

# Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

JUDICIARY SQUARE

441 FOURTH ST., N.W.

WASHINGTON, D. C. 20001

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IN REPLY REFER TO:

May 3, 2000

Mahdi Leroy J. Thorpe, Jr.  
1704 5<sup>th</sup> Street, N.W.  
Washington, D.C. 20001

Re: District employee rights

Dear Mr. Thorpe:

This responds to your April 5, 2000 letter wherein you asked two questions regarding your rights as a District employee.

1. You ask whether as an Advisory Neighborhood Commissioner you can testify at hearings involving the District agency with which you are employed? Under section 1557 of the Comprehensive Merit Personnel Act of 1978, effective March 3, 1979, D.C. Law 2-139, as added by D.C. Law 12-160, effective October 7, 1998, D.C. Code § 1-616.18, you have the right as a District employee to freely express your opinion on all public issues, including those related to the duties which you are assigned to perform as an employee. However, your employing agency may have rules that require you to clearly disassociate your opinions from the agency's policy. You also have the right to communicate freely and openly with members of the Council. Therefore, as a District employee you may testify at hearings concerning your employing agency provided that you identify in what capacity you are testifying and make clear that your opinions do not reflect the agency's policy.

Generally, you also may testify at a hearing in your capacity as an ANC Commissioner on behalf of an ANC. See section 13 of the Advisory Neighborhood Councils Act of 1975, effective October 10, 1975, D.C. Law 1-21, as added by D.C. Law 1-58, effective March 26, 1976, D.C. Code § 1-261(f). Such testimony would reflect the ANC's recommendations. If you testify in your capacity as a single member district commissioner representing your district then you should clarify that your views do not reflect the views of the ANC. However, as a District employee you should also be aware that there are restrictions contained in Chapter 18 of the D.C. Personnel Regulations with regard to any outside activity, including serving as an ANC Commissioner. You have not described a specific factual situation in your request for advice, so I am unable to say definitively whether your testimony as an ANC Commissioner with regard to your employing agency would be permissible. However, generally you should be aware that a District employee may not use government time or resources for other than government business,

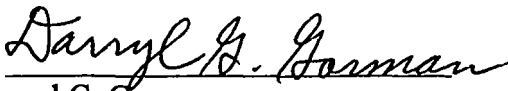
nor may a District employee divulge any official government information not available to the general public to any unauthorized person. Because interpretation of the ethical obligations of District employees depends upon the specific facts of each situation, before giving any testimony as an ANC Commissioner that relates to your employing agency I urge you to consult with the ethics counselor for your agency, or the District's Ethics Counselor, Polly Rich, Assistant Corporation Counsel, at 724-5561. If there are no ethical conflicts in a specific factual circumstance, then you may testify as an ANC Commissioner about your employing agency.

2. You ask whether you can file a complaint with the D.C. Superior Court Chief Judge if you are "disrespected in court by one of his judges independent of my government agency" if you use your home address and do not mention the government agency in the complaint? If you are in court in your individual capacity and not as a District employee at the time of the actions complained about and your employing agency is not involved in the initial court action, you may complain to the Chief Judge about another judge provided that the complaint is clearly made in your individual capacity, and not as a District employee.

For further information about your rights as a District employee you should contact the D.C. Office of Personnel and/or a District ethics counselor.

Sincerely,

Robert R. Rigsby  
Corporation Counsel by



Darryl G. Gorman  
Senior Deputy Corporation Counsel  
Legal Counsel Division

DOG/abe  
(AL-OO-223)

Attachment (excerpts from Ch. 18 of Personnel Regulations)