

FREEDOM OF INFORMATION ACT: CHECKLIST

This checklist provides a list of key considerations and items that committees will need to follow in accordance with the Freedom of Information Act "FOIA"

DISCLAIMER

This checklist is distributed for general information purposes with the understanding that under no circumstance its contents represent legal advice. Users are encouraged to consult the Freedom of Information Act, available online at <http://delcode.delaware.gov/title29/c100/#10001>

Issues to consider:

- All meetings must be open to the public with the exception of the ones referred to in subsections b, c, d and h of section 10004 of the Act.
- Executive session closed to the public must be held following the procedures established in the Act and limited to the purpose listed in it.
- Regular scheduled meetings must be held within the geographic jurisdiction of the committees.
- All committees must give public notice of their regular meetings at least 7 days in advance thereof. The notice must include the date, time, and place.
- The public notice must be visible at the place where meetings of the committees are regularly held, and sufficient amount of it should be available.
- Any special or rescheduled meeting must be notified as soon as possible but in any event no later than 24 hours before such meeting with an explanation as to why a belated notice is given.
- Special or rescheduled meetings are the ones taken place less than 7 days after the scheduling decision is made.
- The public notice requirement does not apply to any emergency meeting.
- An action taken at a meeting in contravention of the Act may be voidable by the Court of Chancery.
- The agenda must include but is not limited to a general list of the main issues likely to be discussed.
- The agenda must be part of the public notice. However, the agenda may be subject to change to include new items or to delete items which arise at the actual time of the meeting.
- If the agenda is not available at the time of the initial posting of the public notice, the agenda must be attached to the notice at least 6 hours before the meeting with a brief explanation for the delay.
- All committees must keep minutes of all meetings.
- The minutes must be available for public inspection and copying as a public record.
- The minutes must include a record of the members present at the meetings (except for town assembly where all citizens have the right to vote) as well as a record by individual members of each vote taken and the identification of the action agreed upon.
- The minutes or portions of them, and any public records connect to executive sessions, may be kept back from public disclosure as long as the public release would void the legitimate purpose for the executive session.