

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-187**

September 7, 2022

VIA ELECTRONIC MAIL ONLY

Jamie Smith

RE: FOIA Appeal 2020-187

Dear Ms. Smith:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq.* In your appeal, you have challenged the response of the D.C. Public Schools ("DCPS") to your May 20, 2020 FOIA request, identified as 2020-FOIA-05459, which sought the following:

[T]he witness statements and a copy of "DCPS' established investigative process when reviewing and documenting incidents related to school safety..."

On May 30, 2020, DCPS provided a response to your request that included a copy of the DCPS School Barring Procedures and a copy of a February 28, 2020 incident report with the names of the "victim" and "witness" redacted. DCPS advised you that the redacted information was being withheld from release pursuant to the FOIA personal privacy exemption, D.C. Official Code §2-534(a)(2).

D.C. Code § 2-534(a)(2) allows an agency to withhold "[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." The term "unwarranted" requires a balancing of "the public interest in disclosure against the privacy interest Congress [and the Council of the District of Columbia] intended the exemption to protect." *Padou v. District of Columbia*, 29 A.3d 973, 982 (D.C. 2011).

The privacy interest in the FOIA balancing analysis "encompasses the individual's control of information concerning his or her person," including names, addresses, and other identifying information. *Padou*, *supra*, 29 A.3d at 982. Individuals have a privacy interest in personal information even if it is not of an embarrassing or intimate nature. *U.S. Dep't of State v. Washington Post Co.*, 456 U.S. 595, 600, 102 S.Ct. 1957, 72 L.Ed.2d 358 (1982).

The public interest in the balancing analysis is only “the extent to which disclosure of the information sought would shed light on an agency's performance of its statutory duties or otherwise let citizens know what their government is up to.” *U.S. Dep't of Def. v. Fed. Labor Relations Auth.*, 510 U.S. 487 at 497(1994). Ultimately, whether the public interest in disclosure warrants the invasion of personal privacy is determined by the degree to which disclosure would further the purpose of FOIA. *U.S. Dep't of State v. Ray*, 502 U.S. 164 at 177 (1991).

DCPS has provided the requested documents related to its policies and the performance of its public duties. When weighing the privacy of individuals involved in the underlying incident versus the public interest in disclosure, DCPS was justified in withholding this information, as it has limited value with respect to the performance of the agency as a whole.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

cc: Eboni Govan, DCPS FOIA Officer (via email only)