

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-159**

January 10, 2023

VIA ELECTRONIC MAIL ONLY

Mr. Martin Austermuhle

RE: FOIA Appeal 2022-159

Dear Mr. Austermuhle:

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 lack of response of the Department of Employment Services ("DOES") to your March 10, 2022 FOIA request, identified as 2022-FOIA-04284, which sought the following:

[C]opies of any emails, letters, or memos that include the name "Martin Austermuhle" in them. [date range of November 1, 2021 to March 10, 2022].

On June 13, 2022, this Office asked DOES to provide the justification for the decision not to grant a review of the records requested, a *Vaughn* index of the documents withheld, and a copy of any public record(s) in dispute. While this Office did not receive a response, a review of the District's FOIA-tracking data indicates DOES continues to process the request.

It is the public policy of the District of Columbia that all persons are entitled to full and complete information regarding the affairs of the District government and the official acts of those who represent them as public officials and employees. D.C. Code § 2-531. The ultimate responsibility for responding to requests for records of an agency is vested in the agency head. 1 DCMR § 400.1

Under 1 DCMR § 405.1 when no decision can be dispatched within the applicable time limits, an agency shall nevertheless continue to process the request and inform the requester of the reason for delay, the date on which a determination may be expected; and the right to treat the delay as a denial and the right to appeal.

Based on the record before us, we remand this matter back to DOES to comply with 1 DCMR § 405.1, if it has not already done so, with the objective of producing any non-exempt records that are responsive to your request as soon as practical.

This constitutes the final decision of this Office. You may challenge any subsequent response

to your request by separate appeal to 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,

Mayor's Office of Legal Counsel

cc: Tonya Sapp, DOES FOIA Officer (via email only)