

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2020-088**

July 16, 2020

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-088

Dear Mr. Ayele:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 (“DC FOIA”), challenging the failure of the Department of Employment Services (“DOES”) to respond to your FOIA request.

You submitted a FOIA request to DOES that consisted of a lengthy statement describing your employment relationship with a facility in a different state. You also attached a 12-page document entitled “Decade in Review” which also did not request any documents. Based on the questions in your FOIA request, DOES responded stating that it did not have any responsive records. On January 29, 2019, you filed an appeal with this Office requesting that we direct DOES to answer the questions that you submitted in your request. On February 10, 2020, DOES responded to your appeal stating that you did not request any documents.<sup>1</sup> DOES reached out to you on February 10 one more time to clarify your request. DOES notes that your response was to send more questions to the agency.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records within a reasonable amount of time. More specifically, 1 DCMR § 402.4 states that:

A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency “has no duty either to answer questions unrelated to document requests or to create documents.” *Zemansky v. United States Environmental Protection Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). “FOIA creates only a right of access to records, not a right to personal services.” *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985); *see also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

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<sup>1</sup> A copy of DOES’s response to your appeal is attached to this decision.

We agree with DOES that your request did not identify any records that you wanted from DOES. Rather, your submissions contained a summary of your employment history and a series of questions on various topics. Based on the foregoing, we therefore conclude that the DOES properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Tonya Robinson, General Counsel/FOIA Officer  
DOES (via email)