

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

December 15, 2017

Kathy Henderson
Commissioner, ANC 5D
1807 L Street, NE
Washington, DC 20002

Re: Questions Concerning Disruptive or Disorderly Conduct

Commissioner Henderson:

You asked us what provisions in District law address persons who engage in disruptive or disorderly conduct in public ANC meetings.

District law gives an ANC two ways to address disruptive or disorderly conduct. One option for an ANC is to rely on Robert's Rules of Order,¹ which govern ANC meetings where "not otherwise provided."² Under Robert's Rules, an ANC may, when necessary, remove from the meeting a member of the public or Commissioner who is disrupting the meeting. It may remove a member of the public if:

- (1) The chair rules that the individual is engaging in disruptive or disorderly conduct and shall therefore be expelled from the meeting;³ or
- (2) The ANC adopts a Commissioner's motion to expel the person.⁴

Likewise, an ANC may respond to a Commissioner's disorderly or disruptive conduct in a meeting in a manner consistent with the severity of that conduct. If a Commissioner "commits only a slight breach of order," the ANC chair can remedy the breach with a simple reproof.⁵ If,

¹ HENRY MARTYN ROBERT III, ET AL., ROBERT'S RULES OF ORDER NEWLY REVISED (11th ed. 2011) ("Robert's Rules").

² D.C. Official Code § 1-309.11(e)(3).

³ Robert's Rules, *supra*, at 644 ll. 32-33. A Commissioner who disagrees with the chair's ruling "can appeal from the decision of the chair, move to suspend the rules, or move a reconsideration [sic] – depending on the circumstances of the chair's ruling." *Id.* at 645 ll. 5-8.

⁴ *Id.* at 644 l. 34.

⁵ *Id.* at 644 l. 21-27.

on the other hand, a Commissioner commits an “obstinate or grave breach of order,” the chair may rebuke the Commissioner by name and the ANC as a body may impose appropriate penalties.⁶

If an ANC does not wish to rely on Robert’s Rules, it may adopt its own bylaw provisions to govern how disruptive and disorderly conduct will be handled.⁷ These bylaws may clarify what conduct will be considered disruptive or disorderly, and may establish procedures for handling such conduct.⁸

We caution that any ANC response to disorderly conduct, under Robert’s Rules or under its own bylaws, must be consistent with the Advisory Neighborhood Commissions Act of 1975 (“ANC Act”)⁹ and with other District law. For example, in keeping with District open meetings laws¹⁰ and with each Commissioner’s right to participate in ANC business,¹¹ neither a Commissioner nor a member of the public should be expelled from a public ANC meeting “unless clearly necessary for the meeting to continue in an orderly manner.”¹²

To ensure orderly conduct of public meetings, an ANC may retain a sergeant at arms.¹³ It may also, if circumstances require, enlist the aid of the Metropolitan Police Department. Our understanding is that ANCs have sought MPD assistance in the past when disruptions have been serious enough to call for it. Because an ANC is a government body, not a political association, nothing prevents MPD officers from implementing a valid ANC decision to expel a Commissioner or a member of the public from a meeting.

If you have any questions, please contact Josh Turner, Assistant Attorney General, at 442-9834, or Janet M. Robins, Deputy Attorney General, Legal Counsel Division, at 724-5524.

⁶ *Id.* at 646-647.

⁷ See D.C. Official Code § 1-309.11(d) (directing each ANC to adopt “bylaws governing its operation and internal structure”).

⁸ See Letter to Dorothy Miller, Comm’r, ANC 2A, Nov. 6, 1996, at 2, available at <http://app.occ.dc.gov/documents/1996/nov/19961106b.pdf> (last visited Dec. 14, 2017) (approving an ANC resolution governing the treatment of disorderly conduct, on the grounds that “an ANC can, if it wishes, adopt bylaws that depart from Robert’s Rules of Order so long as such bylaws are not inconsistent with statutory requirements”).

⁹ Effective October 1, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.01 *et seq.*).

¹⁰ See D.C. Official Code §§ 1-207.42 (2012 Repl.) and 1-309.11(g).

¹¹ See, e.g., *id.* § 1-309.13(p) (“Any Commissioner within an individual Commission shall have equal access to the Commission office and its records in order to carry out Commission duties and responsibilities”).

¹² Letter to Dorothy Miller, *supra*, at 2-3.

¹³ See D.C. Official Code § 1-309.13(o) (“A Commission may employ any person necessary to provide administrative support to the Commission”); Letter to Dorothy Miller, *supra*, at 2 (approving an ANC resolution authorizing the ANC’s sergeant at arms to remove commissioners and members of the public who are “ruled out of order in accordance with the rules”).

Sincerely,

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By: 

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