

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL**



**ATTORNEY GENERAL  
BRIAN L. SCHWALB**

**Legal Counsel Division**

November 10, 2025

All Advisory Neighborhood Commissions

**Re: The Equal-Access Guarantee and Password-Protected Records**

Dear Commissioners:

Section 16(p) of the Advisory Neighborhood Commissions Act of 1975 (“ANC Act”)<sup>1</sup> guarantees each commissioner “equal access to the Commission office and its records in order to carry out Commission duties and responsibilities.” We have recently received questions about the extent to which this provision entitles a commissioner to obtain the passwords to an ANC password-protected account within which ANC records are stored. Our prior guidance, issued in the Internet’s early days, does not squarely confront this question. This letter provides updated guidance on this question, in keeping with the long-standing role of the Attorney General as the District’s chief law officer and our Office’s specific statutory duty and authority to provide ANC’s with legal interpretations.<sup>2</sup> In brief, our answer is twofold: (1) the equal-access guarantee does not automatically entitle commissioners to ANC-account passwords; but (2) ANC records held in a password-protected account must be promptly provided to any commissioner who requests them for official purposes.

**Background**

Section 16(p)’s equal-access guarantee traces back to the Advisory Neighborhood Commission Amendment Act of 1990 (“1990 Act”).<sup>3</sup> It began as a provision solely about ANC offices. Section 3(f) of the 1990 Act provided that “Any Commissioner within an individual Commission shall have equal access to the Commission office in order to carry out Commission duties and responsibilities.” The Council added this language “[i]n response to a number of complaints

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<sup>1</sup> Effective Mar. 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.13(p)).

<sup>2</sup> See Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, § 101(a)(1), effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.81(a)(1)); ANC Act § 15(d)(4) (D.C. Official Code § 1-309.12(d)(4)); Memorandum to All Advisory Neighborhood Comm’ns, Mar. 11, 1995, available at <https://oag.dc.gov/sites/default/files/2018-02/ANC-March-11-1995-Role-of-Office-of-the-Corporation-Counsel.pdf>.

<sup>3</sup> Effective Mar. 6, 1991 (D.C. Law 8-203; 37 DCR 8420).

received from Commissioners who have been denied the use of Commission offices.”<sup>4</sup> In 2001, the Council, without explanation, added the phrase “and its records,”<sup>5</sup> a phrase we have interpreted to mean “the ANC’s records.”<sup>6</sup>

We have interpreted section 16(p) of the ANC Act to strike a balance. An ANC must treat commissioners equally by not arbitrarily granting access to some commissioners that it denies to others, but it may set reasonable restrictions on access in order to safeguard its records. Two letters issued shortly after the equal-access provision was adopted establish this approach. In a 1991 letter,<sup>7</sup> we explained that an ANC could not deny most of its commissioners the use of ANC supplies by storing them at one commissioner’s house, since the “right of equal access to the Commission office implies a right of access to Commission supplies and equipment necessary for commissioners to carry out their official duties.”<sup>8</sup> In a 1994 letter,<sup>9</sup> we explained this balance further. Commissioners “must be treated equally in terms of access to the ANC’s office” and thus must all be given “reasonable access to” it.<sup>10</sup> Moreover, a “policy that permits access only during weekday, daytime ‘office hours,’ or when another Commissioner or the office man[a]ger is present[,] is unreasonable vis-à-vis a Commissioner who works during the day and thus whose ANC office work must be done at night or on weekends.”<sup>11</sup> At the same time, we acknowledged that some reasonable restrictions—including reasonable variations in access—were permissible. A commissioner’s access to the office, we said, may be subject to reasonable restrictions “to safeguard records and property in its office.”<sup>12</sup> For example, the ANC may secure certain ANC documents and records “such as the ANC checkbook. . . in a manner that allows access only to those authorized to handle them.”<sup>13</sup>

A 1997 letter<sup>14</sup> explained that commissioners who are subject to reasonable records restrictions are still entitled, under section 16(p), to access the records in question. There, we advised that, although “financial records such as an ANC’s checkbook and bank statements would normally be

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<sup>4</sup> Report of the Comm. on Gov’t Operations on Bill 8-626, the “Advisory Neighborhood Commission Act of 1990,” at 7 (1990).

<sup>5</sup> Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, § 3(d), effective June 27, 2000 (D.C. Law 13-135; 47 DCR 2741).

<sup>6</sup> See Letter to Comm’r Hanlon, July 1, 2020, at 2, available at <https://oag.dc.gov/sites/default/files/2020-07/ANC-2B-Access-to-Private-E-mails-Follow-Up.pdf>.

<sup>7</sup> See Letter to Comm’r Johns-Gray, Mar. 27, 1991, available at <https://oag.dc.gov/sites/default/files/2022-03/ANC-6C-08-Letter-to-Commissioner-Johns-Gray-Re-How-do-conflict-of-interest-laws-and-other-laws-limit-actions-by-Advisory-Neighborhood-Commissions%3F-.pdf>.

<sup>8</sup> *Id.* at 2.

<sup>9</sup> Letter to Comm’r Coleman, Jan. 14, 1994, available at <https://oag.dc.gov/sites/default/files/2022-09/ANC-1-C-Letter-to-Commissioner-Coleman-Re-May-an-ANC-Commissioner-be-denied-a-key-to-the-ANC%27s-office-%3F-.pdf>.

