

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-173**

April 11, 2022

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-173

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 Board of Elections (“DCBOE”) that it has no records responsive to your FOIA request.

You submitted a FOIA request to DCBOE that consisted primarily of a series of questions unrelated to the work of DCBOE. You subsequently filed an appeal with this Office in which you repeated several questions from your initial request and posed additional questions. DCBOE responded to your appeal by stating that it does not possess the requested records and “does not maintain records of where people attended school, nor the names of government employees that utilize medical marijuana.”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 122, 129-130 (D.D.C. 2009).

Based on the foregoing, we conclude that the DCBOE properly responded to your FOIA

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

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: Rudolph M.D. McGann, Senior Staff Attorney
DCBOE (via email)