

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL**



**ATTORNEY GENERAL  
KARL A. RACINE**

**Legal Counsel Division**

June 14, 2021

Paul Johnson  
Chairperson, ANC 4C

**Re: Process to Remove Chairperson**

Commissioner Johnson:

You asked what requirements an Advisory Neighborhood Commission (“ANC”) must follow in order to remove a Chairperson from office, including what rights it must afford that individual.

Removal of a Chairperson is governed by section 14(e)(2) of the Advisory Neighborhood Commissions Act of 1975 (“ANC Act”).<sup>1</sup> Under section 14(e)(2), “[r]emoval of any officer shall be undertaken at a special Commission meeting.”<sup>2</sup> Such a meeting “shall be called if at least one-half of the elected Commissioners request in writing” that the Chairperson call one, and it must be called within 30 days of that request.<sup>3</sup> Since the vote will “affect the Chairperson’s own position,” the vice-chairperson will preside,<sup>4</sup> and if a quorum is present, “the vote of a majority of the Commissioners shall remove” the Chairperson “from his or her office.”<sup>5</sup>

The process due a Chairperson in this context depends on whether or not the removal is for cause. An ANC’s bylaws may provide, as your ANC’s bylaws do,<sup>6</sup> that an officer may be removed for cause, *i.e.*, for “misconduct, wrongdoing[,] or neglect of duty in office.”<sup>7</sup> As we cautioned in a 1999 letter, when an ANC seeks to remove an officer for cause based on allegations against that officer, the officer must be “afforded an opportunity to respond” to those allegations.<sup>8</sup> As Robert’s Rules of Order explains:

---

<sup>1</sup> Effective Mar. 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.11(e)(2)).

<sup>2</sup> D.C. Official Code § 1-309.11(e)(2)(A).

<sup>3</sup> *Id.* § 1-309.11(e)(2)(B).

<sup>4</sup> *Id.* § 1-309.11(e)(2)(C).

<sup>5</sup> *Id.* § 1-309.11(e)(2)(D).

<sup>6</sup> Those bylaws are available from <https://www.anc4c.com/about-anc-4c#DKxJiT> (all internet sites last visited June 14, 2021).

<sup>7</sup> ANC 4C Bylaws art. III, sec. 3.05.

<sup>8</sup> Letter to Comm’r Ventura, Apr. 26, 1999, at 2, available at <https://oag.dc.gov/sites/default/files/2018-02/ANC-6-A-April-26-1999-Removal-of-Chairman.pdf>.

A member or officer has the right that allegations against his good name shall not be made except by charges brought on reasonable ground. If thus accused, he has the right to due process – that is, to be informed of the charge and given time to prepare his defense, to appear and defend himself, and to be fairly treated.<sup>9</sup>

We have explained these principles more fully in the context of a motion to censure an ANC Commissioner. Censure, like removal of an officer for cause, involves allegations against a Commissioner, and we have explained that any such allegations require due process. For example, we noted in a 2017 letter that “if a Commissioner wishes to censure and discipline a Commissioner other than promptly after a breach occurs, or to censure and discipline a Commissioner for conduct that took place outside of any ANC meeting, the ANC must take steps to assure itself that the allegations in question are true.”<sup>10</sup>

You asked specifically whether a Chairperson’s due process rights include the right to retain counsel. It is difficult to answer that question in the abstract. We are aware of no federal constitutional provision or any other law that would guarantee a Commissioner the right to retain counsel in these proceedings as a general matter, since the removal of an officer does not involve criminal or even civil sanctions. Still, a Chairperson may, under Robert’s Rules, be entitled to retain counsel in removal proceedings to the extent necessary to “prepare his defense” and to “appear and defend himself.” Any claim of a right to retain counsel would have to be assessed on a case-by-case basis, in light of the particular facts of the matter.

All of the above, however – including any right to retain counsel – is predicated on allegations against the Commissioner, which means it applies only when an ANC removes a Chairperson for cause. But the ANC Act does not require any specific cause to remove an officer. Under the plain terms of the Act, it is enough that a majority of Commissioners seek the officer’s removal, and that in the meeting, there is a majority vote to remove.<sup>11</sup> Accordingly, the Commission has the same broad discretion to remove an officer that it has to elect one.<sup>12</sup>

Sincerely,

KARL A. RACINE  
Attorney General for the District of Columbia

---

<sup>9</sup> Robert’s Rules of Order Newly Revised § 63:5 (12th ed. 2020).

<sup>10</sup> Letter to Comm’r Delle Donne, Nov. 29, 2017, at 2 (cleaned up), *available at* <https://oag.dc.gov/sites/default/files/2018-02/ANC-2-B-November-30-2017-September-13-Censure-Resolution.pdf>; *see* Letter to Comm’r Ransom, July 20, 2009, *available at* <https://oag.dc.gov/sites/default/files/2018-02/ANC-5-C-12-July-20-2009-Resolution-of-Censure.pdf>.

<sup>11</sup> *See* D.C. Official Code § 1-309.11(e)(2) (a majority vote “shall remove” the officer).

<sup>12</sup> *See id.* § 1-309.11(e)(1) (election of officers).

By: Joshua A. Turner  
JOSHUA TURNER  
Assistant Attorney General  
Legal Counsel Division

(AL-21-455)