

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

May 20, 2022

Schannette Grant
Interim Executive Director
Office of Advisory Neighborhood Commissions
1350 Pennsylvania Ave., N.W., Ste. 11
Washington, D.C. 20004

Re: Permissible Scope of ANC Delegate

Director Grant:

When an Advisory Neighborhood Commission (“ANC”) seat becomes vacant, the voters in the single-member district who were represented by that seat’s Commissioner no longer have a representative on the ANC. You asked whether an ANC may, in its bylaws, provide for a delegate to convey the concerns and interests of that single-member district to the ANC. It may, as long as it makes clear that the delegate is not a Commissioner and may not exercise any of the powers of a Commissioner.

The Advisory Neighborhood Commissions Act of 1975 (“ANC Act”)¹ gives an ANC broad authority to adopt bylaws “governing its operation and internal structure,”² including the specific power to define procedures for receiving and acting on constituent recommendations.³ That broad authority fairly includes the power to designate someone as a delegate to convey the concerns and interests of a currently unrepresented single-member district. But that designation must abide by the limits in the ANC Act.

Since a delegate is not a Commissioner, he or she could not exercise the exclusive powers, or carry out the exclusive duties, of a Commissioner. This limit is most significant when the ANC meets. In an ANC meeting, a Commissioner would count toward a quorum but a delegate cannot.⁴ Likewise, a delegate can participate in the meeting as a member of the public or as a

¹ Effective October 10, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.01 *et seq.*).

² D.C. Official Code § 1-309.11(d)(1); *see* Letter to Comm’r Campbell, May 17, 2022, at 2 (bylaws may, among other things, “specify how ANC meetings will be conducted, how officers will be elected, and how resources belonging to the ANC . . . will be distributed and used”). All letters cited in this letter are available from <https://oag.dc.gov/about-oag/laws-and-legal-opinions/legal-advice-ancs> (last visited May 19, 2022).

³ D.C. Official Code § 1-309.11(d)(1)(I).

⁴ *See id.* § 1-309.11(b)(1) (quorum requires a majority of elected Commissioners).

witness invited by the ANC to speak but cannot participate in the unique ways a Commissioner can. For example, the delegate cannot offer motions, participate in debate, or vote.⁵

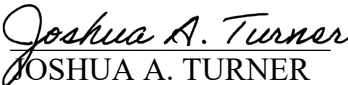
Meaningful limits apply outside the meeting context as well. A delegate is free to serve on, even chair, an ANC committee or task force, just as a member of the public can.⁶ But as a non-Commissioner, a delegate cannot serve as an ANC officer.⁷ And as a non-Commissioner, a delegate is not entitled to advance notice of proposed government actions affecting his or her single-member district,⁸ is not eligible for the recently-created travel or childcare reimbursement,⁹ and is not entitled to the same access to the ANC office and records that Commissioners are.¹⁰

There would also be a question as to whether a delegate could serve as an ANC employee and thus be paid for his or her services. This would be permissible only if the delegate was “provid[ing] administrative support to the Commission.”¹¹ Whether an ANC could hire a delegate would thus depend on the delegate’s contemplated responsibilities. Some duties (such as receiving communications from voters in the single-member district) might qualify as administrative support, but others (such as offering recommendations to the ANC based on voter comments) might not.

If ANCs opt to establish delegates, additional questions are likely to arise as to the appropriate boundaries of a delegate’s role. Our Office would be happy to review those questions as they emerge.

Sincerely,

KARL A. RACINE
Attorney General for the District of Columbia

By: 
JOSHUA A. TURNER
Assistant Attorney General
Legal Counsel Division
(AL-22-263)

⁵ See Letter to Comm’r Lucas, June 9, 2017, at 2 (quoting provisions of Robert’s Rules that describe these as rights of members of the assembly – *i.e.*, Commissioners); D.C. Official Code § 1-309.11(power to take official action by vote rests with Commissioners).

⁶ See D.C. Official Code § 1-309.11(f).

⁷ See *id.* § 1-309.11(e)(1) (An ANC must elect officers “from among its members,” *i.e.*, Commissioners).

⁸ See *id.* § 1-309.10(b).

⁹ See *id.* § 1-309.13(l-1).

¹⁰ *Id.* § 1-309.13(p). A delegate does, however, have the same right as other members of the public to inspect and copy public ANC records. *Id.* Moreover, nothing prevents an ANC from giving a delegate broad access to its office and the records therein.

¹¹ *Id.* § 1-309.13(o); see Letter to Comm’r Fletcher, June 21, 2021.