

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-093**

November 5, 2020

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-093

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 (“DOH”) to respond to your FOIA request.

You submitted a FOIA request to DOH 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.” Your submissions asked a series of questions having nothing to do with either DOH or the District of Columbia and did not seek the production of any public records. DOH responded to your FOIA request indicating that it did not have any responsive documents. You subsequently filed this appeal. While DOH did not formally respond to the appeal, it did send an email to this Office confirming that it had no responsive documents.

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 Env'tl. Prot. 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).

Based on the foregoing, we conclude that DOH has not failed to fulfill its obligations under DC FOIA, 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: Phillip L. Husband, General Counsel/FOIA Officer
DOH (via email)