

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL  
KARL A. RACINE

Legal Counsel Division

October 24, 2022

Kyle Mulhall  
Commissioner, ANC 2B09  
1537 T Street, N.W.  
Washington, D.C. 20009

**Re: Proposed ANC Bylaws re Attendees**

Commissioner Mulhall:

As your Advisory Neighborhood Commission (“ANC”) considers revisions to its bylaws, you have asked us two questions:

**(1) When may an ANC expel attendees from an ANC meeting?**

The heart of your question is whether, in keeping with Robert’s Rules of Order, which governs ANC operations except where “otherwise provided,”<sup>1</sup> an ANC has broad discretion to expel members of the public from an ANC meeting.<sup>2</sup> It does not, because District law provides otherwise. ANCs are District government entities and thus must abide by the open meetings requirements in the Advisory Neighborhood Commissions Act of 1975 (“ANC Act”)<sup>3</sup> and the District of Columbia Home Rule Act,<sup>4</sup> which means their meetings must be open to the public whenever they take official action<sup>5</sup> and whenever they are not meeting to discuss legal or personnel matters.<sup>6</sup>

In keeping with these limits, we have advised that an ANC may not expel a member of the public from an ANC meeting unless the person is engaging in disruptive or disorderly conduct. As we wrote in a 2017 letter, a member of the public should not be “expelled from an ANC meeting

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<sup>1</sup> D.C. Official Code § 1-309.11(e)(3).

<sup>2</sup> See Robert’s Rules of Order § 61:7 (12th ed. 2020).

<sup>3</sup> Effective October 10, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.01 *et seq.*).

<sup>4</sup> Approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-201.01 *et seq.*).

<sup>5</sup> D.C. Official Code § 1-207.42(a).

<sup>6</sup> *Id.* § 1-309.11(g). ANCs must likewise respect the rights of members of the public to free speech and to the equal protection of the law. See U.S. Const. amends. I and XIV.

‘unless clearly necessary for the meeting to continue in an orderly manner.’<sup>7</sup> If your ANC wishes to flesh this out in its bylaws, it may wish to consider drawing from analogous rules issued by the Council. Under the Council’s Rules of Organization and Procedure, the Council Chairman may expel someone from a meeting of the Council, after a warning, if the Chairman determines that the removal of the person “is necessary to maintain order.”<sup>8</sup>

**(2) In the part of a public ANC meeting where members of the public offer their comments, may the ANC restrict the topics of those comments to matters on the ANC agenda?**

No. Your question refers to the time each ANC must set aside in each public meeting to “hear the views of residents within the Commission area,” as well as the views of “other affected persons.”<sup>9</sup> The ANC Act makes clear that those members of the public are free to speak on matters outside that meeting’s agenda. They are free to offer their views on any “problems or issues of concern within the Commission area and on proposed District government actions that affect the Commission area.”<sup>10</sup>

Sincerely,

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(AL-22-706)

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<sup>7</sup> Letter to Comm’r Henderson, Dec. 15, 2017, at 2 (quoting a prior letter). Absent authorization in ANC bylaws, a chairperson could not expel a meeting attendee unilaterally. See Letter to Comm’r Omictin, Apr. 8, 2021. Both letters are available from <https://oag.dc.gov/about-oag/laws-and-legal-opinions/legal-advice-ancs> (all websites last visited Oct. 24, 2022).

<sup>8</sup> Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 24, R. 322(b), available at <https://dccouncil.gov/wp-content/uploads/2021/01/PR24-0001a.pdf>.

<sup>9</sup> D.C. Official Code § 1-309.11(b)(3).

<sup>10</sup> *Id.*