

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR



Office of the General Counsel to the Mayor

July 25, 2007

BY US MAIL AND E-MAIL

[REDACTED]  
Washington, DC 20

Re: Freedom of Information Act Appeal

Dear [REDACTED]

This letter supplements our determination, dated July 5, 2007 in response to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code, 2001 Ed. §§ 2-531 *et seq.* (the "DC-FOIA"), dated June 21, 2007, initially received in this office on June 26, 2007 (the "Appeal"). In the July 5 determination, we asked the District of Columbia Public Schools ("DCPS") to "submit to this office and to Appellant an affidavit containing (i) an acknowledgement that it has reviewed the June 28, 2007 email and (ii) either an affirmation of its prior position or a statement that it is supplementing its FOIA response with the additional information sought by Appellant." While not in affidavit form, DCPS did respond, by letter dated July 24, 2007, a copy of which is attached hereto ("DCPS" Supplemental Response").

Per the DCPS Supplemental Response, DCPS stands by its initial response to your FOIA Request. DCPS asserts that the information that you sought was not available because it is not information that DCPS tracks. DCPS is under no obligation to input new data, as an agency responding to a request under DC-FOIA is not required to create records it does not otherwise maintain. *Kissinger v. Reporters Committee for Freedom of the Press*, 445 U.S. 136, 100 S. Ct. 960, 63 L. Ed.2d 267 (1980). DCPS also asserts that the disk containing a copy of the computerized maintenance work included all fields and all records in the system. I interpret that to mean that any information missing from the disk was missing because it does not otherwise exist in a record already maintained by DCPS. It appears that DCPS has fully responded to your FOIA Request and, therefore, your Appeal is DISMISSED.

If you are not satisfied with this decision or have information that you believe contradicts this determination, you are free under the DC-FOIA to commence a civil action against the District of Columbia government in the District of Columbia Superior Court.

Sincerely,



Andrew T. "Chip" Richardson, III  
Deputy General Counsel, EOM

cc (by e-mail):

Karen Herbert, FOIA Attorney  
George Valentine, Acting General Counsel, DCPS