



ADVISORY NEIGHBORHOOD COMMISSION OPEN MEETINGS & COMMUNITY PARTICIPATION

OANC GENERAL GUIDANCE

NO. 2023-001

Overview

The Office of Advisory Neighborhood Commissions (OANC) is frequently asked by Advisory Neighborhood Commissions if they are permitted to have closed meetings for administrative purposes to plan the monthly public meeting of the Commission. A related question received by the OANC regarding planning meetings is what role community members have at such a meeting, if any, when the meetings are open.

Advisory Neighborhood Commissions, by design, represent their neighborhood's official voice in advising the District government (and Federal agencies) on matters that affect their neighborhoods. District law says that agencies cannot take any action that will significantly affect a neighborhood unless they give the affected ANCs 30 days advance notice. This includes zoning, streets, recreation, education, social services, sanitation, planning, safety, budget, and health services.

A Commission may only take official action during a public meeting, and ANCs are directed to have no fewer than nine (9) public meetings in a calendar year. In addition to the regularly scheduled public meetings, many ANCs also have standing committees and may have ad hoc meetings.

By statute, each Commission, including each committee of a Commission, shall be subject to the open meetings provisions of D.C. Official Code [§ 1-207.42](#), with two notable exceptions - when an ANC discusses personnel or legal matters. However, as deliberative bodies, an open meeting is not the same as a community meeting - and the two are often conflated in the minds of constituents due to the hyper-local nature of ANCs.

This paper briefly outlines:

- The ANC open meetings requirement;
- When an ANC meeting may be closed; and,
- Community participation at ANC meeting.

ANC Open Meetings

The “Sunshine Law” or “Open Meetings Law” applies to the work of Advisory Neighborhood Commissions. This section, however, is sometimes misunderstood. It does not ban Commissioners from meeting privately. The District’s Open Meetings law does say that a majority of the members of a “public body” cannot meet without giving notice to the public. However, it exempts certain groups of officials, including ANCs (D.C. Official Code [§ 2-574](#)), from the definition of public body. Accordingly, that part of the Code does not apply to ANCs. A better and less misleading name for the law that pertains to ANCs might be the “Official Decisions Law.” “Official” decisions or actions in this context means advice or recommendations to other government officials or agencies. It is “ok” to take votes on administrative actions such as deciding what room to hold the monthly meeting in, where to post the meeting notices, or what color paper to print the agenda on, in “Executive Committee” or “Committee of the Whole” meetings.

In July 2017, the OAG [opined](#) that all ANC meetings at which a quorum is present and at which the assembled Commissioners intend to discuss ANC matters were open meetings – with the exceptions being when the ANC discusses personnel or legal matters as carved out by statute (see D.C. Official Code [§ 1-309.11\(g\)](#)). As such, when a Commission meets in Committee, Executive Session, or as a Committee of the Whole at which a quorum of Commissioners is present, the meeting must be open to any members of the public that wish to attend – either in person or virtually. Equally, Commissions must “give notice of all meetings or convocations to each Commissioner and residents of the Commission area no less than 7 days prior to the date” of the meeting per D.C. Official Code [§ 1-309.11\(c\)](#).

ANC Closed Meetings

Advisory Neighborhood Commissioners are permitted to have “closed” meetings for only two purposes – these being when the ANC discusses personnel or legal matters. Discussion of these matters may occur at a special or separate meeting or can be part of a larger agenda. If personnel or legal matters are discussed as part of a larger agenda, the portion of the meeting at which such issues occur can be closed with non-Commissioners removed from the meeting – even when the other parts of the meeting are open to constituents.

Broad definitions of the two categories appropriate for closed meetings include:

- **Personnel issues**: These issues primarily pertain to the relationship between an ANC and its employees. Any aspect of the relationship that would normally involve a Human Resources specialist in an employee’s workplace are considered personnel issues, and may include salary; setting duties, hours, responsibilities, and expectations; performance reviews; and/or developing position descriptions.
- **Legal Matters**: While any legal matter involving an ANC may be discussed in a closed meeting, the most common examples of legal matters that an ANC may need to discuss include FOIA requests and subpoenas.

