

VA

U.S. Department
of Veterans Affairs

Office of the General Counsel
Washington DC 20420

In Reply Refer To: 024F
OGC Case # 93207
FOIA # 17-08126-F

08/02/2017

Ms. Emily Bregel
Arizona Daily Star
4850 S. Park Avenue
PO Box 26807
Tucson, AZ 85726-6807
ebregel@tucson.com

Dear Ms. Bregel:

This letter is the final administrative decision issued under the Freedom of Information Act (FOIA), 5 U.S.C. §552, concerning your June 15, 2017, appeal. You appealed the April 27, 2017, decision issued by the Department of Veterans Affairs (VA) Tucson Medical Center (VAMC) in Tucson, AZ.

For reasons outlined below, your appeal is granted in full.

Procedural History

Initial request (IR)

- On April 27, 2017, you submitted a FOIA request to the FOIA office at the Tucson VAMC, for a copy of :

“The names of all dermatologists and dermatology specialists (such as physician assistants) who are now working at the Tucson VA”.

Initial Agency Decision (IAD)

- On May 12, 2017, the VAMC’s FOIA Officer provided you with a redacted copy of the requested record. A 1 page (1) responsive page was found and withheld in full under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (b)(6). The FOIA Officer redacted the names of the employees. Record was disclosed to you with the May 12, 2017, IAD.

Appeal

- On June 15, 2017, you appealed that decision to our office stating:

“The Arizona Daily Star, pursuant to the Freedom of Information Act, hereby appeals the decision of the U.S. Department of Veterans Affairs to withhold the names of dermatology specialists who work at the Southern Arizona VA Health Care System in Tucson, Ariz”.

Fees

No fees were estimated for your request.

Search

The VAMC's FOIA Officer conducted a search for documents responsive to your request. On May 12, 2017, the FOIA Officer emailed you a redacted copy of the document in question.

Responsive Records

A one page (1) responsive sheet withheld in full.

Relevant Law

We have reviewed your submission under the provisions of the FOIA, which states that federal agencies must disclose records requested unless they may be withheld in accordance with one or more of nine statutory exemptions. 5 U.S.C. § 552(b). Exemption 6 protects records the release of which would lead to a clearly unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(6).

Analysis

Title 5 of the United States Code of Federal Regulations, Section 293.311, provides guidance to federal agencies regarding what information about federal employees is generally releasable to the public. That guidance generally provides for the disclosure of federal employee names and present and former position titles and occupational series. Here, you've requested the names of all current dermatologists at the VAMC. While this information is generally releasable, Exemption 6 would allow the VAMC to withhold such if there were an articulable threat to the privacy or safety of the individuals. Upon receipt of your appeal, we contacted the VAMC to ascertain the basis for withholding. While we find that the dermatologists have a personal privacy interest in their identities, there is a countervailing public interest in knowing that VA employs qualified individuals. As such, we find that public interest outweighs the privacy interests of the providers in this case. Accordingly, we are enclosing the one page document responsive to your request. This is a complete grant of your appeal.

Conclusion

In view of the foregoing, we are reversing the VAMC's decision to withhold the responsive information under FOIA exemption (b)(6), and we are granting your appeal in full.

Mediation/ Appeal Rights:

This final agency decision concludes the administrative processing of your requests referred to above. As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services. Similarly, as part of the FOIA Improvement Act of 2016, VA established a FOIA Public Liaison to offer mediation services. Both OGIS and the VA Public Liaison will assist in resolving disputes between FOIA requesters and VA as a non-exclusive alternative to litigation. Using OGIS or the VA FOIA Public Liaison does not affect your right to pursue litigation. You may contact OGIS or the VA Public Liaison in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001

E-mail: ogis@nara.gov
Telephone: 202-741-5770
Facsimile: 202-741-5769
Toll-free: 1-877-684-6448

VA FOIA Public Liaison
John Buck
Director, VA Privacy & Records Mngt
810 Vermont Avenue, NW (005R1C)
Washington, DC 20420

E-mail: vacofoiaservice@va.gov
Telephone: 1-877-750-3642
Facsimile: 202-632-7581

With respect to any information denied to you by this final agency decision, the FOIA requires us to advise you that if you believe the Department erred in this decision, you have the right to file a complaint in an appropriate United States District Court.

Sincerely yours,



Kenyatta McLeod-Poole
Acting Chief Counsel, Information Law Group

cc: Donna Wilson, FOIA Officer – Tucson VAMC, AZ

EMPLOYEE NAME

SLIGH,JAMES E
WHITAKER,DUANE C
DUPONT,JASON P
KING,DANIEL C

OCCUPATION SERIES & TITLE

PHYSICIAN
PHYSICIAN
PHYSICIAN
PHYSICIAN ASSISTANT