

CHAPTER 400
FORMERLY
SENATE BILL NO. 283
AS AMENDED BY
SENATE AMENDMENT NO. 1

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §10005(e) of Title 29 of the Delaware Code, by adding after the words “Upon receiving a petition, the Attorney General shall” the following:

“promptly determine whether the petition is against an administrative office or officer, agency, department, board, commission or instrumentality of state government which the Attorney General is obliged to represent pursuant to §2504 of this Title. Every petition against an administrative office or officer, agency, department, board, commission or instrumentality of state government which the Attorney General is obliged to represent pursuant to §2504 of this Title shall be referred to the Chief Deputy Attorney General who shall, within 20 days of receiving the petition, render a written determination to the petitioner and the public body involved declaring whether a violation has occurred or is about to occur. If the Chief Deputy finds that a violation of this Chapter has occurred or is about to occur, the Attorney General shall not represent the public body in any appeal filed pursuant to this Chapter for such violation if the public body the Attorney General is otherwise obligated to represent fails to comply with the Chief Deputy’s determination. Regardless of the finding of the Chief Deputy, the petitioner or the public body may appeal the matter on the record to Superior Court. In every other case, the Attorney General shall”.

Section 2. Amend § 10005, Title 29, Delaware Code, by striking the current subsection (f) in its entirety, and substituting in lieu thereof the following:

"(f) An administrative office or officer, agency, department, board, commission or instrumentality of state government which the Attorney General is obligated to represent pursuant to § 2504 of this Title shall not require the approval of the Attorney General pursuant to § 2507 of this Title to address claims of violation under this chapter.”

Section 3. Amend §10005(b), Title 29, Delaware Code by adding the following language:

“Notwithstanding the foregoing, a person denied access to public records by an administrative office or officer, a department head, commission, or instrumentality of state government which the Attorney General is obliged to represent pursuant to §2504 of this Title must within 60 days of denial, present a petition and all supporting documentation to the Chief Deputy as described in subsection (e) of this section. Thereafter, the petitioner or public body the Attorney General is otherwise obligated to represent may appeal an adverse decision on the record to the Superior Court within sixty days of the Attorney General’s decision.”

Approved July 15, 2010