

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

June 2, 2017

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

Re: Questions Concerning Meeting Notice and Enforcement Authority

Commissioner Henderson:

You asked us three questions related to Advisory Neighborhood Commission (“ANC”) meetings:

(1) Is a single electronic notice sufficient to announce an ANC 5D meeting?

No; at least 2 forms of notice are required.¹ An electronic notice is one permissible way to notify residents of an ANC meeting, as long as the ANC approves it,² but it cannot be the only way.

(2) Are electronic notices sent out with less than seven days’ notice sufficient to conduct ANC business, including voting on ANC matters?

Generally no. Even assuming the electronic notice is coupled with another form of notice, an ANC ordinarily must give a full 7 days’ advance notice of its meetings. Shorter notice is permissible only “in the case of an emergency or other good cause.”³ If the ANC provides less

¹ See Advisory Neighborhood Commissions Act of 1975 (“ANC Act”), § 14(c), effective March 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.11(c) (2012 Repl.)). We note that the Advisory Neighborhood Commissions Omnibus Amendment Act of 2016 (“Omnibus Act”), effective April 7, 2017 (D.C. Law 21-269; 64 DCR 2162), which will become fully applicable once it is funded, does not change this requirement.

² See D.C. Official Code § 1-309.11(c) (2012 Repl.) (in addition to posting, newspaper publication, and distribution to a list of residents, an ANC may provide meeting notice *via* “any other manner approved by the Commission”).

³ *Id.* We note that, once the Omnibus Act becomes applicable, any meeting notice sent out less than seven days before an ANC meeting will need to explain the emergency or other good cause justifying the shorter notice. See Omnibus Act § 2(f)(2)(B) (64 DCR 2164).

than 7 days' notice of a meeting, without any emergency or other good cause, any official action taken at that meeting will be invalid.⁴

(3) Does the Office of the Attorney General (“OAG”) have the authority to compel ANC 5D to follow District laws, regulations, and administrative issuances?

OAG’s authority to require ANCs to follow District statutes and regulations (ANCs are not bound by administrative issuances) is limited because Commissioners are independent elected officials.⁵ For example, OAG does not have authority to require ANC 5D to comply with meeting notice requirements. Under the ANC Act, those requirements are enforced primarily by invalidating any action an ANC takes in an insufficiently noticed meeting. Any expenditures approved in a meeting that did not comply with statutory notice requirements may be treated as invalid by the Office of ANCs, which now oversees ANC funding and expenditures.⁶ Likewise, ANC recommendations adopted in such a meeting would not be entitled to great weight by District agencies.⁷ If you have specific questions about any authority OAG may have to enforce ANC compliance with other provisions of the ANC Act, or what other enforcement mechanisms may be available, we would be happy to answer them.

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.

Sincerely,

KARL A. RACINE
Attorney General for the District of Columbia

By: 
JOSHUA TURNER
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⁴ See Letter to Dorothy Miller, at 2, Apr. 17, 1996, available at <http://app.occ.dc.gov/documents/1996/apr/19960417.pdf> (last visited June 2, 2017) (“Since the notice requirement of section 14(c) of the [ANC Act] is mandatory, I conclude that if, with respect to a particular meeting, an ANC fails to comply with this notice requirement, then that meeting is not a public meeting within the intent of the [ANC Act], and no official action may validly be taken at such a meeting”).

⁵ See D.C. Official Code § 1-207.38 (2012 Repl.).

⁶ See Advisory Neighborhood Commission Transfer Authorization Emergency Act of 2017, effective March 28, 2017 (D.C. Act 22-35; 64 DCR 3103) (transferring the Auditor’s financial oversight of ANCs to the Office of ANCs).

⁷ See D.C. Official Code § 1-309.10(d)(1) (great weight applies only when the ANC offers recommendations “in a meeting with notice in accordance with section 14(c) of [the ANC Act]”). The Omnibus Act will not alter this requirement.