

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-132**

August 26, 2020

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-132

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 denial of your DC FOIA request by the District of Columbia Office of Human Rights (“OHR”).

You submitted a DC FOIA request to OHR that consisted of a lengthy statement describing your employment relationship with a facility in the state of Missouri. The statement included numerous questions regarding a wide range of topics, none of which appear to relate to OHR or its functions. You later sent an email to OHR containing a duplicate DC FOIA request. OHR denied your requests on the grounds that you sought responses to questions, not records, and that the agency was not required to provide answers under the statute. You subsequently filed an appeal with this Office and requested that we direct OHR to answer the questions that you submitted in your request. On March 4, 2020, OHR responded to your appeal and restated its position that DC FOIA does not impose an obligation on agencies to answer questions posed by requests.¹

The DC 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

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

(D.D.C. 2009).

We agree with OHR that your request did not identify any records that you wanted from the agency. Rather, your submissions contained a series of questions on various topics. We note that you submitted an additional reply to this Office on March 5, 2020. While the DC FOIA does not provide requesters with an opportunity to file replies to agency appeal responses, this Office has reviewed your reply. We conclude that your reply contains the same shortcomings as OHR identified in your initial DC FOIA request and appeal. Specifically, it consists of numerous questions, which OHR is not obligated under the DC FOIA to answer. Based on the foregoing, we conclude that the OHR properly responded to your DC 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: Charles Abbott, Attorney Advisor/Interim FOIA Officer
OHR (via email)