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# Digging into DC: Part 1

How to find almost everything  
you've ever wanted to know about  
DC schools

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### **Presenters include:**

- **Tom Susman**, President, D.C. Open Government Coalition
  - **Miranda Spivack**, journalist and open government expert, D.C. DC Open Government Coalition Board Member, Moderator
  - **Karen Janka** (she/her) - D.C. Library Association, Co-Host
  - **Fritz Mulhauser**, Open government expert and D.C. OGC board member
  - **Sandra Moscoso**, Parent activist and D.C. OGC board member
  - **Niquelle Allen**, Director of the DC Office of Open Government
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# Digging into DC

**Tom Susman,**  
President, D.C. Open Government Coalition

## D. C. Open Government Coalition

The Coalition was established in 2009.

Early activities included advocacy for the Open Meetings Act that passed in 2010.

The Coalition also has pressed for the Office of Open Government to enforce the Open Meetings Act, review FOIA implementation and generally lead transparency work throughout the executive branch.

In 2015, the Coalition provided research on privacy and access to police video nationwide, leading to the Council adopting the most open access anywhere.

## D. C. Open Government Coalition

In 2019 the Coalition and others successfully opposed drastic changes to D.C. FOIA, the open records law, and advocated for expanding its coverage to include charter schools.

In 2020 the D.C. Council voted to apply the Open Meetings Act to trustees' meetings at D.C. charter schools, as the Coalition and community partners had urged for years.

Following years of advocacy, in 2021 the Police Reform Commission recommended and the D.C. Council Chairman introduced legislation to open police discipline records.

# Digging into DC

**Miranda Spivack**

Journalist and open government expert

DC Open Government Coalition Board Member

Moderator

# Introductions

**Tom Susman**, President, D.C. Open Government Coalition

**Miranda Spivack**, journalist and open government expert, D.C. OGC board member, moderator

**Karen Janka** (she/her) - D.C. Library Association, Co-Host

# District of Columbia Library Association

- DCLA champions library workers, open government, and barrier free reading across the District of Columbia.
- Ruth Fine Memorial Library Student Award.
- Support and advocate for School Librarians in the DC Public Schools.

**SIGN THE PETITION:**

<https://www.saveschoollibrarians.org>

The **District of Columbia Library Association (DCLA)** is a chapter of the **American Library Association (ALA)**. Read more: <https://dcla.org/>



