

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2016-07**

November 3, 2015

VIA ELECTRONIC MAIL

Ms. Lisa Burton

RE: FOIA Request 2016-07

Dear Ms. Burton:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act ("DC FOIA"). In your appeal, you assert that the University of the District of Columbia ("UDC") failed to respond to your request for records related to UDC's investigation into your Equal Employment Opportunity complaint and UDC's selection process for supervisory police officers and a police chief.

You submitted the request at issue on July 23, 2015. In your appeal, you include a chronology of your interactions with UDC related to your FOIA request. Under D.C. Official Code § 2-532(c), agencies are required to answer FOIA requests within 15 business days.<sup>1</sup> Prior filing your appeal, UDC did not provide you with an answer or a clear denial in response to your request. Pursuant to D.C. Official Code § 2-532(e), UDC's failure to respond to your request within the statutory timeframe can be deemed a denial, and you accordingly exercised your right to an administrative appeal in accordance with D.C. Official Code § 2-537.

Subsequent to the filing of your appeal, on November 2, 2015, UDC provided you with responsive records, some of which were redacted. According to UDC, the redactions were made pursuant to D.C. Official Code § 2-534(a)(2) ("Exemption 2") and D.C. Official Code § 2-534(a)(4) ("Exemption 4"). UDC provided you with the statutory definitions for Exemptions 2 and 4. Exemption 2 may be asserted to protect personal privacy, and Exemption 4 is most often asserted to protect the deliberative process but has been construed to protect any privileges available during litigation. Further, UDC identified the applicable exemption in each portion of the records that it redacted.

Since the crux of your appeal concerned UDC's failure to respond to your request, we consider your appeal to be moot now that UDC has provided you with a complete response. Although we dismiss your appeal on these grounds, you may assert any challenge to UDC's response by submitting a new appeal.

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<sup>1</sup> An agency may also request an extension of an additional 10 business days to respond under D.C. Official Code § 2-532(d), which UDC requested here; however, UDC did not answer your request within the timeframe of the extension either.

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.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker  
Associate Director  
Mayor's Office of Legal Counsel

cc: Stacie Y.L. Mills, Assistant General Counsel, UDC (via email)