

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



**ATTORNEY GENERAL
KARL A. RACINE**

Legal Counsel Division

November 14, 2022

Trupti J. Patel
Commissioner, ANC 2A03
940 25th Street, N.W. #425N
Washington, D.C. 20037

Re: Use of ANC-Purchased Laptop

Commissioner Patel:

This Office previously advised that an Advisory Neighborhood Commission (“ANC”) may purchase a laptop in order to loan that laptop to a Commissioner for ANC purposes.¹ You asked whether a Commissioner who has received one of these laptops may use it for personal purposes as well as ANC purposes. The answer is that an ANC may not loan a laptop to a Commissioner even partially for the Commissioner’s personal use, and personal use by a Commissioner of an ANC-loaned laptop could be considered an ethics violation.

The Advisory Neighborhood Commissions Act of 1975 (“ANC Act”)² allows each ANC to expend its funds “for the functioning of the Commission office,” which, according to section 13(l)(1) of the ANC Act, includes expending funds for:

staff salaries, Commissioner training, property liability insurance, legal expenses for Commission representation by an attorney licensed in the District before an agency, board, or commission of the District government, and nominal refreshments at Commission meetings.³

We have recognized in the past that this provision allows an ANC to expend funds to enable Commissioners to fully perform their duties, such as by purchasing business cards for Commissioners,⁴ as long as the ANC authorizes the expenditure by vote in a public meeting.⁵

¹ See Letter to Comm’r Miscuk, Aug. 9, 2001, at 1. 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 Nov. 14, 2022).

² Effective October 10, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.01 *et seq.*).

³ D.C. Official Code § 1-309.13(l)(1).

⁴ Letter to Gottlieb Simon, Feb. 4, 2005, at 1.

⁵ See D.C. Official Code § 1-309.13(f) (stating the general rule that “No expenditure of any amount shall be made without the specific authorization of the Commission”).

Indeed, in a 2001 letter, we specifically recognized that an ANC may let one of its Commissioners borrow an ANC-owned computer “for her use in conducting ANC business.”⁶ That conclusion stands on even firmer ground now. Many ANC meetings are conducted either in hybrid form or fully virtually and allowing a Commissioner to borrow a laptop may be appropriate as a means of ensuring that the Commissioner can participate remotely in a meeting.

We advised in 2001, however, that when a Commissioner borrows a computer purchased by the ANC, that computer should be “used only for ANC business.”⁷ That remains our view.

An ANC cannot loan one of its Commissioners a laptop for that individual’s personal use, since the personal use of a laptop by a Commissioner is not for the “functioning of the Commission office.”⁸ Moreover, it is doubtful that a Commissioner may use an ANC-loaned laptop for personal purposes. An ANC-loaned laptop must be used for the purposes for which it was loaned, not for purposes that the ANC did not authorize, just as funds granted by the ANC must be used in a manner consistent with the grant.⁹ And like any other equipment purchased by the ANC, an ANC-loaned laptop must be treated as “the property of the District, and not the property of any Commissioner or other individual.”¹⁰

Using an ANC-loaned laptop for personal purposes may also, depending on the circumstances and the extent of personal use,¹¹ conflict with the requirements of the Code of Conduct, which “all employees and public officials serving” the District government must follow.¹² That includes Advisory Neighborhood Commissioners, since they are “public officials” who serve ANCs¹³ and thus must follow the Code of Conduct provisions that govern public officials. For example, they must follow the general requirements in section 1801 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (“CMPA”),¹⁴ which requires public officials to “maintain a high level of ethical conduct in connection with the performance of official duties,” and “refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.”¹⁵ Public officials are also strongly encouraged to report any misuse of District government resources.¹⁶

⁶ Letter to Comm’r Miscuk at 1.

⁷ *Id.*

⁸ See D.C. Official Code § 1-309.13(l)(1).

⁹ See *id.* § 1-309.13(m)(3).

¹⁰ *Id.* § 1-309.13(r).

¹¹ It is not clear whether the Code of Conduct would prohibit *de minimis* personal use of an ANC-loaned laptop – *i.e.*, a use that does not entail any additional expense for the ANC or hamper the Commissioner’s performance of ANC duties. That kind of *de minimis* use is generally considered permissible for District employees. See Office of the Chief Technology Officer, Acceptable Use Policy (May 25, 2021), available at <https://octo.dc.gov/node/1523626>. Any questions about whether a particular factual situation, or particular conduct by a Commissioner, violates the Code of Conduct should be directed to the Board of Ethics and Government Accountability.

¹² D.C. Official Code § 1-1162.01a. This does not include officials or employees serving the District’s courts. *Id.*

¹³ *Id.* § 1-1161.01(47)(E).

¹⁴ Effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-618.01); see D.C. Official Code § 1-1161.01(47)

¹⁵ D.C. Official Code § 1-618.01(a).


¹⁶ *Id.* § 1-618.01(a-1).

With these principles in mind, we recommend that an ANC that wishes to loan a laptop to a Commissioner enter an agreement with that Commissioner specifying that the Commissioner should use the laptop for official ANC purposes rather than personal ones and must comply with any other applicable restrictions in the law.¹⁷ Alternatively, in lieu of case-by-case agreements, an ANC could adopt bylaws clarifying how property acquired by the ANC may be used.¹⁸

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

Sincerely,

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By: 
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(AL-22-707)

¹⁷ For example, the Commissioner should ensure that ANC records are maintained in the ANC office and are available to other Commissioners, not stored on the laptop's hard drive. *See* Letter to Comm'r Miscuk at 1.

¹⁸ *See* D.C. Official Code § 1-309.11(d)(1)(H) (directing ANCs to establish bylaws governing their operations, which may include bylaws governing “[t]he use of the Commission office and supplies”).