# I have a question about my child's school. Where do I go for information?

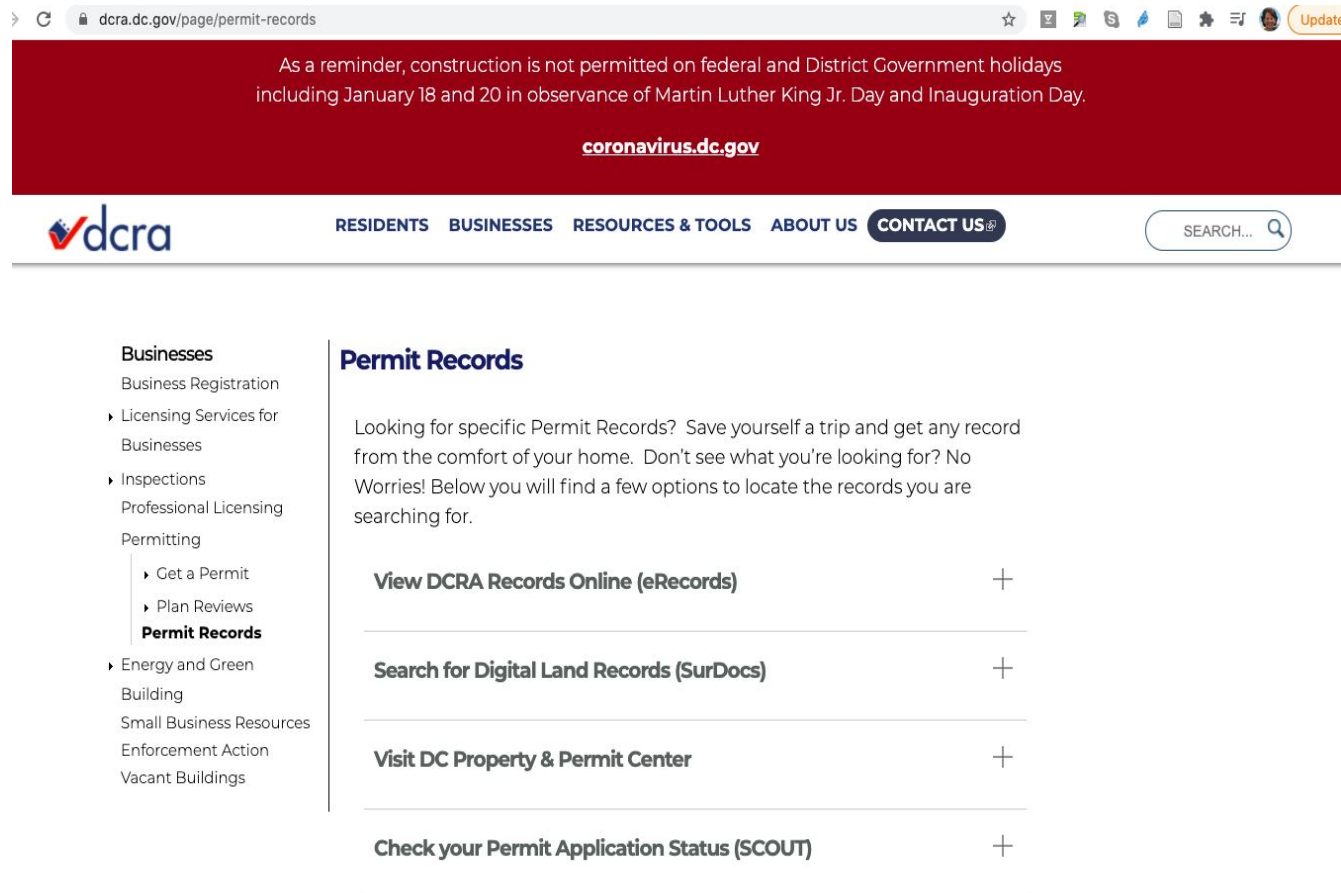
D.C., and every state has some type of open records law, commonly referred to as Freedom of Information Act (FOIA), or Open Records Law.

But first - try to get information the old fashioned way. Ask the school administrator or secretary, or your child's teacher. The information you want already may be out in the public, and easy to obtain.

If that doesn't work, you can file an open records request for many types of information from D.C. Public Schools. Charter schools, which are publicly funded, are less open and may be harder to get the information you are seeking.

# Some open records basics

If something is enforced, inspected, licensed, or purchased, there is probably a public record.




The screenshot shows the DCRA website's 'Permit Records' page. At the top, a red banner contains a holiday notice and the 'coronavirus.dc.gov' link. The navigation bar includes links for Residents, Businesses, Resources & Tools, About Us, and a highlighted 'CONTACT US' button, along with a search bar. The left sidebar lists various services, with 'Permit Records' highlighted. The main content area, titled 'Permit Records', provides an overview of the service and lists four key links: 'View DCRA Records Online (eRecords)', 'Search for Digital Land Records (SurDocs)', 'Visit DC Property & Permit Center', and 'Check your Permit Application Status (SCOUT)', each with a plus icon for expansion.

> [dcra.dc.gov/page/permit-records](#) ☆ [Icons] Update

As a reminder, construction is not permitted on federal and District Government holidays including January 18 and 20 in observance of Martin Luther King Jr. Day and Inauguration Day.

[coronavirus.dc.gov](#)

 **RESIDENTS** **BUSINESSES** **RESOURCES & TOOLS** **ABOUT US** **CONTACT US®**

**Businesses**  
Business Registration  
▶ Licensing Services for Businesses  
▶ Inspections  
Professional Licensing  
Permitting  
    ▶ Get a Permit  
    ▶ Plan Reviews  
**Permit Records**  
▶ Energy and Green Building  
Small Business Resources  
Enforcement Action  
Vacant Buildings

**Permit Records**

Looking for specific Permit Records? Save yourself a trip and get any record from the comfort of your home. Don't see what you're looking for? No Worries! Below you will find a few options to locate the records you are searching for.

