



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, NY 10007

October 23, 2025

Re: FOIL-2025-002-00855 Appeal Decision

Dear [Redacted]:

This letter is in response to the Records Appeals Officer's letter dated September 22, 2025, in response to your appeal received on November 14, 2024, under the Freedom of Information Law, Public Officers Law § 84 *et seq.* ("FOIL").

Your FOIL request sought the following records "sufficient to identify the following information related to the Mayor's Advisory Committee on the Judiciary":

1. All members who have served on the Mayor's Advisory Committee on the Judiciary from January 1, 2000 to the present date.
2. For each committee member identified in Request No. 1, please provide:
 - a. The member's full name
 - b. Their professional or organizational affiliation at the time of their committee service, if available
 - c. The start and end dates of their committee membership
 - d. Whether the member served as a chairperson of the committee, and if so, the start and end dates of their service as chairperson
 - e. Who nominated the member to the Committee (Mayor, law school deans, etc.).
3. Any and all documents, including but not limited to memos, guidelines, handbooks, or other written materials, that provide guidance on:
 - a. How the committee is to evaluate candidates for judicial appointments or designations
 - b. What information the committee is to collect about candidates
 - c. Which individuals or organizations the committee is to contact for information about candidates
 - d. The committee's process for recruiting and encouraging highly qualified persons to apply for appointment
4. Any internal communications, reports, or documents discussing the establishment, operation, or modification of the Mayor's Advisory Committee and its processes from January 1, 2010 to the present.
5. Any publicly available statistics or reports on the number of candidates evaluated, recommended, or appointed through this process.
6. Copies of all Executive Orders since January 1, 2000 enacting or changing the working or makeup of the Mayor's Advisory Committee on the Judiciary.

7. Information about the Committee's process for considering judges seeking reappointment, including any criteria used to determine whether an incumbent is qualified for reappointment.

History

On September 8, 2025, you filed an appeal asserting that the Records Access Officer (“RAO”) actions to date constituted a constructive denial and that the Mayor’s Office violated FOIL by failing to acknowledge receipt of the request or provide a reasonable response date. On September 22, 2025, the Records Appeals Officer responded, noting that the Mayor’s Office takes seriously its obligation to disclose information consistent with the law. The letter noted that reviewing records for responsiveness and disclosure under Public Officers Law § 87 is a time and labor-intensive process and every effort is made to respond promptly. The matter was subsequently remanded to the RAO to provide a response by October 22, 2025.

Response

After conducting a diligent search, the Mayor’s Office has identified records responsive to parts 1, 2 and 6 of your request. These documents are being produced via the Open Records portal. Some material has been redacted because it is exempt from disclosure pursuant to Public Officers Law §§ 87(2)(b) and (2)(g). With respect to parts 3, 4, and 7 of your request, we refer you to MACJ’s website at: <https://www.nyc.gov/site/macj/faq/frequently-asked-questions.page>. The Mayor’s Office has not identified records responsive to part 5 of your request.

We note that the Mayor’s Advisory Committee on the Judiciary (“MACJ”) is not an “agency” subject to FOIL. *See Snyder v. Third Dep’t Judicial Screening Comm.*, 18 A.D.3d 1100 (3d Dep’t 2000) (holding that state judicial advisory committee was not subject to FOIL). FOIL defines an agency to include a committee “performing a governmental . . . function.” Public Officers Law § 86(3). Like the advisory committee in *Snyder v. Third Dep’t Judicial Screening Committee* that screened potential judicial appointments before the governor made appointments, MACJ was created by the Mayor for the purpose of advising the Mayor on judicial appointments. To fulfill this mission, MACJ undertakes a confidential process to identify and evaluate nominees. The Mayor is not required to appoint a candidate recommended by MACJ and their “role is limited to providing” the Mayor “with the names of highly qualified candidates,” not performing a governmental function. *See Snyder*, 18 A.D.3d at 1102. Indeed, MACJ itself lacks any appointment or enforcement powers and only exists by creation of a mayoral executive order that the Mayor may, in his exclusive authority, revoke at any time.

Moreover, even assuming *arguendo* that MACJ was subject to FOIL, records that may exist that would be responsive to parts 3, 4, and 7 that are “internal” would be exempt under Public Officers Law § 87(2)(g), which permits agencies to “deny access to records” that are “inter-agency or intra-agency materials,” unless it contained information specifically excepted from § 87(2)(g). The Committee on Open Government (“COOG”) has stated that “[t]he portions of inter or intra-agency communications reflecting opinions, advice, recommendations or the deliberative process may be withheld as inter/intra-agency material, unless the advice or recommendations become the final decision of the agency.” FOIL AO 19879 (June 20, 2025).

You may appeal this determination in writing within thirty days by addressing such an appeal to FOILAppeal@cityhall.nyc.gov.

Sincerely,

A handwritten signature in cursive script that reads "Megha Jain".

Megha Jain
Records Access Officer