



SPONSOR: Rep. Kowalko & Rep. Lambert & Rep. Morrison &
Sen. Walsh
Reps. Bennett, Lynn, Osienski, K. Williams; Sens.
Paradee, Sokola

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 102

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE FREEDOM OF INFORMATION ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend § 10002, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10002. Definitions.

(h)(1) "Public body" means, unless specifically excluded, any regulatory, administrative, advisory, executive, appointive or legislative body of the State, or of any political subdivision of the State, including, but not limited to, any board, bureau, commission, department, agency, committee, ad hoc committee, special committee, temporary committee, advisory board and committee, subcommittee, legislative committee, association, group, panel, council or any other entity or body established by an act of the General Assembly of the State, or established by any body established by the General Assembly of the State, or appointed by any body or public official of the State or otherwise empowered by any state governmental entity, which:

(+) a. Is supported in whole or in part by any public funds; or

(2) b. Expends or disburses any public funds, including grants, gifts or other similar disbursements and distributions; or

(3) c. Is impliedly or specifically charged by any other public official, body, or agency to advise or to make reports, investigations or recommendations.

(2) "Public body" ~~shall~~ does not include any caucus of the House of Representatives or Senate of the State.

(3) "Public body" ~~shall include~~ includes any authority created under Chapter 14 of Title 16.

(4) "Public body" includes the Board of Trustees of both the University of Delaware and Delaware State

University.

(i) ~~"Public body," "public record" and "meeting" shall not include activities of the University of Delaware and Delaware State University, except that the Board of Trustees of both universities shall be "public bodies," university~~

documents relating to the expenditure of public funds shall be "public records," and each meeting of the full Board of Trustees of either institution shall be a "meeting." Additionally, any university request for proposal, request for quotation, or other such document soliciting competitive bids for any contract, agreement, capital improvement, capital acquisition or other expenditure proposed to involve any amount or percentage of public funds by or on behalf of the university shall indicate on the request for proposal or other such document that it relates to the expenditure of public funds. [Reserved.]

(l) "Public record" is information of any kind, owned, made, used, retained, received, produced, composed, ~~drafted~~ drafted, or otherwise compiled or collected, by any public body, relating in any way to public business, or in any way of public interest, or in any way related to public purposes, regardless of the physical form or characteristic by which such information is stored, ~~recorded~~ recorded, or reproduced. For purposes of this chapter, the following records shall ~~not be deemed~~ are not public:

(20) Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting any of the following:

- a. Admission to any educational agency or institution.
- b. An application for employment or promotion.
- c. Receipt of an honor or honorary recognition.

(21)a. Unless it has been publicly released, published, copyrighted, or patented, information of a proprietary nature produced or collected by or for faculty or staff of a public institution of higher education in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, including study or research performed in conjunction with a government or private entity.

b. Paragraph (l)(21)a. of this section does not include the institution's financial or administrative records.

(22)a. Information maintained in connection with fundraising activities by or for a public institution of higher education that would reveal any of the following relating to an identifiable donor or a prospective donor:

- 1. Personal fundraising strategies.
- 2. Wealth assessments.
- 3. Estate, financial, or tax planning information.
- 4. Health-related information.
- 5. Employment, familial, or marital status information.
- 6. Electronic mail address, facsimile, or telephone number.
- 7. Birth date or social security number.

51 b. Nothing in paragraph (I)(22)a. of this section may be construed to authorize the withholding of
52 information relating to the amount, date, purpose, and terms of the pledge or donation, or the identity of the donor
53 unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation.

54 c. Nothing in paragraph (I)(22)a. of this section protects any of the following from disclosure:

55 1. The identities of sponsors providing grants to or contracting with the institution for the
56 performance of research services or other work.

57 2. The terms and conditions of grants or contracts.

SYNOPSIS

This Act removes the broad exemption in the Freedom of Information Act for the University of Delaware and Delaware State University and creates the following specific exemptions for some records of public institutions:

1. Confidential letters or statements related to admission, employment, or honors.
2. Proprietary information related to study or research.
3. Personal fundraising strategies relating to and confidential financial and personal information about identifiable donors or prospective donors.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

This Act requires a greater than majority vote for passage because § 1 of Article IX of the Delaware Constitution requires the affirmative vote of two-thirds of the members elected to each house of the General Assembly to amend a charter issued to a corporation for educational purposes sustained in whole or part by the State, including the University of Delaware and Delaware State University.