025 meeting. The remaining claims are not appropriate for consideration.

BACKGROUND

The Consortium is a “legislatively created body charged with developing a proposal for redistricting the school districts in the City of Wilmington and northern New Castle County . . . to recommend to the State Board of Education.”¹ The Consortium held a public meeting on November 18, 2025. This Petition followed.

In the Petition, you allege that the Consortium violated the open meeting requirements in several ways. You argue that the Consortium created impermissible access barriers to this meeting, because the November 18, 2025 meeting link required you to create or sign in with a personal account to join the meeting, and when you entered the meeting, you were placed in a

¹ Response, p. 3.

host-controlled waiting room. You contend that the Consortium restricted public access to other previous unspecified meetings, including by using host-controlled waiting rooms, delaying or denying the admittance of attendees, and requiring logins through Zoom or third-party authentication. You also assert that the Consortium has ongoing transparency problems, including non-responsiveness to requests, difficulty obtaining records, confusion over the custody of records due to University's supportive role to the Consortium, denying or redirecting requests for Consortium records pursuant to the University of Delaware's FOIA exception, and failing to publish data, assumptions and analyses that are central to decision-making. You argue that the Consortium schedules meetings at the same time as other major educational bodies, making meaningful participation nearly impossible.

On December 1, 2025, the Consortium, through its legal counsel, replied to the Petition and enclosed the affidavit of the Assistant Policy Scientist who administered the relevant meeting ("Response"). The Assistant Policy Scientist attests the statements in the Response were correct to the best of the Assistant Policy Scientist's knowledge. The Consortium is comprised of twenty-four voting members, and thirteen members is a quorum. The Consortium explained that it has hosted multiple meetings to provide the public insight into and to receive feedback on redistricting proposals under consideration. At the November 18, 2025 Town Hall meeting, one Consortium member spoke, and six other members attended as silent observers; after the brief presentation, the floor was opened for comments and questions from the public. The Consortium argues that this meeting, which was attended by less than a quorum of members, was not a public meeting subject to FOIA's open meeting requirements.

Even if the meeting was subject to FOIA, the Consortium argues that the meeting was compliant with FOIA. The Consortium states that the Zoom settings for this meeting included a "feature that requires individuals who join a Zoom meeting from a web browser to create or sign into an account with Zoom before joining the meeting."² The Consortium also acknowledges that all the attendees and members were admitted to a host-controlled waiting room prior to the meeting. Such practices, the Consortium argues, did not restrict the public's access, as evidenced by the large number of attendees. The Consortium contends that your broad claims about previous Consortium meetings are too general to allow for a tailored response. With respect to the treatment of the Consortium records as public records specific to the University of Delaware, the Consortium agrees that this practice should be altered and commits to direct the FOIA coordinator to respond as if the Consortium was the relevant public body custodian, rather than the University. Regarding the meeting scheduling, the Consortium notes that it endeavors to schedule according to times most convenient for all members and stakeholders but cannot guarantee that all Consortium members and the public can attend every meeting. The Consortium argues that any overlap in scheduling meetings does not constitute a violation of FOIA.

² Response, p. 2.

DISCUSSION

Delaware's FOIA law "was enacted to ensure governmental accountability by providing Delaware's citizens access to open meetings and meeting records of governmental or public bodies, as well as access to the public records of those entities."³ FOIA mandates that public bodies meet specific requirements when holding public meetings, including advance notice, posting notices and agendas, an opportunity for public comment, and maintaining meeting minutes.⁴ A meeting of a public body must be open to the public, except in limited circumstances.⁵ The public body has the burden of proof to demonstrate compliance with FOIA.⁶ In certain circumstances, a sworn affidavit may be required to meet that burden.⁷

As an initial matter, the Petition's general allegations regarding unspecified past meetings and public records requests are not sufficiently specific to allow for consideration. Further, the Petition's final claim regarding scheduling overlaps between the meetings of public bodies that handle related matters is not addressed through the FOIA statute and is not appropriately considered through the FOIA petition process initiated under Section 10005.⁸

The remaining issue is whether the Consortium violated FOIA at the November 18, 2025 meeting in providing virtual access through a host-controlled waiting room with a sign-in or account requirement. A meeting under FOIA is defined 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."⁹ The Consortium provided sworn statements that less than a quorum attended the meeting and only one member spoke during the meeting.¹⁰ Based on these representations under oath, we find that a quorum of members did not engage in discussions or taking action on public business; thus, we find this was not a "meeting" as defined by FOIA.¹¹ We determine that the

³ *Judicial Watch, Inc. v. Univ. of Del.*, 267 A.3d 996, 1004 (Del. 2021).

⁴ 29 Del. C. § 10004.

⁵ *Id.*

⁶ 29 Del. C. § 10005(c).

⁷ *Judicial Watch, Inc.*, 267 A.3d at 1008-1012.

⁸ 29 Del. C. § 10005(e).

⁹ 29 Del. C. § 10002(j).

¹⁰ Response, Aff. of Assistant Policy Scientist Haley Qaissaunee dated Dec. 1, 2025.

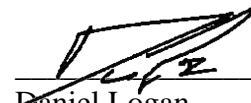
¹¹ *Del. Op. Att'y Gen.* 18-IB41, 2018 WL 4385004, at *2 (Aug. 28, 2018) (finding no violation of FOIA when a quorum attended a committee meeting but did not discuss, deliberate, or reach a vote or consensus regarding public business); *Del. Op. Att'y Gen.* 18-IB07, 2018 WL 1061277, at *2 (Feb. 9, 2018) (determining that a gathering of a quorum of councilmembers at a

Consortium did not violate FOIA, as this meeting was not subject to the open meeting requirements.

CONCLUSION

For the foregoing reasons, we conclude that the Consortium did not violate FOIA at the November 18, 2025 meeting. The remaining claims are not appropriate for consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read 'DLR', is written over a horizontal line.

Daniel Logan
Chief Deputy Attorney General

cc: Caroline M. McDonough, Deputy Attorney General
Dorey L. Cole, Deputy Attorney General

press conference did not constitute a “meeting” under FOIA because the Office had “no evidence of a discussion *among* the attending councilmembers during the press conference.”) (emphasis added).