<sup>10</sup> *Id.* at 2.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Letter to Comm’r Williams, May 30, 1997, available at <https://oag.dc.gov/sites/default/files/2018-02/ANC-6-A-May-30-1997-Commission-Financial-Practices.pdf>.

maintained by and be in the physical custody of the ANC's treasurer," "any commissioner of the ANC has a right to examine such records upon reasonable request."<sup>15</sup>

We addressed section 16(p) twice more in 2001. In a letter to the District of Columbia Auditor,<sup>16</sup> we encouraged ANCs to keep all ANC-owned equipment (especially equipment housing ANC records) in the ANC office so that "all commissioners have equal access to it."<sup>17</sup> And in a letter to Commissioner Edward Harris,<sup>18</sup> we advised that an ANC chairperson could not arbitrarily restrict a new commissioner's access to recent meeting minutes and the resolution appointing the new commissioner to his SMD by keeping those documents in a locked ANC file cabinet.<sup>19</sup>

### Analysis

Our prior guidance establishes that an ANC must give each commissioner access to the ANC office and its records, and in doing so, must treat commissioners equally by not arbitrarily denying access to any commissioner. On the arbitrary side of the line are restrictions that restrict a commissioner's access without a rational basis, connected to the needs of the ANC, for doing so. On the reasonable side of the line are restrictions that are tailored and rationally connected to the needs of the ANC, such as restrictions to safeguard the security of ANC records, to ensure that only those who are authorized to handle certain records may do so, and to comport with commissioners' varying duties.<sup>20</sup>

The same principles apply to the context that has recently come up: password-protected ANC accounts, including virtual-meeting platform accounts, that house ANC records. An ANC cannot arbitrarily give some commissioners password access to that account while denying it to others. It can, however, establish reasonable access restrictions. For example, an ANC is free to password-protect its accounts for security purposes, or for the purpose of limiting direct access to certain records to commissioners authorized to handle them. Passwords might be entrusted to a staff member, but they might in some circumstances be entrusted to specific commissioners. Accordingly, some commissioners might reasonably have password access that others do not. For example, the ANC Act directs each ANC Chairperson (or in some circumstances the Vice-Chairperson) to "serve as convener of the Commission" and "chair the Commission meetings."<sup>21</sup> If an ANC uses a virtual-meeting platform to conduct virtual or hybrid meetings, the Chairperson might, in order to conduct these meetings, appropriately hold password access to that platform that not every commissioner shares – even if the platform also contains ANC records.

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<sup>15</sup> *Id.* at 2.

<sup>16</sup> Letter to Deborah K. Nichols, Feb. 26, 2001, available at <https://oag.dc.gov/sites/default/files/2018-02/ANC-February-26-2001-Questions-about-ANC-Chairperson-and-Treasurer-Training.pdf>.

<sup>17</sup> *Id.* at 3.

<sup>18</sup> Letter to Comm'r Harris, Aug. 2, 2001, available at <https://oag.dc.gov/sites/default/files/2018-02/ANC-7-C-August-2-2001-Appointment-to-ANC-and-Access-to-Records.pdf>.

<sup>19</sup> *Id.* at 2.

<sup>20</sup> See D.C. Official Code § 1-309.11(d) and (1)(H) ("Each Commission shall establish bylaws governing its operation and internal structure," including bylaws governing "The use of the Commission office and supplies").

<sup>21</sup> *Id.* § 1-309.11(e)(1A)(A).

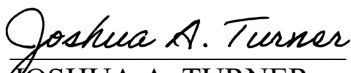
Equally important, however, is that commissioners who do not have password access (or the equivalent) are still entitled to access the records the account holds. Accordingly, if a commissioner requests those records for the purpose of performing their commission duties, a person who has the password must promptly provide the records.<sup>22</sup>

Finally, we underscore that a commissioner may seek and obtain ANC records under the equal-access provision only “to carry out Commission duties and responsibilities.”<sup>23</sup> Section 16(p) of the ANC Act does not empower commissioners to seek or obtain ANC records for personal use.<sup>24</sup>

If you have any questions, please contact Josh Turner, Assistant Attorney General, at [Joshua.turner3@dc.gov](mailto:Joshua.turner3@dc.gov), or Adele El-Khoury, Deputy Attorney General, at [Adele.El-Khoury@dc.gov](mailto:Adele.El-Khoury@dc.gov).

Sincerely,

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<sup>22</sup> See Letter to Comm’r James, Aug. 18, 1999, at 3, available at <https://oag.dc.gov/sites/default/files/2018-02/ANC-5-B-August-18-1999-Access-to-Documents-as-Commissioner.pdf>; Letter to Comm’r Williams, *supra*, at 2.

<sup>23</sup> D.C. Official Code § 1-309.13(p). This letter does not address the distinct entitlement of Commissioners to access ANC documents under FOIA, subject to FOIA’s requirements and restrictions, in their capacity as private citizens. See Letter to Comm’r James, *supra*, at 3.

<sup>24</sup> See D.C. Official Code § 1-309.13(r) (“Any document created by requirement of this act, and any equipment purchased by, or on behalf of, a Commission, is the property of the District, and not the property of any Commissioner or other individual”).