<b>View DCRA Records Online (eRecords)</b>	+
<b>Search for Digital Land Records (SurDocs)</b>	+
<b>Visit DC Property &amp; Permit Center</b>	+
<b>Check your Permit Application Status (SCOUT)</b>	+

# Digging into DC

**Fritz Mulhauser**

Open government expert and  
D.C. OGC board member

# Your right to get records is in the law!

Want to find out something about schools in D.C.,  
but can't find the answer?

But how to get information about D. C. Public  
Schools?

# A Story About A Concerned Citizen, and Lessons Learned

June 2019	Child abuser arrested Worried parents and ANC ask questions Deputy Mayor for Education reports six cases, no details
Sept 2019	OGC makes FOIA request
Feb 2020	Second appeal
Oct 2020	Four school names released
Dec 2020	<i>City Paper</i> reporter digs in and makes another OGC further request
Feb 2021	DCPS admits no records: “no children involved”

# You can use FOIA -- Be a Knowledgeable Requester

Even sensitive records are accessible

It can take a while (be patient)

It can be technical (ask for help)

Use the press if possible

Know the limits (records only; no charters yet)

# Digging into DC

**Sandra Moscoso**

Parent Activist

D.C. OGC board member

# Government Transparency for Education Decisions

- DC Government collects tons of data about us, our families, our community... it's our data
- What can parents and community members do when you sense things aren't right?
  - Is the problem unique to your family? Is it a systematic problem?
- Education/School data isn't necessarily held centrally, sources include:
  - Office of the State Superintendent for Education  
<https://osse.dc.gov/page/data-and-reports-0>
  - OpenDataDC (OCTO) <https://opendata.dc.gov/>
  - DC Council (in response to oversight requests)  
<http://chairmanmendelson.com/category/circulation/>
  - Deputy Mayor for Education: <https://edscape.dc.gov/>
  - DC Auditor:  
<https://dcauditor.org/report/measuring-what-matters-more-and-better-data-needed-to-improve-d-c-public-schools/>



# Government Transparency for Education Decisions

## School Choice Decisions

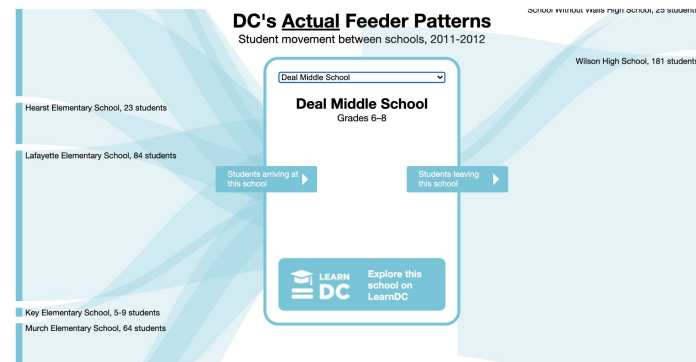
- o Student-level education comparisons and analytics\*
  - \*Privacy constraints
- o Student commutes/natural feeder patterns

## Strategies:

- o 2013, [open letter to Mayor](#)

## Outcome:

- o In 2013, CMs helped to convince OSSE to release data (one time).
- o Today, DME publishes enrollment: <https://edscape.dc.gov/page/enrollment-patterns-flow-within-and-across-wards>



Ward to Ward Student Commute Patterns, 2013-2020



# Government Transparency in DCPS School Budget Advocacy

## DCPS Budget Advocacy

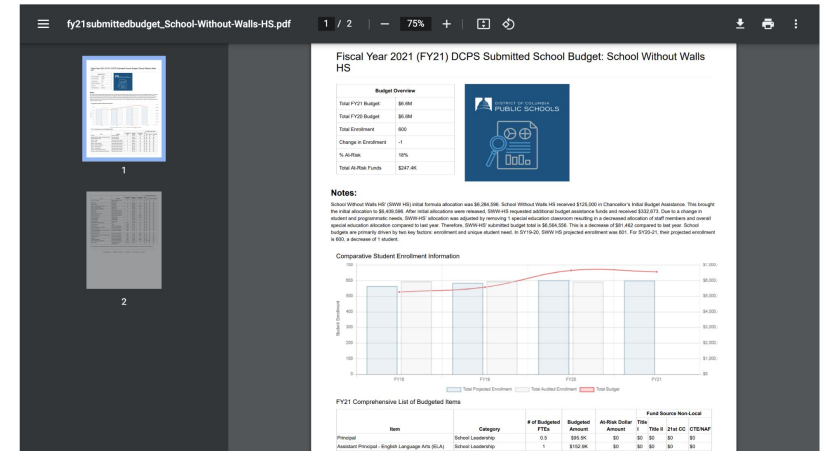
### Strategies:

