

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
OFFICE OF THE GENERAL COUNSEL TO THE MAYOR**

**Freedom of Information Act Appeal: 2012-36**

April 6, 2012

Fritz Mulhauser, Esq.

Dear Mr. Mulhauser:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a)(2001) (the “DC FOIA”), dated March 25, 2011 (the “Appeal”). You (“Appellant”) assert that the District of Columbia Public Schools (“DCPS”) and the Office of the Chief Financial Officer (“OCFO”) improperly withheld records in response to your requests for information under DC FOIA dated February 28, 2011 (the “FOIA Request”) by failing to respond to the FOIA Request.

Appellant’s FOIA Request, consisting of identical requests to both DCPS and OCFO, sought the budget estimates for DCPS for Fiscal Year 2013. Appellant filed the Appeal when it did not receive a response within the statutory deadline from DCPS or OCFO, alleging that DCPS and OCFO have improperly withheld records by failing to respond the FOIA Request.

In response, by email dated March 27, 2012, OCFO stated that it had been awaiting the receipt of records from DCPS and, by email dated March 26, 2012, it responded to the FOIA Request by providing Appellant with a hyperlink to the page on its website where the records were located. The response to Appellant indicates that these were only records which were in its possession. We note that although an agency is only required to provide the records in its possession as of the date of its search, OCFO accommodated Appellant by waiting until it received an anticipated transmittal from DCPS.

In response, by email dated April 5, 2012, DCPS stated that it responded to the FOIA Request on March 28, 2012. Like OCFO, it provided a hyperlink to the page on its website where the records were located.

Accordingly, both OCFO and DCPS have responded to Appellant and produced responsive records by providing a hyperlink to the webpage where the records are maintained. Based on the foregoing, the Appeal is moot and it is hereby dismissed, without prejudice to Appellant to challenge, by separate appeal, the responses to the FOIA Request.

Yesterday, this office received from the Mayor’s Correspondence Unit an amendment to the

Appeal filed by Appellant. Amendments, like replies, have not been part of the procedure, either statutorily or administratively, for appeals. As we have stated in prior decisions, an administrative appeal under DC FOIA is a summary process. Even if we were to construe an amendment as re-starting the statutory period provided for appeals, acceptance of amendments and forwarding them to the agency (not all appellants will provide them when attempting to amend an appeal) would result in inefficiencies in utilization of agency resources as prior agency effort may be wasted as it may be forced to abandon some of its prior work in response to an amendment. Moreover, an appellant may make multiple amendments. We would be willing to consider an amendment to an appeal where the appellant and agency have come to an agreement as to acceptance of an appeal and a schedule for response. However, that is not the case in this Appeal. Nevertheless, we will consider the amendment to be an appeal of the DCPS response and process it as a separate appeal. Such amendment does not challenge the response of OCFO.

Sincerely,

Donald S. Kaufman  
Deputy General Counsel

cc: Donna Whitman Russell, Esq.  
Charles Barbera, Esq.