

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



**ATTORNEY GENERAL  
KARL A. RACINE**

**Legal Counsel Division**

October 18, 2022

Alan Kensek  
Commissioner, ANC 1B05  
2101 16th Street, N.W.  
Washington, D.C. 20009

**Re: Membership of Censure Fact-Finding Task Force**

Commissioner Kensek:

When an Advisory Neighborhood Commission (“ANC”) considers censuring a commissioner for conduct that did not just take place in an ANC meeting, the ANC must “take steps to assure itself that the allegations in question are true.”<sup>1</sup> Along those lines, you asked whether an ANC may assemble a fact-finding task force that consists only of commissioners. Nothing prohibits an ANC from doing so, as long as it follows other applicable requirements.

We start by summarizing our existing guidance on censure. Censure, we have explained, “represents the ANC’s official, public reprimand of a Commissioner’s conduct.”<sup>2</sup> Censure proceedings must abide by the Advisory Neighborhood Commissions Act of 1975 (“ANC Act”),<sup>3</sup> the ANC’s bylaws,<sup>4</sup> and (to the extent these two sources are silent) Robert’s Rules of Order.<sup>5</sup> An ANC may, “at the Chairperson’s invitation or on motion of any Commissioner,” censure a Commissioner in a public meeting for conduct that just took place in that meeting.<sup>6</sup> When the conduct at issue falls outside that context, however, “charges must be preferred and a formal trial held before the assembly of the [ANC], or before a committee—standing or special—which is then required to report its findings and recommendations to the [ANC] for action.”<sup>7</sup> As this language

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<sup>1</sup> Letter to Comm’r Muhammad, Sept. 16, 2019, at 2. This letter and others we cite are available from <https://oag.dc.gov/about-oag/laws-and-legal-opinions/legal-advice-ancs> (all websites last visited Oct. 17, 2022).

<sup>2</sup> Letter to Comm’r Delle Donne, Nov. 29, 2017, at 1.

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

<sup>4</sup> *See* D.C. Official Code § 1-309.11(d).

<sup>5</sup> *See id.* § 1-309.11(e)(3) (“Where not otherwise provided, the procedures of the Commission shall be governed by Robert’s Rules of Order”).

<sup>6</sup> Letter to Comm’r Patel, Aug. 31, 2021, at 2.

<sup>7</sup> Robert’s Rules of Order Newly Revised § 61:22 (12th ed. 2020) (quoted in Letter to Comm’r Patel at 2).


indicates, one way for an ANC to conduct the requisite fact-finding is to establish a task force in the form of a special committee that will report its findings back to the broader ANC.<sup>8</sup>

Subject to any relevant statutes and bylaws, the ANC generally has discretion in composing a fact-finding task force. The only provision of the ANC Act or your ANC's bylaws that appears to touch on this subject provides that the chair position for a special committee "shall be open to any resident in the Commission area," but it is still the ANC that selects the chair.<sup>9</sup> Therefore, nothing in the ANC Act, ANC bylaws, or Robert's Rules prevents an ANC from establishing a fact-finding task force that consists entirely of commissioners, as long as other requirements in the ANC Act and Robert's Rules are satisfied. Notably, any special committee is "advisory only" and a Commission cannot "delegate official decision-making authority to any committee."<sup>10</sup> Likewise, the task force must comply with applicable open-meetings requirements and provide a fair and impartial fact-finding process.<sup>11</sup>

Please let us know if you have further questions on this matter.

Sincerely,

KARL A. RACINE  
Attorney General for the District of Columbia

By:   
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(AL-22-704)

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<sup>8</sup> See D.C. Official Code § 1-309.11(f-1) ("Committees and task forces of a Commission shall be advisory only, except that a Commission may officially adopt committee or task force determinations").

<sup>9</sup> See D.C. Official Code § 1-309.11(f); Bylaws of Advisory Neighborhood Commission 1B, art. VII, sec. 2, available from <https://www.anc1b.org/anc-1b-bylaws>.

<sup>10</sup> D.C. Official Code § 1-309.11(f-1).

<sup>11</sup> *Id.* § 1-309.11(g) (establishing open meetings requirements); see also Letter to Comm'r Delle Donne at 2 (noting that, under Robert's Rules, fact-finding must operate in a "confidential setting"); Letter to Comm'r Patel at 2-3 (noting that the fact-finding must be fair and must comply with applicable open-meetings requirements).