- o DCPS Budget Data
- o Compare notes with Ward education councils
- o DC Council testimony and work with CMs to have specific questions asked in hearings

### Outcome:

Varies year to year... this year, Council drafted emergency legislation which led to Mayor allocating 14M in additional funds

## School Without Walls HS 2021 Submitted



# Government Transparency re: Covid Cases in Schools

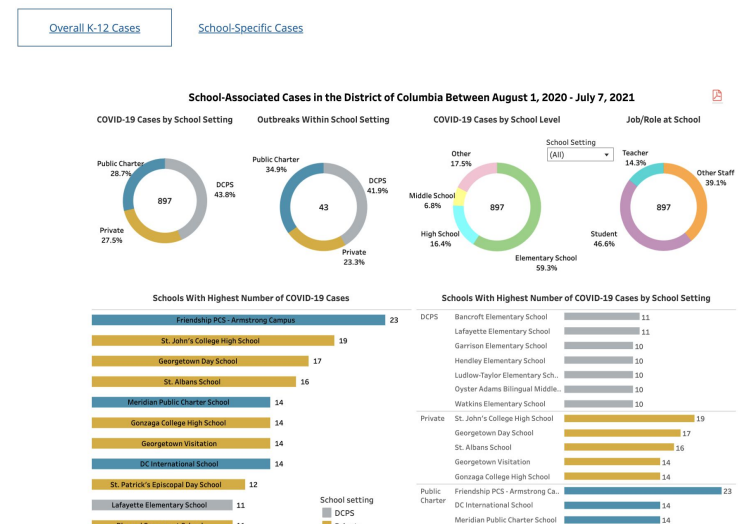
Covid cases in school and childcare settings

## Strategies:

- o Submitted FOIA
- o Work with CMs to have specific questions asked in weekly meeting with DC Health
- o Collaborated with other advocates via blogging and social media

## Outcome:

Eventually, DC Health [published a dashboard](#) (still lacking transparency)



# Digging into DC

**Niquelle Allen**

Director of the DC Office of Open Government

# FREEDOM OF INFORMATION ACT BASICS FOR RECEIVING SCHOOL RECORDS

“DIGGING INTO DC”

SCHOOL OPEN RECORDS TRAINING

JULY 20, 2021

6:30 PM



Presented by:  
Niquelle Allen, Esq.  
Director  
Office of Open Government



# Presentation Contents

- ▶ Introduction to FOIA
- ▶ The Office of Open Government
- ▶ How to Make a DC FOIA Request
- ▶ Information Available Online or On Demand
- ▶ Education – Related FOIA Exemptions
- ▶ Fees
- ▶ Contact Information

# INTRODUCTION

## WHAT IS FOIA?

- ▶ The Freedom of Information Act (FOIA) is a District of Columbia law that gives the public the right to access information from the DC government.
- ▶ Under FOIA, DC Agencies must release information that is requested, unless that information is protected from disclosure.

# INTRODUCTION

## WHO HANDLES FOIA REQUESTS?

- ▶ There is no central body within DC government that handles FOIA requests. Instead, each DC agency processes its own records.
- ▶ The primary points of contact for DC FOIA requests are the agency FOIA Officer and agency Director. A requester may submit a FOIA request to either and a request is deemed received by the agency when either of them receive your request.



# INTRODUCTION TO OOG

## THE OFFICE OF OPEN GOVERNMENT (OOG)

- ▶ We are an Office within the Board of Ethics and Government Accountability (BEGA) that oversees the proper implementation of DC Freedom of Information Act laws in DC.
- ▶ As part of that role, we assist members of the public with making FOIA requests to DC government agencies and filing FOIA appeals (if needed).
- ▶ OOG's attorneys also work unofficially as mediators to resolve FOIA issues between requesters and DC agencies.

