



OFFICE of GOVERNMENT INFORMATION SERVICES

September 22, 2016—Sent via U.S. mail

[REDACTED]  
[REDACTED]  
[REDACTED]

Re: Case No.: 201601270  
NG: CM

NATIONAL  
ARCHIVES  
and RECORDS  
ADMINISTRATION

8601 ADELPHI ROAD  
OGIS  
COLLEGE PARK, MD  
20740-6001

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e-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
phone: 202-741-5770  
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Dear [REDACTED]:

This responds to your request for assistance from the Office of Government Information Services (OGIS), which we received on August 10, 2016. Your request for assistance pertains to your Freedom of Information Act (FOIA) request to the U.S. Department of Veterans Affairs Veterans Health Administration (VHA).

Congress created OGIS to complement existing FOIA practice and procedure; we strive to work in conjunction with the existing request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. OGIS serves as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

OGIS provides mediation services to resolve disputes between FOIA requesters and Federal agencies. After opening a case, OGIS gathers information from the requester and the agency to learn more about the nature of the dispute. This process helps us gather necessary background information, assess whether the issues are appropriate for mediation, and determine the willingness of the parties to engage in our services. As part of our information gathering, OGIS carefully reviewed your submission of information.

In your submission to OGIS, you seek assistance obtaining the records you request from VHA in request No. [REDACTED]. While OGIS neither processes FOIA requests nor has access to VHA's records, we contacted VHA FOIA staff to inquire about the status of your request. VHA informed OGIS that the agency responded to your request on [REDACTED], informing you that it found no records responsive to your request for information related to the [REDACTED] form. We have enclosed a copy of this response for your reference. VHA staff further informed OGIS that you did not file an administrative appeal of the agency's decision.

With regard to the agency's search for responsive records, VHA explained that it searched for records in three program offices—[REDACTED]  
[REDACTED]. All three program offices returned "no records" responses to the FOIA office. Federal courts have long settled that in regard to a search for documents, the crucial issue is whether an agency



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conducted an adequate search for a document, not whether a document *might* exist. An adequate search is conducted when the search is reasonably calculated to uncover all relevant documents. *Weisberg v. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983).

In reviewing your request and the agency's response, VA FOIA staff noted that the [REDACTED] form that you seek appears to be a New York State [REDACTED] form, not a VA form. If you have not done so already, you may wish to request the information you seek from New York State; information about the state's Freedom of Information Law is available at <http://www.dos.ny.gov/coog/foil2.html>.

In cases such as this where an agency is firm in its position, there is little for OGIS to do beyond providing more information about the agency's actions. I hope that this information about your request is useful to you. Thank you for contacting OGIS; we will now consider this matter closed.

Sincerely,

/s/

NIKKI GRAMIAN  
Acting Director

Enclosure

cc: VHA FOIA

We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a brief anonymous survey on the service you received from OGIS.