

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



**Legal Counsel Division**

December 10, 2008

Shane Anthony  
Commissioner, ANC 4C07  
4409 Kansas Avenue, N.W.  
Washington, D.C.

Re: Use of ANC Grant to Fund Purchase of Electronic Communication Equipment

Dear Commissioner Anthony:

This responds to a request from you (through Lynard Barnum of the Office of the District of Columbia Auditor) for guidance concerning the propriety of a grant from ANC 4C to an organization known as WATCH D.O.G.S (Dads of Great Students) ("WD"). Based on our recent telephone discussion, your concern is whether a grant can be used to purchase durable goods for an organization.

According to the grant application, WD is a safe school initiative of the non-profit National Center for Fathering, founded in 1998 in response to school violence. WD, which is made up of volunteer parents, guardians, and father figures, provides support assistance at schools. The grant application states that WD has been operating a program at the MacFarland Middle School and Cluster Schools ("MacFarland School"), which is located in ANC 4C, since February, 2008. WD seeks a grant of \$1,143.99 to support its program at the school. The funds would be used by WD to purchase a start-up kit (promotional material, e.g. fliers, t-shirts), 1 digital camera, 10 walkie talkies, and 1 printer.

As a framework, the statutory authority authorizing ANCs to make grants is found in section 16(m)(1) of the Advisory Neighborhood Commissions Act of 1975, as amended, effective June 27, 2000, D.C. Law 13-135, D.C. Official Code § 1-309.13(l)(1) (2006 Repl.). That provision limits the purposes and recipients of grants as follows:

A Commission may approve grants only to organizations that are public in nature and benefit persons who reside or work within the Commission area. The services provided by the grantee organization must not be duplicative of any that are already performed by the District government.

A grant, therefore, must be to an organization, not an individual; the benefits from a grant must be public in nature; a grant must benefit persons who reside or work within the Commission area; and the grant shall not fund services that are already being provided by the District.

Your concern is whether ANC 4C may award a grant that will be used by WD to purchase durable goods that will become the property of that private organization. As stated in a letter to Philip Spalding (ANC 1B-02) on July 13, 2005 (See attached "Spalding letter"), there is nothing in the ANC statute that restricts secondary benefits to the organization receiving the grant, provided that the benefits from the grants are public in nature and the award of the grant benefits those who live and work in the Commission area. Therefore, this Office has found that a grant could be made to a non-profit organization to purchase or rent sound equipment to be used by a neighborhood retail establishment to host a weekly forum where community members may share their art and discuss community issues. Because the benefits of that grant were public in nature and would be used to benefit members in the community, we found that the grant was proper, despite incidental benefits to private organizations. We stressed in that letter that the ANC grant must be used to secure a community benefit, and that as a practical matter sometimes securing such a benefit results in an indirect benefit to an organization.

The grant request here is intended to provide a community benefit for the Commission area, consistent with the purpose of the ANC Act. WD represents itself on its website as an organization that "involves fathers and father figures to help create a more safe and secure learning environment in our nation's schools." Both the mission of WD and its plans for use of the grant money would involve a public purpose for which ANCs may make grants. Also, the grant will provide a benefit to those who reside in the Commission area, as the program will operate out of the MacFarland School. The contemplated use – supporting a program to increase father and father figure involvement in the schools and provide assistance in areas such as deterring truancy - would unquestionably be a benefit to the residents of the community. The fact that the equipment purchased by WD will be the property of that organization does not render the expenditure impermissible, provided that ANC 4C determines that the primary purpose of the grant is to provide a benefit that is public in nature to the community.

As to the third requirement of the ANC Act, that the services provided under the grant not be duplicative of any that are already performed by the District government, we have not been provided with information on which we can make that determination. Assuming that the WD planned services are not duplicative of any services provided by the Board of Education for the MacFarland School, and that the Board has approved the operation of this program in the District's schools, the ANC would have authority to make the grant.

If you have any questions about this letter, please contact me at 724-5386.

Sincerely,

PETER J. NICKLES  
Attorney General

By:   
SHEILA KAPLAN  
Assistant Attorney General  
Legal Counsel Division

cc: Lynard Barnum, Financial Auditor/ANC Program Manager  
Gottlieb Simon, Executive Director, OANC

Attachment