# OFFICE OF OPEN GOVERNMENT

- ▶ OOG provides written Advisory Opinions to resolve legal issues concerning FOIA laws and regulations.
- ▶ The OOG serves as the city's advisor to FOIA officers, and provides formal and informal advice to agencies seeking guidance regarding DC FOIA compliance.



# OFFICE OF OPEN GOVERNMENT



- ▶ We are currently providing our services on a fully remote basis.
- ▶ OOG Staff includes:
  - ▶ Niquelle Allen, Director
  - ▶ Johnnie Barton, Chief Counsel
  - ▶ Sheree DeBerry, Attorney Advisor
  - ▶ Zita Orji, Trial Attorney
  - ▶ Nicholas Weil, Attorney Advisor
  - ▶ Kevon Bridges, IT Specialist

# HOW TO MAKE A FOIA REQUEST

- ▶ DC FOIA is found in DC Code §§ 2-531-539. It provides that **any person** has the right to request access to DC government's records and the government must disclose public records. A FOIA request may be made for any public record
- ▶ Public records are accessible through DC FOIA, except for those records, or portions of records, that are protected from disclosure by the FOIA exemptions. Those are found at **DC Code § 2-534**.
- ▶ Note that DC FOIA does not require agencies to do research, to analyze data, to answer written questions, or to create records in order to respond to a request. FOIA only requires the agency to make a reasonable effort to locate **already existing records**.

# HOW TO MAKE A FOIA REQUEST

- ▶ A FOIA request may be submitted via the DC government Public FOIA Portal. Requests may also be submitted by mail, fax, or email to the DC Agency FOIA Officer or Agency Director.
- ▶ A List of FOIA Officer is maintained on OOG's website open-dc.gov, if you need a FOIA Officer's contact information:  
<https://www.open-dc.gov/dc-foia-officer-contact-information>
- ▶ If submitting your request by mail, fax, or email, please mark the outside of the envelope or the subject line of the fax or email: **"Freedom of Information Act Request" or "FOIA Request."** Please include **a daytime telephone number, email address** or mailing address in your request letter so that the FOIA Officer may contact you if necessary.

# HOW TO MAKE A FOIA REQUEST

- ▶ The FOIA request should describe the record(s) you are seeking as clearly and precisely as possible. In your description, please be as specific as possible with regard to **names, dates, places, events, subjects, and other pertinent details** that will help the public body to **identify the records**. The more specific you are about the records you are seeking, the more likely the public body will be able to locate those records. If your request is vague or too broad, we may ask you to be more specific, and this may delay the processing of your request.
- ▶ It is helpful to contact the FOIA Officer and have a conversation about what you are seeking. Communication is key.

# HOW TO MAKE A FOIA REQUEST

## **FOIA REQUEST FOR RECORDS**

\*SAMPLE E-MAIL\*

Dear [Name of FOIA Officer]:

I am making a FOIA request for an inspection report number 12345, made by the Department of Consumer and Regulatory Affairs, at 123 Main Street, NW, Washington, DC, on or about June 1, 2019. I am requesting the full report and the photographs (exhibits) attached to the report. I am asking for a waiver of fees in the public interest, as I am representing my Homeowner's Association.

Sincerely,

Jane Citizen

[janecitizen@gmail.com](mailto:janecitizen@gmail.com)

Mobile: 202-555-8888

# AGENCY'S RESPONSE

An initial response from the agency typically includes:

- an introduction and acknowledgement;
- any clarifying questions (if needed);
- a discussion of fees (if possible);
- processing information(if possible); and
- contact information for questions that includes a name, agency, official title, email address, and telephone number.



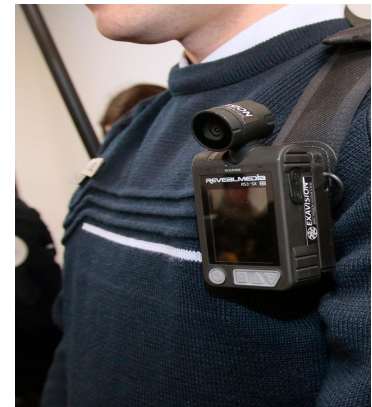
# AGENCY'S RESPONSE

## WHEN WILL THEY RESPOND TO MY FOIA REQUEST

For records other than body-worn camera recordings: **15** business days.  
[D.C. Official Code § 2-532(c)(1)]



For body-worn camera recordings: **25** business days.  
[D.C. Official Code § 2-532(c)(2)(A)]



# AGENCY'S RESPONSE

## UNUSUAL\_CIRCUMSTANCES (10 DAY\_EXTENSION)

In ***unusual circumstances***, the agency may invoke an additional 10-day extension by written notice to the requester setting forth the reasons for extension and expected date for the determination (D.C. Official Code § 2-532(d-1)).

