

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

DISTRICT BUILDING

WASHINGTON, D. C. 20004



IN REPLY REFER TO:

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(85-306) LCD-11

November 8, 1985

Monroe A. Bethea
Chairman
ANC - 1A Upper Cardoso
3511 14th Street, Northwest
Washington, D.C. 20010

In re: Ethical Standards Applicable
to ANC Commissioners.

Dear Mr. Bethea:

This is in response to your September 17, 1985 letter to Acting Corporation Counsel John H. Suda in which you seek advice concerning the ethical standards applicable to ANC commissioners. Your inquiry is made in the context of an asserted use of an ANC-1A copying machine by an ANC-1A Commissioner for non-ANC purposes.

Chapter 18 of the D.C. Personnel Regulations governs the conduct of District Government employees, and contains provisions prohibiting, inter alia, the use of government property or personnel for private purposes. See Chapter 18 D.C. Personnel Regulations sections 1805.1 (b) and (c).^{1/}

^{1/} These sections prohibit Government employees from:

- (b) Using government time or resources for other than official business, or government approved or sponsored activities, except that a District employee may spend a reasonable amount of government time and resources on such projects, reports, and studies as may be considered in aid of other government jurisdictions (local, state, or Federal), provided the work so performed is within the scope of the individual's regular assignments as a
- (footnote continued)

Section 301(g) of the District of Columbia Government Comprehensive Merit Personnel Act, D.C. Law 2-139, D.C. Code § 1-603.1(7) (1981), defines the term "employee" as "an individual who performs a function of the District government and who receives compensation for the performance of such services." (Emphasis added.) Since ANC commissioners are not compensated for their services, they are not considered "employees" of the District Government for purposes of the provisions of the Comprehensive Merit Personnel Act and the regulations promulgated pursuant to that act, such as Chapter 18 of the D.C. Personnel Regulations.

However, each ANC has the authority and the duty to "establish bylaws governing its operation and internal structure." See section 14(d) of the Advisory Neighborhood Councils Act of 1975 ("ANC Act"), D.C. Law 1-21 as amended, D.C. Code § 1-262(d) (1985 Supp.). Pursuant to this authority, each ANC may promulgate rules governing the conduct of its commissioners and its employees, and such rules may include provisions similar to the above-quoted provisions contained in Chapter 18 of the D.C. Personnel Regulations (see footnote 1, supra).^{2/}

If a commission employee violates a commission rule, that employee may be disciplined in accordance with applicable commission disciplinary rules, if any. Such discipline may take the form of dismissal from employment since "employees of a commission... serve at the pleasure of the commission." See section 16(c) of the ANC Act, as amended, D.C. Code § 1-264(c) (1981).

As regards ANC commissioners who violate commission rules, they may be removed from office pursuant to the recall process provided for in section 8 of the ANC Act, as amended, D.C. Code § 1-257(g)(1) and (2) (1985 Supp.).

(footnote continued from previous page)

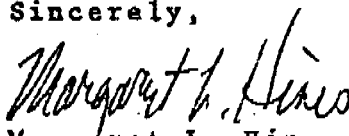
District employee; [and]

- (c) Ordering, directing, or requesting subordinate officers or employees to perform during regular working hours any personal services not related to official D.C. Government functions and activities.

^{2/} See Report of the Committee on Government Operations, Council of the District of Columbia, on Bill 5-333, May 24, 1984, p.4.

Finally, ANC commissioners are covered by section 601 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, Public Law 93-376, approved August 14, 1974, 88 Stat. 465, D.C. Code § 1-1461 (1981 and 1985 Supp.), which prohibits public officials from realizing "personal gain through official conduct." See D.C. Code §§ 1-1461(a) and 1-1462(i)(2) (1981 and 1985 Supp.). The District of Columbia Board of Elections and Ethics and that Board's Office of Campaign Finance are responsible for enforcement of D.C. Code § 1-1461 (a copy of which is attached). See D.C. Code §§ 1-1431, 1-1432 and 1-1435 (1981 and 1985 Supp.). Accordingly, questions concerning an alleged violation of D.C. Code § 1-1461 by an ANC commissioner should be addressed to the Office of Campaign Finance at 420 7th Street, Northwest, Washington, D.C. 20004.

Sincerely,



Margaret L. Hines
Deputy Corporation Counsel, D.C.
Legal Counsel Division

Attachment

cc: Keith A. Vance, Esq.
Director
Office of Campaign Finance