Community Participation in ANC Meetings

Community participation during an ANC meeting can, and often does, vary depending upon the type and purpose of the meeting. ANC committee and community meetings, for example, are often designed to include broad community engagement on issues related to transportation, zoning and development, liquor licenses, or any other area identified by the Commission as needing community input.

Public Meetings

The Official Code of the District of Columbia, [§ 1-309.11\(b\)\(1\)](#), states that:

(b)(1) Each Commission shall meet in public session at regular intervals at least 9 times per year at locations that are designed to reasonably accommodate the residents of the Commission area, depending on the issues to be considered by the Commission.

Community participation at the ANC public meetings is enshrined in D.C. Official Code § 1-309.11(b)(3) of the statute as follows:

(3) Each Commission shall set aside a portion of each public meeting to hear the views of residents within the Commission area and other affected persons on problems or issues of concern within the Commission area and on proposed District government actions that affect the Commission area. Community views shall be adequately considered in positions taken by the Commission. Each Commission shall establish mechanisms to ensure the broadest dissemination of information with respect to Commission meetings, positions, and actions.

As both of the sections referenced above are in § 1-309.11(b) of the D.C. Official Code, the requirement to set aside a portion of the public meeting to hear the views of residents applies to the monthly public meetings where official action is taken. Meaning, ANCs are required to meet publicly at least 9 times a year, and at these meetings, they must set aside a portion of the meeting to hear from residents. While ANCs are not required to permit community members to engage outside of the time set aside to hear the views of residents, they are equally not prevented from allowing community members to engage with the ANC outside of the time set aside to hear from the community. In fact, a Commission may well find it beneficial to hear from members of the community as they deliberate on issues when conducting official business – provided the input from community members is germane to the matter before the Commission.

Administrative Meetings

By contrast, community participation during an ANC's administrative meeting is limited to the discretion of the Commission. While ANC administrative meetings are required to be open, they are not required to set aside time to hear the views of residents as required in the monthly public

meetings. This understanding is supported from the 2017 OAG opinion referenced above, which includes in its analysis on page 3, paragraph 2, the following that references meetings other than the monthly public meeting:

In 2000, the Council decided to expand the open meetings requirements applicable to ANCs. The fact that an ANC could comply with the Home Rule Act while still holding important meetings outside of public view convinced the Council's Committee on Local and Regional Affairs that the Home Rule Act's open meetings requirement was not strong enough. ANC residents, the Committee contended, were often "prevented from participating in Commission meetings."¹⁵ To address this problem, the Council added a new requirement, hereafter known as the "2000 Amendment," to section 14(g) of the ANC Act: "No meeting may be closed to the public unless personnel or legal matters are discussed."¹⁶ This language, according to the Committee, was designed to "facilitate the general public [sic] in monitoring the activities of their respective ANCs" by "prohibit[ing] the exclusion of the public from meetings at which no legal or personnel matters are to be discussed."¹⁷

The OAG opinion reaffirms clearly that ANC administrative meetings – such as Committee of the Whole meetings – must be open. It also clearly states that the intent of the 2000 Amendment was "designed to 'facilitate the general public [sic] in monitoring the activities of their respective ANCs'."

"Monitoring" and "hearing the views of residents" are two different activities. Monitoring, or observing, a public meeting is passive engagement. Hearing the views of residents, on the other hand, is active engagement.

Based on the statute and the 2017 OAG opinion, when an ANC assembles for an administrative meeting – such as a Committee of the Whole or any other Committee meeting for the purposes of setting the agenda or discussing the logistics of the upcoming public meeting – members of the community who wish to be present are permitted to be in attendance as the meeting as it is an open meeting. However, there is no requirement to set time aside for the purposes of "hearing the views of residents" as it is not one of the regularly scheduled public meetings where official action is taken. In fact, there is no requirement to permit community members who attend administrative meetings to have an active role at all, as the purpose of the 2000 Amendment was to ensure that ANC actions were monitored.

While there is no requirement to set time aside for community comments at the administrative meetings, this does not deny community members an opportunity to engage. The ANC may grant a non-Commissioner attendee to engage if they deem it useful to the Commission. Where Commissions do not permit public comments at their administrative meetings, attendees at those meetings can certainly reach out to any Commissioner separately to discuss, comment, or otherwise provide input and feedback about what they observed at the meeting at any time of their choosing – including the monthly public meeting.