# AGENCY'S RESPONSE

**Unusual circumstances** are defined in D.C. Official Code § 2-532(d)(2) as:

- (A) The need to search for, collect, and appropriately examine a **voluminous amount of separate and distinct records** that are demanded in a single request;
- (B) The **need for consultation**, which shall be conducted with all practicable speed, with **another public body** having a substantial interest in the determination of the request or among 2 or more components of a public body having substantial subject-matter interest therein; or

# AGENCY'S RESPONSE

## WHAT IS THE CONSEQUENCE OF NOT RESPONDING TO A FOIA REQUEST ON TIME?

- ▶ D.C. Official Code 2-532(e) provides that failure to timely respond to a FOIA request is **deemed a denial** of the request.
- ▶ A requester can appeal the denial to the Mayor or to Superior Court. [D.C. Official Code § 2-537; 1 DCMR 412.1.]
- ▶ E-mail appeals to [foia.appeals@dc.gov](mailto:foia.appeals@dc.gov)

Or Mail to:

Mayor's Office of Legal Counsel  
FOIA Appeal  
1350 Pennsylvania Ave, NW  
Suite 407  
Washington, DC 20004



# FOIA EXEMPTIONS MAY APPLY

- ▶ A DC agency may not disclose every record you request. Statutory exemptions authorize the withholding of certain public records.
- ▶ When the public body does withhold records or portions of records, it must specify which exemption of the FOIA permits the withholding.

# FOIA EXEMPTION - FERPA

## THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

- ▶ FERPA is a Federal law that protects the privacy of student education records. Those records are exempted from release under DC FOIA.
- ▶ FERPA does give **parents** certain rights respecting their own children's education records. Those rights transfer to the child when the child turns 18 years old.

# FEES

- ▶ There is NO FEE to submit a FOIA Request.
- ▶ There are fees for searching, reviewing, and reproducing records.
- ▶ An Agency may charge a FOIA requester fees even if the search does not locate responsive records or an exemption applies.



# FEES

- ▶ Records may be furnished without charge or at a reduced charge where a public body determines that waiver or reduction of the fee **is in the public interest** because furnishing the information can be considered as primarily benefiting the general public. (D.C. Official Code § 2-532(b)).





# FEES

- ▶ For **Educational, noncommercial scientific, and the news media**, an agency may only charge duplication costs.

- ▶ An agency may charge **commercial requesters** for search, review and duplication costs.
- ▶ An agency may charge **all others** fees for search and duplication costs incurred by the agency.



# FEES



- ▶ Searching for records: \$16.00 to \$40.00 per hour based on the pay grade of the personnel who performs the search with the first hour free.
- ▶ Charges for initial review of documents: \$16.00 to \$40.00 per hour based on the pay grade of the personnel who performs the search with the first hour free.
- ▶ Photocopies: \$0.25 per page.
- ▶ Document certification: \$1.00 per document to certify a document as a true copy of an agency record.
- ▶ The direct cost of any service or material for which no fee has been established.

[See DC Official Code § 532 and 1 DCMR § 408]

# DECISION LETTERS

## WHAT IS REQUIRED IN AN AGENCY DECISION LETTER?

The agency decision letter should contain the following information:

1. Whether the record was released in full, partially released (redacted), or withheld in full;
2. The name and contact information of the person that made the decision concerning the release of records;
3. A reference to the D.C. Code provision that is the basis of the decision; and
4. A statement advising the requester of appeal rights.

# CONTACT INFORMATION

OOG provides advice to agencies, members of public bodies, and the public on the open meetings act and the freedom of information act. For assistance, please reach us via telephone at 202-481-3411 or via email at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov)

## Physical Office Address

441 4<sup>th</sup> Street, NW, Suite 540 South, Washington, DC 20001 (*Note that Due to COVID-19 our Physical Office is Closed*)

THANK

YOU!