

From: Stewart-Mitchell, Asia (BEGA) <asia.stewart-mitchell@dc.gov>

Sent: Wednesday, March 25, 2026 4:59 PM

Subject: BEGA informal advice opinion re ANCs participating in outside organizations with opposing views

Good afternoon,

Please see our response below to the multiple advice requests we received regarding ANCs creating and participating in outside organizations with opposing views. BEGA will not make this advice public but the recipient(s) may share it and/or make it public.

Recusal because of participation

Commissioners who are current, active volunteers with an advocacy organization on an issue that the Commission will vote on or who have spouses who are current, active volunteers with the advocacy organization should recuse from the matter with the ANC. There is an appearance issue (see DPM § 1800.3(n)) with participating on the ANC side; the appearance issue could develop into a full conflict of interest when the advocacy organization collects or expends money.

Commissioners are required to recuse themselves from an ANC matter if the matter would directly and predictably impact their financial interests or the financial interests of their close affiliate(s) (see the District's Conflict of Interest statute, D.C. Official Code § 1-1162.23(a)). A written recusal should be read into the record, and upon recusal the Commissioner should cease all participation in the matter, including informally weighing in on the matter, attending meetings regarding the matter and voting on the matter. If the matter comes back before the Commissioner, a best practice would be to verbally reiterate the recusal and leave the room until activity regarding the matter is over.

Whether the matter will result in an ANC vote and no matter what kind of action a Commissioner will take in the matter (attending a meeting, voting, etcetera), Commissioners are always prohibited from working on matters that impact their personal financial interests.

Recusal may be necessary to avoid appearance issues, such as situations where a Commissioner's conduct appears to violate an ethics rule or a situation that would cause a reasonable person to question the Commissioner's integrity. Commissioners are strongly encouraged to recuse from a matter when, to a reasonable person with knowledge of the relevant facts, they appear to be acting in an unethical manner. Failure to recuse in this situation could lead to an ethics violation.

Because Commissioners are elected to serve their local neighborhoods, they may sometimes take actions, as Commissioners, that have an effect on their preferences and interests; every such action is not prohibited under the Code of Conduct. Recusal is only implicated when the matter impacts the Commissioners financial interests or the Commissioner appears to be acting unethically by participating.

Creating outside entities

Commissioners may create outside entities and participate in those entities in their personal capacity. However, Commissioners should recuse themselves from taking action as a Commissioner if a matter concerning the entity comes before the ANC, even if they do not believe the matter directly and predictably impacts their financial interests. Even when taking action in a matter that does not *per se* impact a Commissioner's financial interests, the Commissioner implicates the prohibition against the appearance of unethical activity and the requirement that their work be done in an impartial manner by taking action as Commissioners in matters concerning their own organizations and they are strongly discouraged from doing so. To cure this, Commissioners are advised to recuse.

Past participation with an outside organization does not necessarily present conflicts of interest for Commissioners. However, there is a higher-than-normal possibility (but not as high as a current affiliation) that a Commissioner will provide preferential treatment to or act in a manner that lacks impartiality toward organizations that they used to be affiliated with; or that they will appear to do so to a reasonable person with knowledge of the facts.

Asia Stewart-Mitchell (she/her/hers)

DC Board of Ethics and Government Accountability

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General Counsel

Main : 202-481-3411

Mobile: 202-379-6020

Email: asia.stewart-mitchell@dc.gov

1030 15th Street, NW, Suite 700

Washington, DC 20005

www.bega.dc.gov

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