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OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE

Attorney General Opinion No. 26-IB14

April 8, 2026

VIA EMAIL

Shyanne Miller
smiller@workingfamilies.org

RE: FOIA Petition Regarding the City of Dover

Dear Ms. Miller:

We write in response to your correspondence alleging that the City of Dover violated Delaware's Freedom of Information Act, 29 *Del. C.* §§ 10001-10008 ("FOIA"). We treat this correspondence as a Petition for a determination pursuant to 29 *Del. C.* § 10005 of whether a violation of FOIA has occurred or is about to occur. As discussed more fully herein, we determine that the City did not violate FOIA by providing what you felt was an unclear response to your request.

BACKGROUND

On November 25, 2025, you filed a request with the City seeking a copy of the Dover City Council Rules regarding any written processes for how legislation is advanced through committees and the rules for voting thresholds. The request also asked that the City "share written processes for how legislation is reviewed/advanced until it becomes law."¹ In response, the City stated that "it does not maintain separate written policies, procedures, or documents responsive to your request," and the "City does not have standalone documents outlining these processes in the manner requested."² The City added for informational purposes that the City conducts its

¹ Petition.

² *Id.*

legislative proceedings “in accordance with the City of Dover Charter, the City Code, and Robert’s Rules of Order, Newly Revised (11th Edition), as applicable.”³ The City responded that it does not have additional responsive records, beyond these governing authorities.

This Petition followed. In the Petition, you allege that the City’s response lacks clarity, questioning whether this constitutes a violation of FOIA. Specifically, you do not understand whether the City has a separate set of rules that speak to the voting thresholds and advancement of legislation or if the City has these rules but is declining to provide them.

On March 18, 2026, the City, through its legal counsel, responded to this Petition (“Response”). The City argues its response to your request does not violate FOIA. The City Solicitor states under oath that the Solicitor personally examined the details of this Petition and confirms that “the documents [you] sought in [your] initial November 25, 2025, FOIA request to the City do not exist in any separate format created and retained by the City and that the publicly available governing authorities [you were] directed to are the only responsive documents.”⁴

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.”⁵ FOIA requires that citizens be provided reasonable access to and reasonable facilities for the copying of public records.⁶ The public body has the burden of proof to justify its denial of access to records.⁷ In certain circumstances, a sworn affidavit may be required to meet that burden.⁸

In this case, the Petition alleges that the City’s response to your request lacks sufficient clarity, potentially in violation of FOIA. The City submitted the City Solicitor’s sworn statements that the City does not have responsive records, other than the publicly available code, charter, and Robert’s Rules of Order. Having reviewed the City’s sworn statements against the initial response, we find that the City’s response to your request was sufficiently specific that the City does not have responsive records to produce, and we find no violation of FOIA occurred in this regard.

³ *Id.*

⁴ Response.

⁵ *Judicial Watch, Inc. v. Univ. of Del.*, 267 A.3d 996, 1004 (Del. 2021).

⁶ 29 *Del. C.* § 10003(a).

⁷ 29 *Del. C.* § 10005(c).

⁸ *Judicial Watch, Inc.*, 267 A.3d at 1008-1012.

CONCLUSION

For the reasons set forth above, we conclude that the City did not violate FOIA by providing an unclear response to your request.

Very truly yours,

/s/ Dorey L. Cole

Dorey L. Cole
Deputy Attorney General

Approved:

/s/ Patricia A. Davis

Patricia A. Davis
State Solicitor

cc: Daniel A. Griffith, City Solicitor