

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

Freedom of Information Act Appeal: 2012-73

September 5, 2012

BY U.S. MAIL

Mr. Phillip Jackson

Re: Freedom of Information Act Appeal 2012-73

Dear Mr. Jackson:

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) (“DC FOIA”), dated July 17, 2012 (the “Appeal”). You, on behalf of the Black Star Project (“Appellant”), assert that the District of Columbia Public Schools (“DCPS”) improperly withheld records in response to your request for information under DC FOIA dated June 28, 2012 (the “FOIA Request”).

Background

Appellant’s FOIA Request sought from DCPS “a spreadsheet with email addresses for all public school K-12 principals in the District of Columbia.” In its response, dated July 2, 2012, DCPS provided Appellant with a hyperlink to the page on its website where the record was located. On Appeal, Appellant requests review of the response of DCPS. Appellant states that it is making the request “for the purpose of sending a one-time, ‘dear principal’ email to invite all District of Columbia K-12 public schools to participate in an effort to substantially increase fathers’ participation in the academic achievement of their children.” DCPS has not provided a response to the Appeal.

Discussion

It is the public policy of the District of Columbia (the “District”) government that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right “to inspect ... and ... copy any public record of a public body . . .” *Id.* at § 2-532(a). Moreover, in his first full day in office, the District’s Mayor Vincent Gray announced his Administration’s intent to ensure that DC FOIA be “construed with the view toward ‘expansion of public access and the minimization of costs and time delays to persons requesting information.’” Mayor’s Memorandum 2011-01, Transparency and Open Government Policy. Yet that right is subject to various exemptions, which may form the basis for a denial of a request. *Id.* at § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act, *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987), and decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

It has been held that an agency was not obligated under FOIA to produce records when the information is publically accessible via its website or the Federal Register. *Antonelli v. Fed. Bureau of Prisons*, 591 F. Supp. 2d 15, 25 (D.D.C. 2008). See also *Crews v. Commissioner*, 85 A.F.T.R.2d 2169, 2000 U.S. Dist. LEXIS 21077 (C.D. Cal. 2000)(production satisfied for documents that are publicly available either in the agency's reading room or on the Internet). Here, DCPS has posted the records online and provided the information necessary to allow Appellant to access the requested records. The decision of DCPS is upheld.

We note that DCPS has also posted online an alternate, spreadsheet form of the records which Appellant seeks. The hyperlink to the webpage is:

<http://dcps.dc.gov/DCPS/Files/downloads/ABOUT%20DCPS/DC%20Public%20School%20Directory.pdf>.

Appellant can also access this page by the link located at:

<http://dcps.dc.gov/DCPS/About+DCPS/Office+Directory><http://dcps.dc.gov/DCPS/About+DCPS/Office+Directory>.

Conclusion

Therefore, the decision of DCPS is upheld. The Appeal is hereby dismissed.

This constitutes the final decision of this office. If you are dissatisfied with this decision, you are free under DC FOIA to commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia.

Sincerely,

Donald S. Kaufman
Deputy General Counsel

cc: Donna Whitman Russell, Esq.