

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-089**

February 3, 2020

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-089

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 Health Care Finance (“DHCF”) to properly respond to your FOIA request for public records.

In your FOIA request, you discuss your employment history with an agency in another state and the process you went through for the background check. You also discuss the physical layout of a facility in that state and the type of individuals housed or treated in various sections of the facility. You then ask a series of questions having nothing to do with either DHCF or the District of Columbia. You filed this appeal when you did not get a response from DHCF. On January 30, 2020, DHCF responded to your appeal.¹ In its response, DHCF states that it did not have any responsive records because you did not request any records from DHCF. We have reviewed your request and agree with DHCF that your request simply posed a series of questions and did not seek the production of any public records.

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). We therefore conclude that the DHCF has not failed to fulfill its obligations under DC FOIA, and we hereby dismiss your appeal.

This constitutes the final decision of this Office with respect to your appeal. 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,

¹ A copy of DHCF’s response to your appeal is attached to this decision.

Mayor's Office of Legal Counsel

cc: Kevin O'Donnell, Attorney Advisor/FOIA Officer
DHCF (via email)