

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-178**

February 2, 2023

VIA ELECTRONIC MAIL

Ms. Rebecca Wolf

RE: FOIA Appeal 2022-178

Dear Ms. Wolf:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”), on the grounds that the District of Columbia Public Schools (“DCPS”) improperly charged you a fee to process your DC FOIA request.

On November 21, 2021, you submitted a DC FOIA request to DCPS seeking “all emails [for the past 2 years] containing ‘Amidon-Bowen’ or ‘Amidon Bowen’ or ‘Amidon’ or variations thereof from all employees of DCPS who work under the Strategic School Planning and Enrollment division OR under the Office of Operations.” You sought a fee waiver because “[t]he information requested would benefit the public, namely all members of the Amidon-Bowen school community.”

On February 4, 2022, DCPS informed you that “[t]he email search results yielded 1000 emails to review, and the emails are currently under review.” DCPS also agreed to a “reduced fee assessment of \$304.00, based on 20 hours search and review time.” On March 11, 2022, DCPS followed-up to let you know it was still reviewing the emails and requested that you confirm by March 18 that in light of the fee assessment you would like DCPS to continue with the review process. On July 1, 2022, you appealed to this Office asking DCPS to reconsider its fee assessment and grant a full fee waiver.

This Office’s jurisdiction is limited to “review[ing] the public record to determine whether [a record] may be withheld from public inspection.” D.C. Official Code § 2-537(a). We generally do not interpret our authority to include adjudicating disputes over FOIA fees unless an estimated fee is so excessive as to constitute a constructive denial or if a requester is improperly required to pre-pay a fee. We decline to make any findings as to the amount of the fee at issue. Under D.C. Official Code § 2-532(b), fee waivers are discretionary.

Based on the foregoing, we consider your appeal to be moot due to lack of jurisdiction, and it is dismissed. 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 government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

cc: Eboni J. Govan, Attorney Advisor/FOIA Officer, DCPS (via email)