

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-157**

February 23, 2021

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-157

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 determination by the DC Department of Health (“DOH”) that it has no records responsive to your FOIA request.

You submitted a FOIA request to DOH that consisted primarily of a series of questions unrelated to the work of DOH. You also requested certain documents in the possession of the Missouri Department of Mental Health. DOH sent you a response, explaining that it was not obligated to respond to the series of interrogatories you submitted and referring you to the custodian of records at the Missouri Department of Mental Health. You subsequently filed an appeal with this Office in which you repeated several questions from your initial request and posed additional questions. DOH responded to your appeal by reiterating that it does not possess the documents you referred to and that it was not obligated to respond to your list of questions.¹

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

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

122, 129-130 (D.D.C. 2009).

Based on the foregoing, we conclude that the DOH 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: Edward Rich, Senior Assistant General Counsel
DOH (via email)